

1
2 An act relating to health care; providing
3 legislative intent and findings with respect to
4 the Medical Quality Assurance Trust Fund and
5 function administered by the Department of
6 Health; requiring the Auditor General to do a
7 followup Medical Quality Assurance audit and
8 issue a report to the Legislature; requiring
9 the Department of Health to reimburse the
10 Agency for Health Care Administration for
11 certain costs; requiring the Office of Program
12 Policy Analysis and Government Accountability
13 to study the feasibility of maintaining the
14 Medical Quality Assurance function within a
15 single department and issue a report to the
16 Legislature; amending s. 456.004, F.S.;
17 providing requirements for rules relating to
18 biennial renewal of licenses; amending s.
19 456.025, F.S.; revising requirements relating
20 to the setting and use of fees for the
21 regulation of health care professions and
22 practitioners, including continuing education
23 fees; providing for an electronic continuing
24 education tracking system; repealing s.
25 458.31151, F.S.; repealing obsolete provisions;
26 amending s. 457.107, F.S.; for clarification of
27 acupuncture fees; amending s. 483.807, F.S.;
28 relating to clinical laboratory personnel fees;
29 amending s. 456.011, F.S.; requiring board
30 meetings to be conducted through
31 teleconferencing or other technological means

1 except under certain circumstances; amending s.
2 456.013, F.S.; requiring the department to
3 charge initial license fees; amending s.
4 456.017, F.S.; providing for administration of
5 national examinations and termination of
6 state-administered written examinations;
7 providing for administration of
8 state-administered practical or clinical
9 examinations if paid for in advance by the
10 examination candidates; providing legislative
11 intent with respect to the use of national
12 examinations; providing for electronic access
13 to and posting of examination scores under
14 certain conditions; providing for the sharing
15 of examinations or examination item banks with
16 certain entities; clarifying circumstances
17 under which candidates may bring a challenge;
18 providing for electronic administration of
19 certain laws and rules examinations; amending
20 s. 456.035, F.S.; providing for electronic
21 notification of a licensee's current mailing
22 address and place of practice; amending s.
23 456.073, F.S.; authorizing a letter of guidance
24 in lieu of a finding of probable cause under
25 certain conditions; amending s. 456.081, F.S.;
26 providing for the posting of newsletters on the
27 department's website; amending s. 456.072,
28 F.S.; revising and providing grounds for
29 discipline of licensees; revising and providing
30 disciplinary actions; amending s. 456.079,
31 F.S.; requiring mitigating or aggravating

1 circumstances to be in the final order to be
2 considered in the imposition of penalties;
3 amending ss. 457.109, 458.320, 458.331,
4 458.345, 458.347, 459.0085, 459.015, 459.022,
5 460.413, 461.013, 462.14, 463.016, 464.018,
6 465.008, 465.016, 466.028, 466.037, 467.203,
7 468.1295, 468.1755, 468.217, 468.365, 468.518,
8 468.719, 468.811, 478.52, 480.046, 483.825,
9 483.901, 484.014, 484.056, 486.125, 490.009,
10 and 491.009, F.S.; revising and conforming
11 provisions relating to disciplinary grounds and
12 penalties; amending s. 458.315, F.S.; revising
13 the procedure for obtaining a temporary permit;
14 amending 459.0075, F.S.; revising the procedure
15 for obtaining a limited license; providing
16 requirements for the Board of Medicine in
17 issuing temporary certificates; amending s.
18 456.065, F.S.; requiring the unlicensed
19 activity fee to be in addition to all other
20 fees collected from each licensee; amending ss.
21 458.347 and 459.022, F.S.; allowing authorized
22 physician assistants to prescribe any
23 medication not listed on a formulary
24 established by the Council on Physician
25 Assistants; allowing authorized physician
26 assistants to dispense drug samples pursuant to
27 proper prescription; eliminating the formulary
28 committee and revising provisions relating to
29 creation and amendment of the formulary, to
30 conform; amending s. 456.003, F.S.; providing a
31 limitation on the duties of certain boards;

1 providing for the Agency for Health Care
2 Administration to create the Organ Transplant
3 Task Force to study organ transplantation
4 programs; requiring the task force to study and
5 make recommendations on the necessity of the
6 issuance of certificates of need for such
7 programs and funding for organ transplantation;
8 providing a date for the task force to report
9 to the Governor and the Legislature; amending
10 s. 409.9205, F.S.; transferring positions in
11 the Medicaid Fraud Control Unit of the
12 Department of Legal Affairs to Career Services;
13 amending s. 483.245, F.S.; prohibiting rebate
14 or split-fee arrangements with dialysis
15 facilities for patient referrals to clinical
16 laboratories; providing penalties; amending s.
17 232.435, F.S.; providing training requirements
18 for a first responder and teacher athletic
19 trainer; amending s. 383.14, F.S.; amending
20 screening requirements for postnatal screening;
21 amending s. 395.0197, F.S.; revising provisions
22 relating to hospital and ambulatory surgical
23 center internal risk management programs;
24 modifying requirements for risk management and
25 prevention education and training; restricting
26 participation of unlicensed persons in surgical
27 procedures; requiring ongoing evaluation of
28 surgical procedures and protocols; eliminating
29 an annual report summarizing facility incident
30 reports and disciplinary actions; requiring the
31 Agency for Health Care Administration to

1 publish website summaries of adverse incident
2 reports; requiring facility reporting of
3 allegations of sexual misconduct by health care
4 practitioners; providing certain civil
5 liability for licensed risk managers;
6 prohibiting intimidation of a risk manager;
7 providing a penalty; amending s. 395.10972,
8 F.S.; increasing membership on the Health Care
9 Risk Management Advisory Council; amending s.
10 395.701, F.S.; limiting the financial
11 information the agency may require to determine
12 the amount of hospital annual assessments;
13 amending s. 409.905, F.S.; providing that the
14 Agency for Health Care Administration may
15 restrict the provision of mandatory services by
16 mobile providers; amending s. 409.906, F.S.;
17 providing that the agency may restrict or
18 prohibit the provision of services by mobile
19 providers; providing that Medicaid will not
20 provide reimbursement for dental services
21 provided in mobile dental units, except for
22 certain units; amending s. 456.013, F.S.;
23 providing a professional continuing education
24 requirement relating to prevention of medical
25 errors; amending s. 456.057, F.S.; providing
26 for appointment of a records custodian under
27 certain circumstances; amending s. 456.063,
28 F.S.; requiring licensed health care
29 practitioners to report to the Department of
30 Health any allegations of sexual misconduct;
31 amending s. 456.072, F.S.; providing additional

1 grounds for disciplinary actions; clarifying a
2 penalty involving restriction of professional
3 practice or license; providing additional
4 penalties; requiring assessment of costs
5 related to investigation and prosecution;
6 amending s. 456.073, F.S.; requiring the
7 Department of Health to notify the patient or
8 legal representative of the status of a
9 disciplinary case; requiring the department to
10 provide certain information to the complainant;
11 providing time limitations on the filing of
12 administrative complaints against licensees of
13 the department; amending s. 456.074, F.S.;
14 providing for an emergency order suspending the
15 license of a practitioner for fraud; amending
16 s. 456.077, F.S.; specifying violations for
17 which the Department of Health or a regulatory
18 board may issue citations; amending s. 456.081,
19 F.S.; requiring the Department of Health and
20 regulatory boards to maintain a website
21 containing specified information; amending ss.
22 458.331 and 459.015, F.S.; conforming language
23 and cross references to changes made by the
24 act; amending s. 641.51, F.S.; revising adverse
25 determination provisions; amending ss. 465.019
26 and 465.0196, F.S.; requiring institutional
27 pharmacies and special pharmacy permittees that
28 use pharmacy technicians to have a written
29 policy and procedures manual; directing the
30 Department of Health and the Agency for Health
31 Care Administration to review health care

1 practitioner and facility reporting
2 requirements; requiring a report to the
3 Legislature; amending s. 468.1755, F.S.;
4 providing an additional ground for disciplinary
5 action against a nursing home administrator;
6 reenacting ss. 468.1695(3) and 468.1735, F.S.,
7 to incorporate said amendment in references;
8 reenacting s. 484.056(1)(a), F.S., relating to
9 disciplinary action against hearing aid
10 specialists, to incorporate the amendment to s.
11 456.072(1), in a reference; amending s.
12 766.101, F.S.; providing that a continuous
13 quality improvement committee of a licensed
14 pharmacy is a medical review committee for
15 purposes of immunity from liability, and
16 reenacting ss. 440.105(1)(a) and 626.989(6),
17 F.S., to incorporate said amendment in
18 references; amending s. 766.1115, F.S.;
19 conforming provisions and cross-references to
20 changes made by the act; amending s. 456.047,
21 F.S.; providing intent; revising and providing
22 definitions; revising duties of the Department
23 of Health relating to file maintenance;
24 providing that primary source data verified by
25 the department or its designee may be relied
26 upon to meet accreditation purposes; amending
27 s. 232.61, F.S.; requiring the Florida High
28 School Activities Association to adopt bylaws
29 which require students participating in
30 interscholastic athletic competition or who are
31 candidates for an interscholastic athletic team

1 to satisfactorily pass a medical evaluation
2 prior to participating in interscholastic
3 athletic competition or engaging in practice
4 with an interscholastic athletic team;
5 providing requirements with respect to such
6 evaluation; amending s. 240.4075, F.S.;
7 transferring the Nursing Student Loan
8 Forgiveness Program from the Department of
9 Education to the Department of Health;
10 including public schools, family practice
11 teaching hospitals, and specialty hospitals for
12 children as eligible facilities under the
13 program; exempting such facilities from the
14 fund-matching requirements of the program;
15 amending s. 240.4076, F.S.; transferring the
16 nursing scholarship program from the Department
17 of Education to the Department of Health;
18 providing requirements under the program for
19 students seeking to qualify for a nursing
20 faculty position and receive credit for work in
21 such a position; including nursing homes,
22 hospitals, public schools, colleges of nursing,
23 and community college nursing programs as
24 eligible facilities under the program;
25 transferring powers, duties, functions, rules,
26 records, personnel, property, and
27 appropriations and other funds relating to the
28 Nursing Student Loan Forgiveness Program and
29 the nursing scholarship program from the
30 Department of Education to the Department of
31 Health; amending s. 464.005, F.S.; providing

1 for future relocation of the headquarters of
2 the Board of Nursing; amending s. 464.008,
3 F.S.; revising education requirements for
4 licensure by examination; amending s. 464.009,
5 F.S.; revising requirements for licensure by
6 endorsement; requiring submission of
7 fingerprints for a criminal history check and a
8 fee to cover the costs of such check; providing
9 for an electronic applicant notification
10 process; creating s. 464.0195, F.S.; creating
11 the Florida Center for Nursing and providing
12 its goals; creating s. 464.0196, F.S.;
13 providing for a board of directors; providing
14 for appointment of board members; providing for
15 staggered terms; providing powers and duties;
16 authorizing per diem and travel expenses;
17 creating s. 464.0197, F.S.; declaring state
18 budget support for the center; prohibiting the
19 Board of Nursing from developing any rule
20 relating to faculty/student clinical ratios
21 until a specified time; requiring the Board of
22 Nursing and the Department of Education to
23 submit to the Legislature an implementation
24 plan detailing the impact and cost of any such
25 proposed rule change; amending s. 464.0205,
26 F.S.; deleting the application and processing
27 fee for applicants for a retired volunteer
28 nurse certificate; requiring study by Office of
29 Program Policy Analysis and Government
30 Accountability of the feasibility of
31 maintaining all of Medical Quality Assurance in

1 one state agency; creating s. 456.0375, F.S.;
2 requiring registration of certain clinics;
3 providing requirements, including fees;
4 providing rulemaking authority; requiring
5 medical directors or clinic directors for such
6 clinics and providing their duties and
7 responsibilities; providing an appropriation;
8 amending s. 456.031, F.S.; providing an
9 alternative by which licensees under ch. 466,
10 F.S., relating to dentistry, may comply with a
11 general requirement that they take
12 domestic-violence education courses; amending
13 s. 456.033, F.S.; providing an alternative by
14 which such licensees may comply with a general
15 requirement that they take AIDS/HIV education
16 courses; amending s. 627.419, F.S.; providing
17 for appeals from certain adverse determinations
18 relating to dental service claims; providing
19 applicability; amending s. 468.302, F.S.;
20 revising a provision relating to exemption from
21 certification to use radiation on human beings;
22 providing training requirements; amending ss.
23 468.352, 468.355, 468.357, 468.358, and
24 468.359, F.S.; revising definitions and
25 provisions relating to licensure and use of
26 titles and abbreviations to correct and conform
27 terminology with respect to respiratory
28 therapists and respiratory care practitioners;
29 amending ss. 468.1155 and 468.1215, F.S.;
30 revising requirements for licensure to practice
31 speech-language pathology or audiology and for

1 certification of speech-language pathology or
2 audiology assistants; amending s. 480.033,
3 F.S.; correcting terminology in the definition
4 of "massage"; amending s. 484.002, F.S.;
5 amending and creating definitions; amending ss.
6 484.002, 484.006, 484.012, F.S.; replacing
7 references to the term "medical doctor" with
8 the term "allopathic or osteopathic physician";
9 amending s. 484.013, F.S.; increasing the
10 penalty for certain acts involving preparation
11 or dispensing of optical devices; amending s.
12 921.0022, F.S.; providing for the ranking of
13 such offense on the offense severity ranking
14 chart; amending s. 484.015, F.S.; revising
15 inspection authority; amending s. 484.0445,
16 F.S.; removing certain provisions relating to
17 the training program for hearing aid
18 specialists; amending s. 484.045, F.S.;
19 revising requirements for licensure as a
20 hearing aid specialist by examination; amending
21 s. 490.012, F.S.; prohibiting the use of
22 certain titles or descriptions relating to the
23 practice of psychology or school psychology
24 unless properly licensed; providing penalties;
25 amending s. 490.014, F.S.; revising exemptions
26 from regulation under ch. 490, F.S., relating
27 to psychology; correcting a cross-reference;
28 amending s. 491.012, F.S.; revising
29 prohibitions against unlicensed practice of
30 clinical social work, marriage and family
31 therapy, and mental health counseling to

1 provide that practice by registered interns is
2 lawful; amending s. 491.014, F.S.; revising
3 exemptions from licensure under ch. 491, F.S.,
4 relating to clinical, counseling, and
5 psychotherapy services, to prohibit the use by
6 certain employees of titles, names, or
7 descriptions protected by the chapter; amending
8 ss. 458.319, 459.008, and 765.102, F.S.;
9 conforming terminology relating to palliative
10 care; amending s. 765.101, F.S.; redefining the
11 term "end-stage condition" with respect to
12 health care advance directives; creating s.
13 765.1025, F.S.; prescribing the content and
14 suitability of palliative care; amending s.
15 765.1103, F.S.; revising provisions relating to
16 compliance with requests for pain management
17 and palliative care; amending s. 765.205, F.S.;
18 prescribing the standards of decisionmaking to
19 be used in certain circumstances by health care
20 surrogates, persons who have durable powers of
21 attorney for health care, and proxy
22 decisionmakers; amending s. 765.401, F.S.;
23 prescribing the standards of decisionmaking to
24 be used in certain circumstances by proxy
25 decisionmakers; requiring the Department of
26 Health to conduct an interim study on specialty
27 certification and provide a report to the
28 Legislature; amending s. 499.012, F.S.;
29 authorizing transfer of prescription drugs
30 between a retail pharmacy and a Modified Class
31 II institutional pharmacy under a retail

1 pharmacy wholesaler's permit; providing
2 legislative intent; amending ss. 395.3025,
3 400.1415, and 456.057, F.S.; prohibiting the
4 use of a patient's medical records for purposes
5 of solicitation and marketing absent a specific
6 written release or authorization; providing
7 penalties; creating s. 626.9651, F.S.;
8 requiring the Department of Insurance to adopt
9 rules governing the use of a consumer's
10 nonpublic personal financial and health
11 information; providing standards for the rules;
12 amending s. 400.141, F.S.; prescribing duties
13 of nursing homes with respect to influenza and
14 pneumococcal polysaccharide vaccinations;
15 providing rulemaking authority; establishing
16 the Office of Community Partners within the
17 Department of Health to provide for delivery of
18 social services through eligible private
19 organizations and programs; providing procedure
20 for transfer of general revenue funds to match
21 federal funds received by the office; creating
22 s. 458.3147, F.S.; providing automatic
23 admission to any medical school in the State
24 University System for United States Military
25 Academy students or graduates; amending s.
26 409.91188, F.S.; requiring the Agency for
27 Health Care Administration to seek certain
28 waivers to allow certain Medicare beneficiaries
29 to participate in the Medipass HIV disease
30 management program; repealing s. 71(1) of ch.
31 98-171, Laws of Florida; abrogating the repeal

1 of provisions of law which require background
2 screening of certain applicants for licensure,
3 certification, or registration; amending s.
4 766.302, F.S.; clarifying the definition of the
5 term "birth-related neurological injury";
6 amending s. 766.31, F.S.; providing for payment
7 of funeral expenses up to a specified amount;
8 repealing s. 766.308, F.S., which provides for
9 review by a medical advisory panel; amending s.
10 468.805, F.S.; revising grandfathering
11 requirements for licensure to practice
12 orthotics, prosthetics, or pedorthics without
13 meeting statutory educational requirements;
14 repealing s. 1, ch. 99-158, Laws of Florida,
15 relating to a deadline to apply for licensure
16 to practice orthotics, prosthetics, or
17 pedorthics without meeting statutory
18 educational requirements; providing effective
19 dates.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. It is the intent of the Legislature that
24 the Medical Quality Assurance Trust Fund should be
25 administered in a fiscally responsible manner. It is also the
26 intent of the Legislature that the Department of Health reduce
27 expenses wherever possible to ensure that the cost of
28 regulation is reasonable and fair and does not serve as a
29 barrier to licensure in this state. The Legislature adopts
30 findings 1, 2, 4, 5, and 8 and the recommendations of the
31 Auditor General's Medical Quality Assurance Operational Audit

1 Report Number 01-063. In addition, the Legislature adopts
2 recommendations 1, 2, 4, 5, and 7 of the Florida Senate
3 Committee on Fiscal Policy Interim Project Report 2001-016.

4 Section 2. The Auditor General shall conduct a
5 followup audit to the Medical Quality Assurance Operational
6 Audit Report Number 01-063 to determine if the Department of
7 Health has implemented the recommendations of that report. The
8 Auditor General shall complete the followup audit and issue a
9 report to the President of the Senate and the Speaker of the
10 House of Representatives no later than January 31, 2002.

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

22 Section 4. The Office of Program Policy Analysis and
23 Government Accountability shall study the feasibility of
24 maintaining the entire Medical Quality Assurance function,
25 including enforcement, within a single department. The study
26 shall be completed and a report issued to the President of the
27 Senate and the Speaker of the House of Representatives no
28 later than November 30, 2001.

29 Section 5. Subsection (1) of section 456.004, Florida
30 Statutes, is amended, and subsection (10) is added to that
31 section, to read:

1 456.004 Department; powers and duties.--The
2 department, for the professions under its jurisdiction, shall:

3 (1) Adopt rules establishing a procedure for the
4 biennial renewal of licenses; however, the department may
5 issue up to a 4-year license to selected licensees
6 notwithstanding any other provisions of law to the contrary.
7 The rules shall specify the expiration dates of licenses and
8 the process for tracking compliance with continuing education
9 requirements, financial responsibility requirements, and any
10 other conditions of renewal set forth in statute or rule.Fees
11 for such renewal shall not exceed the fee caps for individual
12 professions on an annualized basis as authorized by law.

13 (10) Set an examination fee that includes all costs to
14 develop, purchase, validate, administer, and defend the
15 examination and is an amount certain to cover all
16 administrative costs plus the actual per-applicant cost of the
17 examination.

18 Section 6. Section 456.025, Florida Statutes, is
19 amended to read:

20 456.025 Fees; receipts; disposition.--

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

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

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

6 (c) Shall be reasonable, fair, and not serve as a
7 barrier to licensure;

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

10 (e) Shall be similar to fees imposed on similar
11 licensure types;

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

14 (g) Shall not be more than 10% greater than the actual
15 cost to regulate that profession for the previous biennium;
16 and

17 (h) Shall be subject to challenge pursuant to chapter
18 120.

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

29 (2)(1) Each board within the jurisdiction of the
30 department, or the department when there is no board, shall
31 determine by rule the amount of license fees for the

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

26 (3)~~(2)~~ Each board, or the department if there is no
27 board, may charge a fee not to exceed \$25, as determined by
28 rule, for the issuance of a wall certificate pursuant to s.
29 456.013(2) requested by a licensee who was licensed prior to
30 July 1, 1998, or for the issuance of a duplicate wall
31 certificate requested by any licensee.

1 ~~(4)(3)~~ Each board, or the department if there is no
2 board, may, by rule, assess and collect a one-time fee from
3 each active status licensee and each inactive status licensee
4 in an amount necessary to eliminate a cash deficit or, if
5 there is not a cash deficit, in an amount sufficient to
6 maintain the financial integrity of the professions as
7 required in this section. Not more than one such assessment
8 may be made in any 4-year period without specific legislative
9 authorization.

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

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

1 continuing education providers shall provide information on
2 course attendance to the department necessary to implement the
3 electronic tracking system. The department shall, by rule,
4 specify the form and procedures by which the information is to
5 be submitted.~~This subsection does not apply to continuing~~
6 ~~education courses or providers approved by the board under~~
7 ~~chapter 465.~~

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

1 deposited in the Medical Quality Assurance Trust Fund, and all
2 such revenue is hereby appropriated to the department.
3 However, it is legislative intent that each profession shall
4 operate within its anticipated fees. The department may not
5 expend funds from the account of a profession to pay for the
6 expenses incurred on behalf of another profession, except that
7 the Board of Nursing must pay for any costs incurred in the
8 regulation of certified nursing assistants. The department
9 shall maintain adequate records to support its allocation of
10 agency expenses. The department shall provide any board with
11 reasonable access to these records upon request. On or before
12 October 1 of each year, the department shall provide each
13 board an annual report of revenue and direct and allocated
14 expenses related to the operation of that profession. The
15 board shall use these reports and the department's adopted
16 long-range plan to determine the amount of license fees. A
17 condensed version of this information, with the department's
18 recommendations, shall be included in the annual report to the
19 Legislature prepared under s. 456.026.

20 ~~(8)(6)~~ The department shall provide a condensed
21 management report of budgets, finances, performance
22 statistics, and recommendations to each board at least once a
23 quarter. The department shall identify and include in such
24 presentations any changes, or projected changes, made to the
25 board's budget since the last presentation.

26 ~~(9)(7)~~ If a duplicate license is required or requested
27 by the licensee, the board or, if there is no board, the
28 department may charge a fee as determined by rule not to
29 exceed \$25 before issuance of the duplicate license.

30 ~~(10)(8)~~ The department or the appropriate board shall
31 charge a fee not to exceed \$25 for the certification of a

1 public record. The fee shall be determined by rule of the
2 department. The department or the appropriate board shall
3 assess a fee for duplicating a public record as provided in s.
4 119.07(1)(a) and (b).

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

7 457.107 Renewal of licenses; continuing education.--

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

11 Section 8. Section 458.31151, Florida Statutes, is
12 repealed.

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

15 483.807 Fees; establishment; disposition.--

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

29 Section 10. Subsections (1), (3), and (4) of section
30 456.011, Florida Statutes, are amended to read:

31

1 456.011 Boards; organization; meetings; compensation
2 and travel expenses.--

3 (1) Each board within the department shall comply with
4 the provisions of this chapter ~~section~~.

5 (3) The board shall meet at least once annually and
6 may meet as often as is necessary. Meetings shall be conducted
7 through teleconferencing or other technological means, unless
8 disciplinary hearings involving standard of care, sexual

9 misconduct, fraud, impairment, or felony convictions;
10 licensure denial hearings; or controversial rule hearings are
11 being conducted; or unless otherwise approved in advance of
12 the meeting by the director of the Division of Medical Quality

13 Assurance.The chairperson or a quorum of the board shall have
14 the authority to call ~~other~~ meetings, except as provided above

15 relating to in-person meetings. A quorum shall be necessary
16 for the conduct of official business by the board or any
17 committee thereof. Unless otherwise provided by law, 51

18 percent or more of the appointed members of the board or any
19 committee, when applicable, shall constitute a quorum. The
20 membership of committees of the board, except as otherwise

21 authorized pursuant to this chapter or the applicable practice
22 act, shall be composed of currently appointed members of the

23 board. The vote of a majority of the members of the quorum
24 shall be necessary for any official action by the board or

25 committee. Three consecutive unexcused absences or absences
26 constituting 50 percent or more of the board's meetings within

27 any 12-month period shall cause the board membership of the
28 member in question to become void, and the position shall be

29 considered vacant. The board, or the department when there is
30 no board, shall, by rule, define unexcused absences.

31

1 (4) Unless otherwise provided by law, a board member
2 or former board member serving on a probable cause panel shall
3 be compensated \$50 for each day in attendance at an official
4 meeting of the board and for each day of participation in any
5 other business involving the board. Each board shall adopt
6 rules defining the phrase "other business involving the
7 board," but the phrase may not routinely be defined to include
8 telephone conference calls that last less than 4 hours. A
9 board member also shall be entitled to reimbursement for
10 expenses pursuant to s. 112.061. Travel out of state shall
11 require the prior approval of the secretary.

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

14 456.013 Department; general licensing provisions.--

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

31

1 Section 12. Section 456.017, Florida Statutes, is
2 amended to read:

3 456.017 Department of Health; examinations.--

4 (1)(a) The department shall provide, contract, or
5 approve services for the development, preparation,
6 administration, scoring, score reporting, and evaluation of
7 all examinations, in consultation with the appropriate board.
8 The department shall certify that examinations developed and
9 approved by the department adequately and reliably measure an
10 applicant's ability to practice the profession regulated by
11 the department. After an examination developed or approved by
12 the department has been administered, the board, or the
13 department when there is no board, may reject any question
14 which does not reliably measure the general areas of
15 competency specified in the rules of the board. The department
16 may contract for the preparation, administration, scoring,
17 score reporting, and evaluation of examinations, when such
18 services are available and approved by the board.

19 (b) For each examination developed by the department
20 or contracted vendor, to the extent not otherwise specified by
21 statute, the board, or the department when there is no board,
22 shall by rule specify the general areas of competency to be
23 covered by each examination, the relative weight to be
24 assigned in grading each area tested, and the score necessary
25 to achieve a passing grade. The department shall assess,~~and~~
26 ~~fees, where applicable,~~to cover the actual cost for any
27 purchase, development, validation,~~and~~ administration, and
28 defense of required examinations. This subsection does not
29 apply to national examinations approved and administered
30 pursuant to paragraph (c). If a practical examination is
31 deemed to be necessary, the rules shall specify the criteria

1 by which examiners are to be selected, the grading criteria to
2 be used by the examiner, the relative weight to be assigned in
3 grading each criterion, and the score necessary to achieve a
4 passing grade. When a mandatory standardization exercise for a
5 practical examination is required by law, the board, or the
6 department when there is no board, may conduct such exercise.
7 Therefore, board members, or employees of the department when
8 there is no board, may serve as examiners at a practical
9 examination with the consent of the board or department, as
10 appropriate.

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

30 2. The board, or the department when there is no
31 board, shall approve and begin administering a national

1 examination no later than December 31, 2001. Neither the board
2 nor the department may administer a state-developed written
3 examination after December 31, 2001, notwithstanding any other
4 provision of law. The examination may be administered
5 electronically if adequate security measures are used, as
6 determined by rule of the department.

7 3. The board, or the department when there is no
8 board, may administer a state-developed practical or clinical
9 examination, as required by the applicable practice act, if
10 all costs of development, purchase, validation,
11 administration, review, and defense are paid by the
12 examination candidate prior to the administration of the
13 examination. If a national practical or clinical examination
14 is available and certified by the department pursuant to this
15 section, the board, or the department when there is no board,
16 may administer the national examination.

17 4. It is the intent of the Legislature to reduce the
18 costs associated with state examinations and to encourage the
19 use of national examinations whenever possible.

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

1 department deems necessary to enforce such provisions or
2 rules. The scores of candidates who have taken state-developed
3 examinations shall be provided to the candidates
4 electronically using a candidate identification number, and
5 the department shall post the aggregate scores on the
6 department's website without identifying the names of the
7 candidates.

8 (e) If the professional board with jurisdiction over
9 an examination concurs, the department may, for a fee, share
10 with any other state's licensing authority or a national
11 testing entity an examination or examination item bank
12 developed by or for the department unless prohibited by a
13 contract entered into by the department for development or
14 purchase of the examination. The department, with the
15 concurrence of the appropriate board, shall establish
16 guidelines that ensure security of a shared exam and shall
17 require that any other state's licensing authority comply with
18 those guidelines. Those guidelines shall be approved by the
19 appropriate professional board. All fees paid by the user
20 shall be applied to the department's examination and
21 development program for professions regulated by this chapter.

22 (f) The department may adopt rules necessary to
23 administer this subsection.

24 (2) For each examination developed by the department
25 or a contracted vendor, the board, or the department when
26 there is no board, shall adopt rules providing for
27 reexamination of any applicants who failed an examination
28 developed by the department or a contracted vendor. If both a
29 written and a practical examination are given, an applicant
30 shall be required to retake only the portion of the
31 examination on which the applicant failed to achieve a passing

1 grade, if the applicant successfully passes that portion
2 within a reasonable time, as determined by rule of the board,
3 or the department when there is no board, of passing the other
4 portion. Except for national examinations approved and
5 administered pursuant to this section, the department shall
6 provide procedures for applicants who fail an examination
7 developed by the department or a contracted vendor to review
8 their examination questions, answers, papers, grades, and
9 grading key for the questions the candidate answered
10 incorrectly or, if not feasible, the parts of the examination
11 failed. Applicants shall bear the actual cost for the
12 department to provide examination review pursuant to this
13 subsection. An applicant may waive in writing the
14 confidentiality of the applicant's examination grades.
15 Notwithstanding any other provisions, only candidates who fail
16 an examination by less than ten percent shall be entitled to
17 challenge the validity of the examination at hearing.

18 (3) For each examination developed or administered by
19 the department or a contracted vendor, an accurate record of
20 each applicant's examination questions, answers, papers,
21 grades, and grading key shall be kept for a period of not less
22 than 2 years immediately following the examination, and such
23 record shall thereafter be maintained or destroyed as provided
24 in chapters 119 and 257. This subsection does not apply to
25 national examinations approved and administered pursuant to
26 this section.

27 (4) Meetings of any member of the department or of any
28 board within the department held for the exclusive purpose of
29 creating or reviewing licensure examination questions or
30 proposed examination questions are exempt from the provisions
31 of s. 286.011 and s. 24(b), Art. I of the State Constitution.

1 Any public records, such as tape recordings, minutes, or
2 notes, generated during or as a result of such meetings are
3 confidential and exempt from the provisions of s. 119.07(1)
4 and s. 24(a), Art. I of the State Constitution. However, these
5 exemptions shall not affect the right of any person to review
6 an examination as provided in subsection (2).

7 (5) For examinations developed by the department or a
8 contracted vendor, each board, or the department when there is
9 no board, may provide licensure examinations in an applicant's
10 native language. Notwithstanding any other provision of law,
11 applicants for examination or reexamination pursuant to this
12 subsection shall bear the full cost for the department's
13 development, preparation, validation, administration, grading,
14 and evaluation of any examination in a language other than
15 English prior to the examination being administered. Requests
16 for translated examinations must be on file in the board
17 office at least 6 months prior to the scheduled examination.
18 When determining whether it is in the public interest to allow
19 the examination to be translated into a language other than
20 English, the board shall consider the percentage of the
21 population who speak the applicant's native language.
22 Applicants must apply for translation to the applicable board
23 at least 6 months prior to the scheduled examination.

24 (6) In addition to meeting any other requirements for
25 licensure by examination or by endorsement, and
26 notwithstanding the provisions in paragraph (1)(c), an
27 applicant may be required by a board, or the department when
28 there is no board, to certify competency in state laws and
29 rules relating to the applicable practice act. Beginning
30 October 1, 2001, all laws and rules examinations shall be
31 administered electronically unless the laws and rules

1 examination is administered concurrently with another written
2 examination for that profession or unless the electronic
3 administration would be substantially more expensive.

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

6 456.035 Address of record.--

7 (1) Each licensee of the department is solely
8 responsible for notifying the department in writing of the
9 licensee's current mailing address and place of practice, as
10 defined by rule of the board or the department if there is no
11 board. Electronic notification shall be allowed by the
12 department; however, it shall be the responsibility of the
13 licensee to ensure that the electronic notification was
14 received by the department.A licensee's failure to notify the
15 department of a change of address constitutes a violation of
16 this section, and the licensee may be disciplined by the board
17 or the department if there is no board.

18 Section 14. Subsections (2), (4), and (10) of section
19 456.073, Florida Statutes, are amended to read:

20 456.073 Disciplinary proceedings.--Disciplinary
21 proceedings for each board shall be within the jurisdiction of
22 the department.

23 (2) The department shall allocate sufficient and
24 adequately trained staff to expeditiously and thoroughly
25 determine legal sufficiency and investigate all legally
26 sufficient complaints. For purposes of this section, it is the
27 intent of the Legislature that the term "expeditiously" means
28 that the department complete the report of its initial
29 investigative findings and recommendations concerning the
30 existence of probable cause within 6 months after its receipt
31 of the complaint. The failure of the department, for

1 disciplinary cases under its jurisdiction, to comply with the
2 time limits of this section while investigating a complaint
3 against a licensee constitutes harmless error in any
4 subsequent disciplinary action unless a court finds that
5 either the fairness of the proceeding or the correctness of
6 the action may have been impaired by a material error in
7 procedure or a failure to follow prescribed procedure. When
8 its investigation is complete and legally sufficient, the
9 department shall prepare and submit to the probable cause
10 panel of the appropriate regulatory board the investigative
11 report of the department. The report shall contain the
12 investigative findings and the recommendations of the
13 department concerning the existence of probable cause. The
14 department shall not recommend a letter of guidance in lieu of
15 finding probable cause if the subject has already been issued
16 a letter of guidance for a related offense.At any time after
17 legal sufficiency is found, the department may dismiss any
18 case, or any part thereof, if the department determines that
19 there is insufficient evidence to support the prosecution of
20 allegations contained therein. The department shall provide a
21 detailed report to the appropriate probable cause panel prior
22 to dismissal of any case or part thereof, and to the subject
23 of the complaint after dismissal of any case or part thereof,
24 under this section. For cases dismissed prior to a finding of
25 probable cause, such report is confidential and exempt from s.
26 119.07(1). The probable cause panel shall have access, upon
27 request, to the investigative files pertaining to a case prior
28 to dismissal of such case. If the department dismisses a case,
29 the probable cause panel may retain independent legal counsel,
30 employ investigators, and continue the investigation and
31 prosecution of the case as it deems necessary.

1 (4) The determination as to whether probable cause
2 exists shall be made by majority vote of a probable cause
3 panel of the board, or by the department, as appropriate. Each
4 regulatory board shall provide by rule that the determination
5 of probable cause shall be made by a panel of its members or
6 by the department. Each board may provide by rule for multiple
7 probable cause panels composed of at least two members. Each
8 board may provide by rule that one or more members of the
9 panel or panels may be a former board member. The length of
10 term or repetition of service of any such former board member
11 on a probable cause panel may vary according to the direction
12 of the board when authorized by board rule. Any probable cause
13 panel must include one of the board's former or present
14 consumer members, if one is available, is willing to serve,
15 and is authorized to do so by the board chair. Any probable
16 cause panel must include a present board member. Any probable
17 cause panel must include a former or present professional
18 board member. However, any former professional board member
19 serving on the probable cause panel must hold an active valid
20 license for that profession. All proceedings of the panel are
21 exempt from s. 286.011 until 10 days after probable cause has
22 been found to exist by the panel or until the subject of the
23 investigation waives his or her privilege of confidentiality.
24 The probable cause panel may make a reasonable request, and
25 upon such request the department shall provide such additional
26 investigative information as is necessary to the determination
27 of probable cause. A request for additional investigative
28 information shall be made within 15 days from the date of
29 receipt by the probable cause panel of the investigative
30 report of the department or the agency. The probable cause
31 panel or the department, as may be appropriate, shall make its

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

1 or disciplinary proceeding that is not before the Division of
2 Administrative Hearings or otherwise completed by the
3 department within 1 year after the filing of the complaint.
4 Annually, the department, in consultation with the applicable
5 probable cause panel, if there is no board, or each board must
6 establish a plan to expedite ~~reduce~~ or otherwise close any
7 investigation or disciplinary proceeding that is not before
8 the Division of Administrative Hearings or otherwise completed
9 by the department within 1 year after the filing of the
10 complaint. A probable cause panel or a board may retain
11 independent legal counsel, employ investigators, and continue
12 the investigation as it deems necessary; all costs thereof
13 shall be paid from a trust fund used by the department to
14 implement this chapter. All proceedings of the probable cause
15 panel are exempt from s. 120.525.

16 (10) The complaint and all information obtained
17 pursuant to the investigation by the department are
18 confidential and exempt from s. 119.07(1) until 10 days after
19 probable cause has been found to exist by the probable cause
20 panel or by the department, or until the regulated
21 professional or subject of the investigation waives his or her
22 privilege of confidentiality, whichever occurs first. Upon
23 completion of the investigation and a recommendation by the
24 department to find probable cause, and pursuant to a written
25 request by the subject or the subject's attorney, the
26 department shall provide the subject an opportunity to inspect
27 the investigative file or, at the subject's expense, forward
28 to the subject a copy of the investigative file.
29 Notwithstanding s. 456.057, the subject may inspect or receive
30 a copy of any expert witness report or patient record
31 connected with the investigation if the subject agrees in

1 writing to maintain the confidentiality of any information
2 received under this subsection until 10 days after probable
3 cause is found and to maintain the confidentiality of patient
4 records pursuant to s. 456.057. The subject may file a written
5 response to the information contained in the investigative
6 file. Such response must be filed within 20 days of mailing by
7 the department, unless an extension of time has been granted
8 by the department. This subsection does not prohibit the
9 department from providing such information to any law
10 enforcement agency or to any other regulatory agency.

11 Section 15. Section 456.081, Florida Statutes, is
12 amended to read:

13 456.081 Publication of information.--The department
14 and the boards shall have the authority to advise licensees
15 periodically, through the publication of a newsletter on the
16 department's website, about information that the department or
17 the board determines is of interest to the industry. Unless
18 otherwise prohibited by law, the department and the boards
19 shall publish a summary of final orders resulting in
20 disciplinary action fines, suspensions, or revocations, and
21 any other information the department or the board determines
22 is of interest to the public.

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

25 456.079 Disciplinary guidelines.--

26 (3) A specific finding in the final order of
27 mitigating or aggravating circumstances shall allow the board
28 to impose a penalty other than that provided for in such
29 guidelines. If applicable, the board, or the department if
30 there is no board, shall adopt by rule disciplinary guidelines
31 to designate possible mitigating and aggravating circumstances

1 and the variation and range of penalties permitted for such
2 circumstances.

3 Section 17. Subsections (1) and (2) of section
4 457.109, Florida Statutes, are amended to read:

5 457.109 Disciplinary actions; grounds; action by the
6 board.--

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

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

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

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

23 (d) False, deceptive, or misleading advertising or
24 advertising which claims that acupuncture is useful in curing
25 any disease.

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

28 (f) 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.

31

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

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

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

12 (j) Exercising influence within a
13 patient-acupuncturist relationship for purposes of engaging a
14 patient in sexual activity. A patient shall be presumed to be
15 incapable of giving free, full, and informed consent to sexual
16 activity with his or her acupuncturist.

17 (k) Making deceptive, untrue, or fraudulent
18 representations in the practice of acupuncture or employing a
19 trick or scheme in the practice of acupuncture when such
20 scheme or trick fails to conform to the generally prevailing
21 standards of treatment in the community.

22 (l) Soliciting patients, either personally or through
23 an agent, through the use of fraud, intimidation, undue
24 influence, or a form of overreaching or vexatious conduct. A
25 solicitation is any communication which directly or implicitly
26 requests an immediate oral response from the recipient.

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

29 (n) Exercising influence on the patient to exploit the
30 patient for the financial gain of the licensee or of a third
31 party.

1 (o) Being unable to practice acupuncture with
2 reasonable skill and safety to patients by reason of illness
3 or use of alcohol, drugs, narcotics, chemicals, or any other
4 type of material or as a result of any mental or physical
5 condition. In enforcing this paragraph, upon a finding of the
6 secretary or the secretary's designee that probable cause
7 exists to believe that the licensee is unable to serve as an
8 acupuncturist due to the reasons stated in this paragraph, the
9 department shall have the authority to issue an order to
10 compel the licensee to submit to a mental or physical
11 examination by a physician designated by the department. If
12 the licensee refuses to comply with such order, the
13 department's order directing such examination may be enforced
14 by filing a petition for enforcement in the circuit court
15 where the licensee resides or serves as an acupuncturist. The
16 licensee against whom the petition is filed shall not be named
17 or identified by initials in any public court record or
18 document, and the proceedings shall be closed to the public.
19 The department shall be entitled to the summary procedure
20 provided in s. 51.011. An acupuncturist affected under this
21 paragraph shall at reasonable intervals be afforded an
22 opportunity to demonstrate that he or she can resume the
23 competent practice of acupuncture with reasonable skill and
24 safety to patients. In any proceeding under this paragraph,
25 neither the record of proceedings nor the orders entered by
26 the department shall be used against an acupuncturist in any
27 other proceeding.

28 (p) Gross or repeated malpractice or the failure to
29 practice acupuncture with that level of care, skill, and
30 treatment which is recognized by a reasonably prudent similar
31

1 acupuncturist as being acceptable under similar conditions and
2 circumstances.

3 (q) 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.

7 (r) Delegating professional responsibilities to a
8 person when the licensee delegating such responsibilities
9 knows or has reason to know that such person is not qualified
10 by training, experience, or licensure to perform them.

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

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

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

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

24 (w) Failing to comply with any rule of the board
25 relating to health and safety, including, but not limited to,
26 the sterilization of needles and equipment and the disposal of
27 potentially infectious materials.

28 (x) Violating any provision of this chapter or chapter
29 456, or any rules adopted pursuant thereto.

30 (2) The board may enter an order denying licensure or
31 imposing any of the penalties in s. 456.072(2) against any

1 applicant for licensure or licensee who is found guilty of
2 violating any provision of subsection (1) of this section or
3 who is found guilty of violating any provision of s.
4 456.072(1).~~When the board finds any person guilty of any of~~
5 ~~the acts set forth in subsection (1), it may enter an order~~
6 ~~imposing one or more of the following penalties:~~
7 ~~(a) Refusal to certify to the department an~~
8 ~~application for licensure.~~
9 ~~(b) Revocation or suspension of a license.~~
10 ~~(c) Restriction of practice.~~
11 ~~(d) Imposition of an administrative fine not to exceed~~
12 ~~\$1,000 for each count or separate offense.~~
13 ~~(e) Issuance of a reprimand.~~
14 ~~(f) Placement of the acupuncturist on probation for a~~
15 ~~period of time and subject to such conditions as the board may~~
16 ~~specify.~~
17 Section 18. Subsection (2) of section 458.315, Florida
18 Statutes, is amended to read:
19 458.315 Temporary certificate for practice in areas of
20 critical need.--Any physician who is licensed to practice in
21 any other state, whose license is currently valid, and who
22 pays an application fee of \$300 may be issued a temporary
23 certificate to practice in communities of Florida where there
24 is a critical need for physicians. A certificate may be
25 issued to a physician who will be employed by a county health
26 department, correctional facility, community health center
27 funded by s. 329, s. 330, or s. 340 of the United States
28 Public Health Services Act, or other entity that provides
29 health care to indigents and that is approved by the State
30 Health Officer. The Board of Medicine may issue this
31 temporary certificate with the following restrictions:

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

7 Section 19. Paragraph (d) is added to subsection (1)
8 of section 459.0075, Florida Statutes, to read:

9 459.0075 Limited licenses.--

10 (1) Any person desiring to obtain a limited license
11 shall:

12 (d) Within 60 days after receipt of an application for
13 a limited license, the board shall review the application and
14 issue the limited license or notify the applicant of denial.

15 Section 20. Subsection (6) of section 458.320, Florida
16 Statutes, is amended to read:

17 458.320 Financial responsibility.--

18 (6) Any deceptive, untrue, or fraudulent
19 representation by the licensee with respect to any provision
20 of this section shall result in permanent disqualification
21 from any exemption to mandated financial responsibility as
22 provided in this section and shall constitute grounds for
23 disciplinary action under ~~as specified in~~ s. 458.331.

24 Section 21. Subsections (1) and (2) of section
25 458.331, Florida Statutes, are amended to read:

26 458.331 Grounds for disciplinary action; action by the
27 board and department.--

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

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

5 (b) Having a license or the authority to practice
6 medicine revoked, suspended, or otherwise acted against,
7 including the denial of licensure, by the licensing authority
8 of any jurisdiction, including its agencies or subdivisions.
9 The licensing authority's acceptance of a physician's
10 relinquishment of a license, stipulation, consent order, or
11 other settlement, offered in response to or in anticipation of
12 the filing of administrative charges against the physician's
13 license, shall be construed as action against the physician's
14 license.

15 (c) Being convicted or found guilty of, or entering a
16 plea of nolo contendere to, regardless of adjudication, a
17 crime in any jurisdiction which directly relates to the
18 practice of medicine or to the ability to practice medicine.

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

20 (e) Failing to report to the department any person who
21 the licensee knows is in violation of this chapter or of the
22 rules of the department or the board. A treatment provider
23 approved pursuant to s. 456.076 shall provide the department
24 or consultant with information in accordance with the
25 requirements of s. 456.076(3), (4), (5), and (6).

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

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

31

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

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

17 (j) Exercising influence within a patient-physician
18 relationship for purposes of engaging a patient in sexual
19 activity. A patient shall be presumed to be incapable of
20 giving free, full, and informed consent to sexual activity
21 with his or her physician.

22 (k) Making deceptive, untrue, or fraudulent
23 representations in or related to the practice of medicine or
24 employing a trick or scheme in the practice of medicine.

25 (l) Soliciting patients, either personally or through
26 an agent, through the use of fraud, intimidation, undue
27 influence, or a form of overreaching or vexatious conduct. A
28 solicitation is any communication which directly or implicitly
29 requests an immediate oral response from the recipient.

30 (m) Failing to keep legible, as defined by department
31 rule in consultation with the board, medical records that

1 identify the licensed physician or the physician extender and
2 supervising physician by name and professional title who is or
3 are responsible for rendering, ordering, supervising, or
4 billing for each diagnostic or treatment procedure and that
5 justify the course of treatment of the patient, including, but
6 not limited to, patient histories; examination results; test
7 results; records of drugs prescribed, dispensed, or
8 administered; and reports of consultations and
9 hospitalizations.

10 (n) Exercising influence on the patient or client in
11 such a manner as to exploit the patient or client for
12 financial gain of the licensee or of a third party, which
13 shall include, but not be limited to, the promoting or selling
14 of services, goods, appliances, or drugs.

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

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. 743.064, s.
21 766.103, or s. 768.13.

22 (q) Prescribing, dispensing, administering, mixing, or
23 otherwise preparing a legend drug, including any controlled
24 substance, other than in the course of the physician's
25 professional practice. For the purposes of this paragraph, it
26 shall be legally presumed that prescribing, dispensing,
27 administering, mixing, or otherwise preparing legend drugs,
28 including all controlled substances, inappropriately or in
29 excessive or inappropriate quantities is not in the best
30 interest of the patient and is not in the course of the
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1 physician's professional practice, without regard to his or
2 her intent.

3 (r) Prescribing, dispensing, or administering any
4 medicinal drug appearing on any schedule set forth in chapter
5 893 by the physician to himself or herself, except one
6 prescribed, dispensed, or administered to the physician by
7 another practitioner authorized to prescribe, dispense, or
8 administer medicinal drugs.

9 (s) Being unable to practice medicine with reasonable
10 skill and safety to patients by reason of illness or use of
11 alcohol, drugs, narcotics, chemicals, or any other type of
12 material or as a result of any mental or physical condition.
13 In enforcing this paragraph, the department shall have, upon a
14 finding of the secretary or the secretary's designee that
15 probable cause exists to believe that the licensee is unable
16 to practice medicine because of the reasons stated in this
17 paragraph, the authority to issue an order to compel a
18 licensee to submit to a mental or physical examination by
19 physicians designated by the department. If the licensee
20 refuses to comply with such order, the department's order
21 directing such examination may be enforced by filing a
22 petition for enforcement in the circuit court where the
23 licensee resides or does business. The licensee against whom
24 the petition is filed may not be named or identified by
25 initials in any public court records or documents, and the
26 proceedings shall be closed to the public. The department
27 shall be entitled to the summary procedure provided in s.
28 51.011. A licensee or certificateholder affected under this
29 paragraph shall at reasonable intervals be afforded an
30 opportunity to demonstrate that he or she can resume the
31

1 competent practice of medicine with reasonable skill and
2 safety to patients.

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

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

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

1 reason to know that he or she is not competent to perform. The
2 board may establish by rule standards of practice and
3 standards of care for particular practice settings, including,
4 but not limited to, education and training, equipment and
5 supplies, medications including anesthetics, assistance of and
6 delegation to other personnel, transfer agreements,
7 sterilization, records, performance of complex or multiple
8 procedures, informed consent, and policy and procedure
9 manuals.

10 (w) Delegating professional responsibilities to a
11 person when the licensee delegating such responsibilities
12 knows or has reason to know that such person is not qualified
13 by training, experience, or licensure to perform them.

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

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

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

25 (aa) Presigning blank prescription forms.

26 (bb) Prescribing any medicinal drug appearing on
27 Schedule II in chapter 893 by the physician for office use.

28 (cc) Prescribing, ordering, dispensing, administering,
29 supplying, selling, or giving any drug which is a Schedule II
30 amphetamine or a Schedule II sympathomimetic amine drug or any

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1 compound thereof, pursuant to chapter 893, to or for any
2 person except for:

3 1. The treatment of narcolepsy; hyperkinesia;
4 behavioral syndrome characterized by the developmentally
5 inappropriate symptoms of moderate to severe distractibility,
6 short attention span, hyperactivity, emotional lability, and
7 impulsivity; or drug-induced brain dysfunction;

8 2. The differential diagnostic psychiatric evaluation
9 of depression or the treatment of depression shown to be
10 refractory to other therapeutic modalities; or

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

15 (dd) Failing to supervise adequately the activities of
16 those physician assistants, paramedics, emergency medical
17 technicians, or advanced registered nurse practitioners acting
18 under the supervision of the physician.

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

29 (ff) Prescribing, ordering, dispensing, administering,
30 supplying, selling, or giving amygdalin (laetrile) to any
31 person.

1 (gg) Misrepresenting or concealing a material fact at
2 any time during any phase of a licensing or disciplinary
3 process or procedure.

4 (hh) Improperly interfering with an investigation or
5 with any disciplinary proceeding.

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

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

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

24 (ll) Advertising or holding oneself out as a
25 board-certified specialist, if not qualified under s.
26 458.3312, in violation of this chapter.

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

31

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

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

13 ~~(a) Refusal to certify, or certification with~~
14 ~~restrictions, to the department an application for licensure,~~
15 ~~certification, or registration.~~

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

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

18 ~~(d) Imposition of an administrative fine not to exceed~~
19 ~~\$10,000 for each count or separate offense.~~

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

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

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

28 ~~(h) Corrective action.~~

29 ~~(i) Refund of fees billed to and collected from the~~
30 ~~patient.~~

31

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

3
4 In determining what action is appropriate, the board must
5 first consider what sanctions are necessary to protect the
6 public or to compensate the patient. Only after those
7 sanctions have been imposed may the disciplining authority
8 consider and include in the order requirements designed to
9 rehabilitate the physician. All costs associated with
10 compliance with orders issued under this subsection are the
11 obligation of the physician.

12 Section 22. Subsection (2) of section 458.345, Florida
13 Statutes, is amended to read:

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

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

24 Section 23. Subsection (7) of section 458.347, Florida
25 Statutes, is amended to read:

26 458.347 Physician assistants.--

27 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

1 of or is being investigated for any act that constitutes a
2 violation of this chapter or chapter 456.

3 Section 24. Subsection (6) of section 459.0085,
4 Florida Statutes, is amended to read:

5 459.0085 Financial responsibility.--

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

12 Section 25. Subsections (1) and (2) of section
13 459.015, Florida Statutes, are amended to read:

14 459.015 Grounds for disciplinary action; action by the
15 board and department.--

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

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

25 (b) Having a license or the authority to practice
26 osteopathic medicine revoked, suspended, or otherwise acted
27 against, including the denial of licensure, by the licensing
28 authority of any jurisdiction, including its agencies or
29 subdivisions. The licensing authority's acceptance of a
30 physician's relinquishment of license, stipulation, consent
31 order, or other settlement offered in response to or in

1 anticipation of the filing of administrative charges against
2 the physician shall be construed as action against the
3 physician's license.

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

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

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

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

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

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

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
31 person to do so. Such reports or records shall include only

1 those which are signed in the capacity as a licensed
2 osteopathic physician.

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

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

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

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

28 (n) Soliciting patients, either personally or through
29 an agent, through the use of fraud, intimidation, undue
30 influence, or forms of overreaching or vexatious conduct. A
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1 solicitation is any communication which directly or implicitly
2 requests an immediate oral response from the recipient.

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

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

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

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

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

31

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

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

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.

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;

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31

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

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

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

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

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

26 (kk) Improperly interfering with an investigation or
27 with any disciplinary proceeding.

28 (ll) Failing to report to the department any licensee
29 under chapter 458 or under this chapter who the osteopathic
30 physician or physician assistant knows has violated the
31 grounds for disciplinary action set out in the law under which

1 that person is licensed and who provides health care services
2 in a facility licensed under chapter 395, or a health
3 maintenance organization certificated under part I of chapter
4 641, in which the osteopathic physician or physician assistant
5 also provides services.

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

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

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

17 (pp) Violating any provision of this chapter or
18 chapter 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 grounds set forth in subsection (1), it may enter an order~~
26 ~~imposing one or more of the following penalties:~~

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

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

- 1 ~~(c) Restriction of practice.~~
- 2 ~~(d) Imposition of an administrative fine not to exceed~~
3 ~~\$10,000 for each count or separate offense.~~
- 4 ~~(e) Issuance of a reprimand.~~
- 5 ~~(f) Issuance of a letter of concern.~~
- 6 ~~(g) Placement of the osteopathic physician on~~
7 ~~probation for a period of time and subject to such conditions~~
8 ~~as the board may specify, including, but not limited to,~~
9 ~~requiring the osteopathic physician to submit to treatment,~~
10 ~~attend continuing education courses, submit to reexamination,~~
11 ~~or work under the supervision of another osteopathic~~
12 ~~physician.~~
- 13 ~~(h) Corrective action.~~
- 14 ~~(i) Refund of fees billed to and collected from the~~
15 ~~patient.~~
- 16 ~~(j) Imposition of an administrative fine in accordance~~
17 ~~with s. 381.0261 for violations regarding patient rights.~~
- 18
- 19 In determining what action is appropriate, the board must
20 first consider what sanctions are necessary to protect the
21 public or to compensate the patient. Only after those
22 sanctions have been imposed may the disciplining authority
23 consider and include in the order requirements designed to
24 rehabilitate the physician. All costs associated with
25 compliance with orders issued under this subsection are the
26 obligation of the physician.
- 27 Section 26. Paragraph (f) of subsection (7) of section
28 459.022, Florida Statutes, is amended to read:
- 29 459.022 Physician assistants.--
- 30 (7) PHYSICIAN ASSISTANT LICENSURE.--
- 31

1 (f) The Board of Osteopathic Medicine may impose any
2 of the penalties authorized under ~~specified in~~ ss. 456.072 and
3 459.015(2) upon a physician assistant if the physician
4 assistant or the supervising physician has been found guilty
5 of or is being investigated for any act that constitutes a
6 violation of this chapter or chapter 456.

7 Section 27. Subsections (1) and (2) of section
8 460.413, Florida Statutes, are amended to read:

9 460.413 Grounds for disciplinary action; action by
10 board or department.--

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

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

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

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

30 (e) Causing to be advertised, by any means whatsoever,
31 any advertisement which does not contain an assertion or

1 statement which would identify herself or himself as a
2 chiropractic physician or identify such chiropractic clinic or
3 related institution in which she or he practices or in which
4 she or he is owner, in whole or in part, as a chiropractic
5 institution.

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

8 (g) Failing to report to the department any person who
9 the licensee knows is in violation of this chapter or of the
10 rules of the department or the board.

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

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

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

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

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

1 (m) Failing to keep legibly written chiropractic
2 medical records that identify clearly by name and credentials
3 the licensed chiropractic physician rendering, ordering,
4 supervising, or billing for each examination or treatment
5 procedure and that justify the course of treatment of the
6 patient, including, but not limited to, patient histories,
7 examination results, test results, X rays, and diagnosis of a
8 disease, condition, or injury. X rays need not be retained
9 for more than 4 years.

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

15 (o) Performing professional services which have not
16 been duly authorized by the patient or client or her or his
17 legal representative except as provided in ss. 743.064,
18 766.103, and 768.13.

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

22 (q) Being unable to practice chiropractic medicine
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, upon a
27 finding by the secretary of the department, or his or her
28 designee, or the probable cause panel of the board that
29 probable cause exists to believe that the licensee is unable
30 to practice the profession because of reasons stated in this
31 paragraph, the department shall have the authority to compel a

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

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

29 (s) Performing any procedure or prescribing any
30 therapy which, by the prevailing standards of chiropractic
31 medical practice in the community, would constitute

1 experimentation on human subjects, without first obtaining
2 full, informed, and written consent.

3 (t) 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 she or he is not competent to perform.

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

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

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

20 (x) Submitting to any third-party payor a claim for a
21 service or treatment which was not actually provided to a
22 patient.

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

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

15 1. Funds reasonably sufficient to pay bank charges may
16 be deposited therein.

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

24

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

31

1 funds, securities, or other properties in the possession of
2 the physician which the patient is entitled to receive.

3 (z) Offering to accept or accepting payment for
4 services rendered by assignment from any third-party payor
5 after offering to accept or accepting whatever the third-party
6 payor covers as payment in full, if the effect of the offering
7 or acceptance is to eliminate or give the impression of
8 eliminating the need for payment by an insured of any required
9 deductions applicable in the policy of the insured.

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

13 (bb) Advertising a fee or charge for a service or
14 treatment which is different from the fee or charge the
15 licensee submits to third-party payors for that service or
16 treatment.

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

23 (dd) Using acupuncture without being certified
24 pursuant to s. 460.403(9)(f).

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

1 of chapter 641, in which the chiropractic physician or
2 chiropractic physician's assistant also provides services.

3 (ff) Violating any provision of this chapter or
4 chapter 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) Restriction of practice.~~

17 ~~(d) Imposition of an administrative fine not to exceed~~
18 ~~\$10,000 for each count or separate offense.~~

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

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

26 ~~(g) Imposition of costs of the investigation and~~
27 ~~prosecution.~~

28 ~~(h) Requirement that the chiropractic physician~~
29 ~~undergo remedial education.~~

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

31 ~~(j) Corrective action.~~

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

3
4 In determining what action is appropriate, the board must
5 first consider what sanctions are necessary to protect the
6 public or to compensate the patient. Only after those
7 sanctions have been imposed may the disciplining authority
8 consider and include in the order requirements designed to
9 rehabilitate the chiropractic physician. All costs associated
10 with compliance with orders issued under this subsection are
11 the obligation of the chiropractic physician.

12 Section 28. Subsections (1) and (2) of section
13 461.013, Florida Statutes, are amended to read:

14 461.013 Grounds for disciplinary action; action by the
15 board; investigations by department.--

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

20 (a) Attempting to obtain, obtaining, or renewing a
21 license to practice podiatric medicine by bribery, by
22 fraudulent misrepresentations, or through an error of the
23 department or the board.

24 (b) Having a license to practice podiatric medicine
25 revoked, suspended, or otherwise acted against, including the
26 denial of licensure, by the licensing authority of another
27 state, territory, or country.

28 (c) Being convicted or found guilty, regardless of
29 adjudication, of a crime in any jurisdiction which directly
30 relates to the practice of podiatric medicine or to the
31 ability to practice podiatric medicine. Any plea of nolo

1 contendere shall be considered a conviction for purposes of
2 this chapter.

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

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

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

9 (g) Aiding, assisting, procuring, permitting, or
10 advising any unlicensed person to practice podiatric medicine
11 contrary to this chapter or to rule of the department or the
12 board.

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

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

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

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

31

1 (1) Failing to keep written medical records justifying
2 the course of treatment of the patient, including, but not
3 limited to, patient histories, examination results, and test
4 results.

5 (m) Exercising influence on the patient or client in
6 such a manner as to exploit the patient or client for
7 financial gain of the licensee or of a third party which shall
8 include, but not be limited to, the promotion or sale of
9 services, goods, appliances, or drugs and the promoting or
10 advertising on any prescription form of a community pharmacy
11 unless the form shall also state "This prescription may be
12 filled at any pharmacy of your choice."

13 (n) Performing professional services which have not
14 been duly authorized by the patient or client or her or his
15 legal representative except as provided in ss. 743.064,
16 766.103, and 768.13.

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

28 (p) Prescribing, dispensing, or administering any
29 medicinal drug appearing on any schedule set forth in chapter
30 893 by the podiatric physician to herself or himself except
31 those prescribed, dispensed, or administered to the podiatric

1 physician by another practitioner authorized to prescribe,
2 dispense, or administer them.

3 (q) Prescribing, ordering, dispensing, administering,
4 supplying, selling, or giving any amphetamine or
5 sympathomimetic amine drug or compound designated as a
6 Schedule II controlled substance pursuant to chapter 893.

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

25 (s) Gross or repeated malpractice or the failure to
26 practice podiatric medicine at a level of care, skill, and
27 treatment which is recognized by a reasonably prudent
28 podiatric physician as being acceptable under similar
29 conditions and circumstances. The board shall give great
30 weight to the standards for malpractice in s. 766.102 in
31 interpreting this section. As used in this paragraph,

1 "repeated malpractice" includes, but is not limited to, three
2 or more claims for medical malpractice within the previous
3 5-year period resulting in indemnities being paid in excess of
4 \$10,000 each to the claimant in a judgment or settlement and
5 which incidents involved negligent conduct by the podiatric
6 physicians. As used in this paragraph, "gross malpractice" or
7 "the failure to practice podiatric medicine with the level of
8 care, skill, and treatment which is recognized by a reasonably
9 prudent similar podiatric physician as being acceptable under
10 similar conditions and circumstances" shall not be construed
11 so as to require more than one instance, event, or act.

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

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

21 (v) Delegating professional responsibilities to a
22 person when the licensee delegating such responsibilities
23 knows or has reason to know that such person is not qualified
24 by training, experience, or licensure to perform them.

25 (w) ~~Violating any provision of this chapter or chapter~~
26 ~~456, any rule of the board or department, or a lawful order of~~
27 the board or department previously entered in a disciplinary
28 hearing or failing to comply with a lawfully issued subpoena
29 of the board or department.

30 (x) Conspiring with another licensee or with any other
31 person to commit an act, or committing an act, which would

1 tend to coerce, intimidate, or preclude another licensee from
2 lawfully advertising her or his services.

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

13 (z) Fraud, deceit, or misconduct in the practice of
14 podiatric medicine.

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

23 (bb) Failing to comply with the requirements of ss.
24 381.026 and 381.0261 to provide patients with information
25 about their patient rights and how to file a patient
26 complaint.

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

29 (2) The board may enter an order denying licensure or
30 imposing any of the penalties in s. 456.072(2) against any
31 applicant for licensure or licensee who is found guilty of

1 violating any provision of subsection (1) of this section or
2 who is found guilty of violating any provision of s.
3 456.072(1).~~When the board finds any person guilty of any of~~
4 ~~the grounds set forth in subsection (1), it may enter an order~~
5 ~~imposing one or more of the following penalties:~~
6 ~~(a) Refusal to certify to the department an~~
7 ~~application for licensure.~~
8 ~~(b) Revocation or suspension of a license.~~
9 ~~(c) Restriction of practice.~~
10 ~~(d) Imposition of an administrative fine not to exceed~~
11 ~~\$10,000 for each count or separate offense.~~
12 ~~(e) Issuance of a reprimand.~~
13 ~~(f) Placing the podiatric physician on probation for a~~
14 ~~period of time and subject to such conditions as the board may~~
15 ~~specify, including requiring the podiatric physician to submit~~
16 ~~to treatment, to attend continuing education courses, to~~
17 ~~submit to reexamination, and to work under the supervision of~~
18 ~~another podiatric physician.~~
19 ~~(g) Imposition of an administrative fine in accordance~~
20 ~~with s. 381.0261 for violations regarding patient rights.~~
21 Section 29. Subsections (1) and (2) of section 462.14,
22 Florida Statutes, are amended to read:
23 462.14 Grounds for disciplinary action; action by the
24 department.--
25 (1) The following acts constitute grounds for denial
26 of a license or disciplinary action, as specified in s.
27 456.072(2)~~which the disciplinary actions specified in~~
28 ~~subsection (2) may be taken:~~
29 (a) Attempting to obtain, obtaining, or renewing a
30 license to practice naturopathic medicine by bribery, by
31

1 fraudulent misrepresentation, or through an error of the
2 department.

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

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

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

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

16 (f) Failing to report to the department any person who
17 the licensee knows is in violation of this chapter or of the
18 rules of the department.

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

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

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

31

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

11 (k) Exercising influence within a patient-physician
12 relationship for purposes of engaging a patient in sexual
13 activity. A patient shall be presumed to be incapable of
14 giving free, full, and informed consent to sexual activity
15 with her or his physician.

16 (l) Making deceptive, untrue, or fraudulent
17 representations in the practice of naturopathic medicine or
18 employing a trick or scheme in the practice of naturopathic
19 medicine when such scheme or trick fails to conform to the
20 generally prevailing standards of treatment in the medical
21 community.

22 (m) Soliciting patients, either personally or through
23 an agent, through the use of fraud, intimidation, undue
24 influence, or a form of overreaching or vexatious conduct. A
25 "solicitation" is any communication which directly or
26 implicitly requests an immediate oral response from the
27 recipient.

28 (n) Failing to keep written medical records justifying
29 the course of treatment of the patient, including, but not
30 limited to, patient histories, examination results, test
31

1 results, X rays, and records of the prescribing, dispensing
2 and administering of drugs.

3 (o) Exercising influence on the patient or client in
4 such a manner as to exploit the patient or client for the
5 financial gain of the licensee or of a third party, which
6 shall include, but not be limited to, the promoting or selling
7 of services, goods, appliances, or drugs and the promoting or
8 advertising on any prescription form of a community pharmacy
9 unless the form also states "This prescription may be filled
10 at any pharmacy of your choice."

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

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

26 (r) Prescribing, dispensing, or administering any
27 medicinal drug appearing on any schedule set forth in chapter
28 893 by the naturopathic physician to herself or himself,
29 except one prescribed, dispensed, or administered to the
30 naturopathic physician by another practitioner authorized to
31 prescribe, dispense, or administer medicinal drugs.

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

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

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

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 she or he is not competent to perform.

7 (w) Delegating professional responsibilities to a
8 person when the licensee delegating such responsibilities
9 knows or has reason to know that such person is not qualified
10 by training, experience, or licensure to perform them.

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

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

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

21 (aa) Presigning blank prescription forms.

22 (bb) Prescribing by the naturopathic physician for
23 office use any medicinal drug appearing on Schedule II in
24 chapter 893.

25 (cc) Prescribing, ordering, dispensing, administering,
26 supplying, selling, or giving any drug which is an amphetamine
27 or sympathomimetic amine drug, or a compound designated
28 pursuant to chapter 893 as a Schedule II controlled substance
29 to or for any person except for:

30 1. The treatment of narcolepsy; hyperkinesis;
31 behavioral syndrome in children characterized by the

1 developmentally inappropriate symptoms of moderate to severe
2 distractability, short attention span, hyperactivity,
3 emotional lability, and impulsivity; or drug-induced brain
4 dysfunction.

5 2. The differential diagnostic psychiatric evaluation
6 of depression or the treatment of depression shown to be
7 refractory to other therapeutic modalities.

8 3. The clinical investigation of the effects of such
9 drugs or compounds when an investigative protocol therefor is
10 submitted to, reviewed, and approved by the department before
11 such investigation is begun.

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

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

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

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

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

8 ~~(f) Placement of the naturopathic physician on~~
9 ~~probation for a period of time and subject to such conditions~~
10 ~~as the department may specify, including, but not limited to,~~
11 ~~requiring the naturopathic physician to submit to treatment,~~
12 ~~to attend continuing education courses, to submit to~~
13 ~~reexamination, or to work under the supervision of another~~
14 ~~naturopathic physician.~~

15 Section 30. Subsections (1) and (2) of section
16 463.016, Florida Statutes, are amended to read:

17 463.016 Grounds for disciplinary action; action by the
18 board.--

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

23 (a) Procuring or attempting to procure a license to
24 practice optometry by bribery, by fraudulent
25 misrepresentations, or through an error of the department or
26 board.

27 (b) Procuring or attempting to procure a license for
28 any other person by making or causing to be made any false
29 representation.

30

31

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

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

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

16 (f) Advertising goods or services in a manner which is
17 fraudulent, false, deceptive, or misleading in form or
18 content.

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

21 (h) A violation or repeated violations of provisions
22 of this chapter, or of chapter 456, and any rules promulgated
23 pursuant thereto.

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

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

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

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

4 (m) Gross or repeated malpractice.

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

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

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

18 (q) Violating any provision of s. 463.014 or s.
19 463.015.

20 (r) Violating any 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 board
23 or department.

24 (s) Practicing or offering to practice beyond the
25 scope permitted by law or accepting and performing
26 professional responsibilities which the licensed practitioner
27 knows or has reason to know she or he is not competent to
28 perform.

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

31

1 (2) The department may enter an order imposing any of
2 the penalties in s. 456.072(2) against any licensee who is
3 found guilty of violating any provision of subsection (1) of
4 this section or who is found guilty of violating any provision
5 of s. 456.072(1).~~When the board finds any person guilty of~~

6 ~~any of the grounds set forth in subsection (1), it may enter~~
7 ~~an order imposing one or more of the following penalties:~~

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

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

11 ~~(c) Imposition of an administrative fine not to exceed~~
12 ~~\$5,000 for each count or separate offense.~~

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

14 ~~(e) Placement of the licensed practitioner on~~
15 ~~probation for a period of time and subject to such conditions~~
16 ~~as the board may specify, including requiring the licensed~~
17 ~~practitioner to submit to treatment, to attend continuing~~
18 ~~education courses, or to work under the supervision of another~~
19 ~~licensed practitioner.~~

20 Section 31. Subsections (1) and (2) of section
21 464.018, Florida Statutes, are amended to read:

22 464.018 Disciplinary actions.--

23 (1) The following acts constitute ~~shall be~~ grounds for
24 denial of a license or disciplinary action, as specified in s.
25 456.072(2)~~disciplinary action set forth in this section:~~

26 (a) Procuring, attempting to procure, or renewing a
27 license to practice nursing by bribery, by knowing
28 misrepresentations, or through an error of the department or
29 the board.

30 (b) Having a license to practice nursing revoked,
31 suspended, or otherwise acted against, including the denial of

1 licensure, by the licensing authority of another state,
2 territory, or country.

3 (c) Being convicted or found guilty of, or entering a
4 plea of nolo contendere to, regardless of adjudication, a
5 crime in any jurisdiction which directly relates to the
6 practice of nursing or to the ability to practice nursing.

7 (d) Being found guilty, regardless of adjudication, of
8 any of the following offenses:

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

10 2. A violation of chapter 812, relating to theft,
11 robbery, and related crimes.

12 3. A violation of chapter 817, relating to fraudulent
13 practices.

14 4. A violation of chapter 800, relating to lewdness
15 and indecent exposure.

16 5. A violation of chapter 784, relating to assault,
17 battery, and culpable negligence.

18 6. A violation of chapter 827, relating to child
19 abuse.

20 7. A violation of chapter 415, relating to protection
21 from abuse, neglect, and exploitation.

22 8. A violation of chapter 39, relating to child abuse,
23 abandonment, and neglect.

24 (e) Having been found guilty of, regardless of
25 adjudication, or entered a plea of nolo contendere or guilty
26 to, any offense prohibited under s. 435.03 or under any
27 similar statute of another jurisdiction; or having committed
28 an act which constitutes domestic violence as defined in s.
29 741.28.

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

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 in the nurse's
5 capacity as a licensed nurse.

6 (g) False, misleading, or deceptive advertising.

7 (h) Unprofessional conduct, which shall include, but
8 not be limited to, any departure from, or the failure to
9 conform to, the minimal standards of acceptable and prevailing
10 nursing practice, in which case actual injury need not be
11 established.

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

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

1 initials in any public court records or documents, and the
2 proceedings shall be closed to the public. The department
3 shall be entitled to the summary procedure provided in s.
4 51.011. A nurse affected by the provisions of this paragraph
5 shall at reasonable intervals be afforded an opportunity to
6 demonstrate that she or he can resume the competent practice
7 of nursing with reasonable skill and safety to patients.

8 (k) Failing to report to the department any person who
9 the licensee knows is in violation of this part or of the
10 rules of the department or the board; however, if the licensee
11 verifies that such person is actively participating in a
12 board-approved program for the treatment of a physical or
13 mental condition, the licensee is required to report such
14 person only to an impaired professionals consultant.

15 (1) Knowingly violating any provision of this part, a
16 rule of the board or the department, or a lawful order of the
17 board or department previously entered in a disciplinary
18 proceeding or failing to comply with a lawfully issued
19 subpoena of the department.

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

27 (n) Violating any provision of this chapter or chapter
28 456, or any rules adopted pursuant thereto.

29 (2) The board may enter an order denying licensure or
30 imposing any of the penalties in s. 456.072(2) against any
31 applicant for licensure or licensee who is found guilty of

1 violating any provision of subsection (1) of this section or
2 who is found guilty of violating any provision of s.
3 456.072(1).~~When the board finds any person guilty of any of~~
4 ~~the grounds set forth in subsection (1), it may enter an order~~
5 ~~imposing one or more of the following penalties:~~
6 ~~(a) Refusal to certify to the department an~~
7 ~~application for licensure.~~
8 ~~(b) Revocation or suspension of a license with~~
9 ~~reinstatement subject to the provisions of subsection (3).~~
10 ~~(c) Permanent revocation of a license.~~
11 ~~(d) Restriction of practice.~~
12 ~~(e) Imposition of an administrative fine not to exceed~~
13 ~~\$1,000 for each count or separate offense.~~
14 ~~(f) Issuance of a reprimand.~~
15 ~~(g) Placement of the nurse on probation for a period~~
16 ~~of time and subject to such conditions as the board may~~
17 ~~specify, including requiring the nurse to submit to treatment,~~
18 ~~to attend continuing education courses, to take an~~
19 ~~examination, or to work under the supervision of another~~
20 ~~nurse.~~

21 Section 32. Subsection (3) of section 465.008, Florida
22 Statutes, is amended to read:

23 465.008 Renewal of license.--

24 ~~(3) Sixty days prior to the end of the biennium the~~
25 ~~department shall mail a notice of renewal to the last known~~
26 ~~address of the licensee.~~

27 Section 33. Subsections (1) and (2) of section
28 465.016, Florida Statutes, are amended to read:

29 465.016 Disciplinary actions.--

30
31

1 (1) The following acts constitute ~~shall be~~ grounds for
2 denial of a license or disciplinary action, as specified in s.
3 456.072(2)disciplinary action set forth in this section:

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

6 (b) Procuring or attempting to procure a license for
7 any other person by making or causing to be made any false
8 representation.

9 (c) Permitting any person not licensed as a pharmacist
10 in this state or not registered as an intern in this state, or
11 permitting a registered intern who is not acting under the
12 direct and immediate personal supervision of a licensed
13 pharmacist, to fill, compound, or dispense any prescriptions
14 in a pharmacy owned and operated by such pharmacist or in a
15 pharmacy where such pharmacist is employed or on duty.

16 (d) Being unfit or incompetent to practice pharmacy by
17 reason of:

18 1. Habitual intoxication.

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

21 3. Any abnormal physical or mental condition which
22 threatens the safety of persons to whom she or he might sell
23 or dispense prescriptions, drugs, or medical supplies or for
24 whom she or he might manufacture, prepare, or package, or
25 supervise the manufacturing, preparation, or packaging of,
26 prescriptions, drugs, or medical supplies.

27 (e) ~~Violating any of the requirements of this chapter;~~
28 ~~or if licensed as a practitioner in this or any other state,~~
29 ~~violating any of the requirements of their respective practice~~
30 ~~act or violating chapter 499; 21 U.S.C. ss. 301-392, known as~~
31 ~~the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et~~

1 seq., known as the Comprehensive Drug Abuse Prevention and
2 Control Act; or chapter 893.

3 (f) Having been convicted or found guilty, regardless
4 of adjudication, in a court of this state or other
5 jurisdiction, of a crime which directly relates to the ability
6 to practice pharmacy or to the practice of pharmacy. A plea
7 of nolo contendere constitutes a conviction for purposes of
8 this provision.

9 (g) Using in the compounding of a prescription, or
10 furnishing upon prescription, an ingredient or article
11 different in any manner from the ingredient or article
12 prescribed, except as authorized in s. 465.019(6) or s.
13 465.025.

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

17 (i) Compounding, dispensing, or distributing a legend
18 drug, including any controlled substance, other than in the
19 course of the professional practice of pharmacy. For purposes
20 of this paragraph, it shall be legally presumed that the
21 compounding, dispensing, or distributing of legend drugs in
22 excessive or inappropriate quantities is not in the best
23 interests of the patient and is not in the course of the
24 professional practice of pharmacy.

25 (j) 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 include only those which the licensee is required to make or
31 file in her or his capacity as a licensed pharmacist.

1 (k) Failing to make prescription fee or price
2 information readily available by failing to provide such
3 information upon request and upon the presentation of a
4 prescription for pricing or dispensing. Nothing in this
5 section shall be construed to prohibit the quotation of price
6 information on a prescription drug to a potential consumer by
7 telephone.

8 (l) Placing in the stock of any pharmacy any part of
9 any prescription compounded or dispensed which is returned by
10 a patient; however, in a hospital, nursing home, correctional
11 facility, or extended care facility in which unit-dose
12 medication is dispensed to inpatients, each dose being
13 individually sealed and the individual unit dose or unit-dose
14 system labeled with the name of the drug, dosage strength,
15 manufacturer's control number, and expiration date, if any,
16 the unused unit dose of medication may be returned to the
17 pharmacy for redispensing. Each pharmacist shall maintain
18 appropriate records for any unused or returned medicinal
19 drugs.

20 (m) Being unable to practice pharmacy with reasonable
21 skill and safety by reason of illness, use of drugs,
22 narcotics, chemicals, or any other type of material or as a
23 result of any mental or physical condition. A pharmacist
24 affected under this paragraph shall at reasonable intervals be
25 afforded an opportunity to demonstrate that she or he can
26 resume the competent practice of pharmacy with reasonable
27 skill and safety to her or his customers.

28 (n) Violating a rule of the board or department or
29 violating an order of the board or department previously
30 entered in a disciplinary hearing.

31

1 (o) Failing to report to the department any licensee
2 under chapter 458 or under chapter 459 who the pharmacist
3 knows has violated the grounds for disciplinary action set out
4 in the law under which that person is licensed and who
5 provides health care services in a facility licensed under
6 chapter 395, or a health maintenance organization certificated
7 under part I of chapter 641, in which the pharmacist also
8 provides services.

9 (p) Failing to notify the Board of Pharmacy in writing
10 within 20 days of the commencement or cessation of the
11 practice of the profession of pharmacy in Florida when such
12 commencement or cessation of the practice of the profession of
13 pharmacy in Florida was a result of a pending or completed
14 disciplinary action or investigation in another jurisdiction.

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

17 (r) 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 grounds 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) Imposition of an administrative fine not to exceed~~
31 ~~\$5,000 for each count or separate offense.~~

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

2 ~~(e) Placement of the pharmacist on probation for a~~
3 ~~period of time and subject to such conditions as the board may~~
4 ~~specify, including, but not limited to, requiring the~~
5 ~~pharmacist to submit to treatment, to attend continuing~~
6 ~~education courses, to submit to reexamination, or to work~~
7 ~~under the supervision of another pharmacist.~~

8 Section 34. Subsections (1) and (2) of section
9 466.028, Florida Statutes, are amended to read:

10 466.028 Grounds for disciplinary action; action by the
11 board.--

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 under this chapter by bribery, fraudulent
18 misrepresentations, or through an error of the department or
19 the board.

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

24 (c) Being convicted or found guilty of or entering a
25 plea of nolo contendere to, regardless of adjudication, a
26 crime in any jurisdiction which relates to the practice of
27 dentistry or dental hygiene. A plea of nolo contendere shall
28 create a rebuttable presumption of guilt to the underlying
29 criminal charges.

30 (d) Advertising goods or services in a manner which is
31 fraudulent, false, deceptive, or misleading in form or content

1 contrary to s. 466.019 or rules of the board adopted pursuant
2 thereto.

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

5 (f) Failing to report to the department any person who
6 the licensee knows, or has reason to believe, is clearly in
7 violation of this chapter or of the rules of the department or
8 the board.

9 (g) Aiding, assisting, procuring, or advising any
10 unlicensed person to practice dentistry or dental hygiene
11 contrary to this chapter or to a rule of the department or the
12 board.

13 (h) Being employed by any corporation, organization,
14 group, or person other than a dentist or a professional
15 corporation or limited liability company composed of dentists
16 to practice dentistry.

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

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

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

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

30 (m) Failing to keep written dental records and medical
31 history records justifying the course of treatment of the

1 patient including, but not limited to, patient histories,
2 examination results, test results, and X rays, if taken.

3 (n) Failing to make available to a patient or client,
4 or to her or his legal representative or to the department if
5 authorized in writing by the patient, copies of documents in
6 the possession or under control of the licensee which relate
7 to the patient or client.

8 (o) 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. 766.103 and
11 768.13.

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

23 (q) Prescribing, procuring, dispensing, or
24 administering any medicinal drug appearing on any schedule set
25 forth in chapter 893, by a dentist to herself or himself,
26 except those prescribed, dispensed, or administered to the
27 dentist by another practitioner authorized to prescribe them.

28 (r) Prescribing, procuring, ordering, dispensing,
29 administering, supplying, selling, or giving any drug which is
30 a Schedule II amphetamine or a Schedule II sympathomimetic
31 amine drug or a compound thereof, pursuant to chapter 893, to

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

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

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

31

- 1 (u) Failure to provide and maintain reasonable
2 sanitary facilities and conditions.
- 3 (v) Failure to provide adequate radiation safeguards.
- 4 (w) Performing any procedure or prescribing any
5 therapy which, by the prevailing standards of dental practice
6 in the community, would constitute experimentation on human
7 subjects, without first obtaining full, informed, and written
8 consent.
- 9 (x) Being guilty of incompetence or negligence by
10 failing to meet the minimum standards of performance in
11 diagnosis and treatment when measured against generally
12 prevailing peer performance, including, but not limited to,
13 the undertaking of diagnosis and treatment for which the
14 dentist is not qualified by training or experience or being
15 guilty of dental malpractice. For purposes of this paragraph,
16 it shall be legally presumed that a dentist is not guilty of
17 incompetence or negligence by declining to treat an individual
18 if, in the dentist's professional judgment, the dentist or a
19 member of her or his clinical staff is not qualified by
20 training and experience, or the dentist's treatment facility
21 is not clinically satisfactory or properly equipped to treat
22 the unique characteristics and health status of the dental
23 patient, provided the dentist refers the patient to a
24 qualified dentist or facility for appropriate treatment. As
25 used in this paragraph, "dental malpractice" includes, but is
26 not limited to, three or more claims within the previous
27 5-year period which resulted in indemnity being paid, or any
28 single indemnity paid in excess of \$5,000 in a judgment or
29 settlement, as a result of negligent conduct on the part of
30 the dentist.
- 31

1 (y) 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 (z) Delegating professional responsibilities to a
6 person who is not qualified by training, experience, or
7 licensure to perform them.

8 (aa) ~~The violation or the repeated violation of this~~
9 ~~chapter, chapter 456, or any rule promulgated pursuant to~~
10 ~~chapter 456 or this chapter; the violation~~ of a lawful order
11 of the board or department previously entered in a
12 disciplinary hearing; or failure to comply with a lawfully
13 issued subpoena of the board or department.

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

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

21 (dd) Presigning blank prescription or laboratory work
22 order forms.

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

1 presumption that the prescription is for legitimate medical
2 use.

3 (ff) Operating or causing to be operated a dental
4 office in such a manner as to result in dental treatment that
5 is below minimum acceptable standards of performance for the
6 community. This includes, but is not limited to, the use of
7 substandard materials or equipment, the imposition of time
8 limitations within which dental procedures are to be
9 performed, or the failure to maintain patient records as
10 required by this chapter.

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

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

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

23 (jj) Advertising specialty services in violation of
24 this chapter.

25 (kk) Allowing any person other than another dentist or
26 a professional corporation or limited liability company
27 composed of dentists to direct, control, or interfere with a
28 dentist's clinical judgment; however, this paragraph may not
29 be construed to limit a patient's right of informed consent.
30 To direct, control, or interfere with a dentist's clinical
31 judgment may not be interpreted to mean dental services

1 contractually excluded, the application of alternative
2 benefits that may be appropriate given the dentist's
3 prescribed course of treatment, or the application of
4 contractual provisions and scope of coverage determinations in
5 comparison with a dentist's prescribed treatment on behalf of
6 a covered person by an insurer, health maintenance
7 organization, or a prepaid limited health service
8 organization.

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

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

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

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

22 ~~(c) Imposition of an administrative fine not to exceed~~
23 ~~\$3,000 for each count or separate offense.~~

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

25 ~~(e) Placement of the licensee on probation for a~~
26 ~~period of time and subject to such conditions as the board may~~
27 ~~specify, including requiring the licensee to attend continuing~~
28 ~~education courses or demonstrate competency through a written~~
29 ~~or practical examination or to work under the supervision of~~
30 ~~another licensee.~~

31 ~~(f) Restricting the authorized scope of practice.~~

1 Section 35. Section 466.037, Florida Statutes, is
2 amended to read:

3 466.037 Suspension and revocation; administrative
4 fine.--The department may suspend or revoke the certificate of
5 any dental laboratory registered under s. 466.032, for failing
6 to comply with the provisions of this chapter or rules adopted
7 by the department under this chapter. The department may
8 impose an administrative fine ~~not to exceed \$500 for each~~
9 ~~count or separate offense.~~

10 Section 36. Subsections (1) and (2) of section
11 467.203, Florida Statutes, are amended to read:

12 467.203 Disciplinary actions; penalties.--

13 (1) The following acts constitute ~~shall be~~ grounds for
14 denial of a license or disciplinary action, as specified in s.
15 456.072(2)disciplinary action as set forth in this section:

16 (a) Procuring, attempting to procure, or renewing a
17 license to practice midwifery by bribery, by fraudulent
18 misrepresentation, or through an error of the department.

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

23 (c) Being convicted or found guilty, regardless of
24 adjudication, in any jurisdiction of a crime which directly
25 relates to the practice of midwifery or to the ability to
26 practice midwifery. A plea of nolo contendere shall be
27 considered a conviction for purposes of this provision.

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

1 or inducing another to do so. Such reports or records shall
2 include only those which are signed in the midwife's capacity
3 as a licensed midwife.

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

5 (f) Engaging in unprofessional conduct, which
6 includes, but is not limited to, any departure from, or the
7 failure to conform to, the standards of practice of midwifery
8 as established by the department, in which case actual injury
9 need not be established.

10 (g) Being unable to practice midwifery with reasonable
11 skill and safety to patients by reason of illness;
12 drunkenness; or use of drugs, narcotics, chemicals, or other
13 materials or as a result of any mental or physical condition.
14 A midwife affected under this paragraph shall, at reasonable
15 intervals, be afforded an opportunity to demonstrate that he
16 or she can resume the competent practice of midwifery with
17 reasonable skill and safety.

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

21 (i) ~~Willfully or repeatedly Violating any provision of~~
22 ~~this chapter, any rule of the department, or any lawful order~~
23 ~~of the department previously entered in a disciplinary~~
24 ~~proceeding or failing to comply with a lawfully issued~~
25 ~~subpoena of the department.~~

26 (j) Violating any provision of this chapter or chapter
27 456, or any rules adopted pursuant thereto.

28 (2) The department may enter an order denying
29 licensure or imposing any of the penalties in s. 456.072(2)
30 against any applicant for licensure or licensee who is found
31 guilty of violating any provision of subsection (1) of this

1 section or who is found guilty of violating any provision of
2 s. 456.072(1).~~When the department finds any person guilty of~~
3 ~~any of the grounds set forth in subsection (1), it may enter~~
4 ~~an order imposing one or more of the following penalties:~~
5 ~~(a) Refusal to approve an application for licensure.~~
6 ~~(b) Revocation or suspension of a license.~~
7 ~~(c) Imposition of an administrative fine not to exceed~~
8 ~~\$1,000 for each count or separate offense.~~
9 ~~(d) Issuance of a reprimand.~~
10 ~~(e) Placement of the midwife on probation for such~~
11 ~~period of time and subject to such conditions as the~~
12 ~~department may specify, including requiring the midwife to~~
13 ~~submit to treatment; undertake further relevant education or~~
14 ~~training; take an examination; or work under the supervision~~
15 ~~of another licensed midwife, a physician, or a nurse midwife~~
16 ~~licensed under part I of chapter 464.~~

17 Section 37. Subsections (1) and (2) of section
18 468.1295, Florida Statutes, are amended to read:

19 468.1295 Disciplinary proceedings.--

20 (1) The following acts constitute grounds for denial
21 of a license or disciplinary action, as specified in s.
22 456.072(2)~~both disciplinary actions as set forth in~~
23 ~~subsection (2) and cease and desist or other related actions~~
24 ~~by the department as set forth in s. 456.065:~~

25 (a) Procuring or attempting to procure a license by
26 bribery, by fraudulent misrepresentation, or through an error
27 of the department or the board.

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

31

1 (c) 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 speech-language pathology or audiology.

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

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

16 (f) Being proven guilty of fraud or deceit or of
17 negligence, incompetency, or misconduct in the practice of
18 speech-language pathology or audiology.

19 (g) Violating 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 (h) Practicing with a revoked, suspended, inactive, or
24 delinquent license.

25 (i) Using, or causing or promoting the use of, any
26 advertising matter, promotional literature, testimonial,
27 guarantee, warranty, label, brand, insignia, or other
28 representation, however disseminated or published, which is
29 misleading, deceiving, or untruthful.

30
31

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

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

8 (l) Aiding, assisting, procuring, employing, or
9 advising any licensee or business entity to practice
10 speech-language pathology or audiology contrary to this part,
11 chapter 456, or any rule adopted pursuant thereto.

12 ~~(m) Violating any provision of this part or chapter~~
13 ~~456 or any rule adopted pursuant thereto.~~

14 (m)~~(n)~~ Misrepresenting the professional services
15 available in the fitting, sale, adjustment, service, or repair
16 of a hearing aid, or using any other term or title which might
17 connote the availability of professional services when such
18 use is not accurate.

19 (n)~~(o)~~ Representing, advertising, or implying that a
20 hearing aid or its repair is guaranteed without providing full
21 disclosure of the identity of the guarantor; the nature,
22 extent, and duration of the guarantee; and the existence of
23 conditions or limitations imposed upon the guarantee.

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

31

1 (p)~~(q)~~ Stating or implying that the use of any hearing
2 aid will improve or preserve hearing or prevent or retard the
3 progression of a hearing impairment or that it will have any
4 similar or opposite effect.

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

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

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

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

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

21 (v)~~(w)~~ Exercising influence on a client in such a
22 manner as to exploit the client for financial gain of the
23 licensee or of a third party.

24 (w)~~(x)~~ Practicing or offering to practice beyond the
25 scope permitted by law or accepting and performing
26 professional responsibilities the licensee or
27 certificateholder knows, or has reason to know, the licensee
28 or certificateholder is not competent to perform.

29 (x)~~(y)~~ Aiding, assisting, procuring, or employing any
30 unlicensed person to practice speech-language pathology or
31 audiology.

1 (y)~~(z)~~ Delegating or contracting for the performance
2 of professional responsibilities by a person when the licensee
3 delegating or contracting for performance of such
4 responsibilities knows, or has reason to know, such person is
5 not qualified by training, experience, and authorization to
6 perform them.

7 (z)~~(aa)~~ Committing any act upon a patient or client
8 which would constitute sexual battery or which would
9 constitute sexual misconduct as defined pursuant to s.
10 468.1296.

11 (aa)~~(bb)~~ Being unable to practice the profession for
12 which he or she is licensed or certified under this chapter
13 with reasonable skill or competence as a result of any mental
14 or physical condition or by reason of illness, drunkenness, or
15 use of drugs, narcotics, chemicals, or any other substance. In
16 enforcing this paragraph, upon a finding by the secretary, his
17 or her designee, or the board that probable cause exists to
18 believe that the licensee or certificateholder is unable to
19 practice the profession because of the reasons stated in this
20 paragraph, the department shall have the authority to compel a
21 licensee or certificateholder to submit to a mental or
22 physical examination by a physician, psychologist, clinical
23 social worker, marriage and family therapist, or mental health
24 counselor designated by the department or board. If the
25 licensee or certificateholder refuses to comply with the
26 department's order directing the examination, such order may
27 be enforced by filing a petition for enforcement in the
28 circuit court in the circuit in which the licensee or
29 certificateholder resides or does business. The department
30 shall be entitled to the summary procedure provided in s.
31 51.011. A licensee or certificateholder affected under this

1 paragraph shall at reasonable intervals be afforded an
2 opportunity to demonstrate that he or she can resume the
3 competent practice for which he or she is licensed or
4 certified with reasonable skill and safety to patients.

5 (bb) Violating any provision of this chapter or
6 chapter 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 person guilty of any of
13 the acts set forth in subsection (1), it may issue an order
14 imposing one or more of the following penalties:

15 (a) Refusal to certify, or to certify with
16 restrictions, an application for licensure.

17 (b) Suspension or permanent revocation of a license.

18 (c) Issuance of a reprimand.

19 (d) Restriction of the authorized scope of practice.

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

22 (f) Placement of the licensee or certificateholder on
23 probation for a period of time and subject to such conditions
24 as the board may specify. Those conditions may include, but
25 are not limited to, requiring the licensee or
26 certificateholder to undergo treatment, attend continuing
27 education courses, submit to be reexamined, work under the
28 supervision of another licensee, or satisfy any terms which
29 are reasonably tailored to the violation found.

30 (g) Corrective action.

31

1 Section 38. Subsections (1) and (2) of section
2 468.1755, Florida Statutes, are amended to read:

3 468.1755 Disciplinary proceedings.--

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

8 (a) Violation of any provision of s. 456.072(1) or s.
9 468.1745(1).

10 (b) Attempting to procure a license to practice
11 nursing home administration by bribery, by fraudulent
12 misrepresentation, or through an error of the department or
13 the board.

14 (c) Having a license to practice nursing home
15 administration revoked, suspended, or otherwise acted against,
16 including the denial of licensure, by the licensing authority
17 of another state, territory, or country.

18 (d) Being convicted or found guilty, regardless of
19 adjudication, of a crime in any jurisdiction which relates to
20 the practice of nursing home administration or the ability to
21 practice nursing home administration. Any plea of nolo
22 contendere shall be considered a conviction for purposes of
23 this part.

24 (e) Making or filing a report or record which the
25 licensee knows to be false, intentionally failing to file a
26 report or record required by state or federal law, willfully
27 impeding or obstructing such filing, or inducing another
28 person to impede or obstruct such filing. Such reports or
29 records shall include only those which are signed in the
30 capacity of a licensed nursing home administrator.

31

1 (f) Authorizing the discharge or transfer of a
2 resident for a reason other than those provided in ss. 400.022
3 and 400.0255.

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

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

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

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

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

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

20 (l)~~(m)~~ Being unable to practice nursing home
21 administration with reasonable skill and safety to patients by
22 reason of illness, drunkenness, use of drugs, narcotics,
23 chemicals, or any other material or substance or as a result
24 of any mental or physical condition. In enforcing this
25 paragraph, upon a finding of the secretary or his or her
26 designee that probable cause exists to believe that the
27 licensee is unable to serve as a nursing home administrator
28 due to the reasons stated in this paragraph, the department
29 shall have the authority to issue an order to compel the
30 licensee to submit to a mental or physical examination by a
31 physician designated by the department. If the licensee

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

14 (m)~~(n)~~ Willfully or repeatedly violating any of the
15 provisions of the law, code, or rules of the licensing or
16 supervising authority or agency of the state or political
17 subdivision thereof having jurisdiction of the operation and
18 licensing of nursing homes.

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

23 (o)~~(p)~~ Willfully permitting unauthorized disclosure of
24 information relating to a patient or his or her records.

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

28 (q) Violating any provision of this chapter or chapter
29 456, or any rules adopted pursuant thereto.

30 (2) The board may enter an order denying licensure or
31 imposing any of the penalties in s. 456.072(2) against any

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

8 ~~(a) Denial of an application for licensure.~~
9 ~~(b) Revocation or suspension of a license.~~
10 ~~(c) Imposition of an administrative fine not to exceed~~
11 ~~\$1,000 for each count or separate offense.~~
12 ~~(d) Issuance of a reprimand.~~
13 ~~(e) Placement of the licensee on probation for a~~
14 ~~period of time and subject to such conditions as the board may~~
15 ~~specify, including requiring the licensee to attend continuing~~
16 ~~education courses or to work under the supervision of another~~
17 ~~licensee.~~

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

19 Section 39. Section 468.217, Florida Statutes, is
20 amended to read:

21 468.217 Denial of or refusal to renew license;
22 suspension and revocation of license and other disciplinary
23 measures.--

24 (1) The following acts constitute grounds for denial
25 of a license or disciplinary action, as specified in s.
26 456.072(2)~~The board may deny or refuse to renew a license,~~
27 ~~suspend or revoke a license, issue a reprimand, impose a fine,~~
28 ~~or impose probationary conditions upon a licensee, when the~~
29 ~~licensee or applicant for license has been guilty of~~
30 ~~unprofessional conduct which has endangered, or is likely to~~
31

1 ~~endanger, the health, welfare, or safety of the public. Such~~
2 ~~unprofessional conduct includes:~~

3 (a) Attempting to obtain, obtaining, or renewing a
4 license to practice occupational therapy by bribery, by
5 fraudulent misrepresentation, or through an error of the
6 department or the board.

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

11 (c) Being convicted or found guilty, regardless of
12 adjudication, of a crime in any jurisdiction which directly
13 relates to the practice of occupational therapy or to the
14 ability to practice occupational therapy. A plea of nolo
15 contendere shall be considered a conviction for the purposes
16 of this part.

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

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

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

23 (g) Aiding, assisting, procuring, or advising any
24 unlicensed person to practice occupational therapy contrary to
25 this part or to a rule of the department or the board.

26 (h) Failing to perform any statutory or legal
27 obligation placed upon a licensed occupational therapist or
28 occupational therapy assistant.

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

1 impeding or obstructing such filing or inducing another person
2 to do so. Such reports or records include only those which
3 are signed in the capacity as a licensed occupational
4 therapist or occupational therapy assistant.

5 (j) Paying or receiving any commission, bonus,
6 kickback, or rebate to or from, or engaging in any split-fee
7 arrangement in any form whatsoever with, a physician,
8 organization, agency, or person, either directly or
9 indirectly, 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 occupational therapist or
14 occupational therapy assistant from receiving a fee for
15 professional consultation services.

16 (k) Exercising influence within a patient-therapist
17 relationship for purposes of engaging a patient in sexual
18 activity. A patient is presumed to be incapable of giving
19 free, full, and informed consent to sexual activity with the
20 patient's occupational therapist or occupational therapy
21 assistant.

22 (l) Making deceptive, untrue, or fraudulent
23 representations in the practice of occupational therapy or
24 employing a trick or scheme in the practice of occupational
25 therapy if such scheme or trick fails to conform to the
26 generally prevailing standards of treatment in the
27 occupational therapy community.

28 (m) Soliciting patients, either personally or through
29 an agent, through the use of fraud, intimidation, undue
30 influence, or a form of overreaching or vexatious conduct. A
31 "solicitation" is any communication which directly or

1 implicitly requests an immediate oral response from the
2 recipient.

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

6 (o) Exercising influence on the patient or client in
7 such a manner as to exploit the patient or client for
8 financial gain of the licensee or of a third party which
9 includes, but is not limited to, the promoting or selling of
10 services, goods, appliances, or drugs.

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

14 (q) Gross or repeated malpractice or the failure to
15 practice occupational therapy with that level of care, skill,
16 and treatment which is recognized by a reasonably prudent
17 similar occupational therapist or occupational therapy
18 assistant as being acceptable under similar conditions and
19 circumstances.

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

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

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

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

20 (u) Delegating professional responsibilities to a
21 person when the licensee who is delegating such
22 responsibilities knows or has reason to know that such person
23 is not qualified by training, experience, or licensure to
24 perform them.

25 (v) Violating ~~any provision of this part, a rule of~~
26 ~~the board or department, or~~ a lawful order of the board or
27 department previously entered in a disciplinary hearing or
28 failing to comply with a lawfully issued subpoena of the
29 department.

30 (w) Conspiring with another licensee or with any other
31 person to commit an act, or committing an act, which would

1 tend to coerce, intimidate, or preclude another licensee from
2 lawfully advertising his or her services.

3 (x) 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).

11 (3)(2) The board may not reinstate the license of an
12 occupational therapist or occupational therapy assistant, or
13 cause a license to be issued to a person it has deemed
14 unqualified, until such time as the board is satisfied that
15 such person has complied with all the terms and conditions set
16 forth in the final order and is capable of safely engaging in
17 the practice of occupational therapy.

18 Section 40. Subsections (1) and (2) of section
19 468.365, Florida Statutes, are amended to read:

20 468.365 Disciplinary grounds and actions.--

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 the disciplinary actions in subsection (2)
24 may be taken:

25 (a) Procuring, attempting to procure, or renewing a
26 license as provided by this part by bribery, by fraudulent
27 misrepresentation, or through an error of the department or
28 the board.

29 (b) Having licensure, certification, registration, or
30 other authority, by whatever name known, to deliver
31 respiratory care services revoked, suspended, or otherwise

1 acted against, including the denial of licensure,
2 certification, registration, or other authority to deliver
3 respiratory care services by the licensing authority of
4 another state, territory, or country.

5 (c) Being convicted or found guilty of, or entering a
6 plea of nolo contendere to, regardless of adjudication, a
7 crime in any jurisdiction which directly relates to
8 respiratory care services or to the ability to deliver such
9 services.

10 (d) Willfully making or filing a false report or
11 record, willfully failing to file a report or record required
12 by state or federal law, or willfully impeding or obstructing
13 such filing or inducing another person to do so. Such reports
14 or records include only those reports or records which require
15 the signature of a respiratory care practitioner or
16 respiratory therapist licensed pursuant to this part.

17 (e) Circulating false, misleading, or deceptive
18 advertising.

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

24 (g) Engaging or attempting to engage in the
25 possession, sale, or distribution of controlled substances, as
26 set forth by law, for any purpose other than a legitimate
27 purpose.

28 (h) Willfully failing to report any violation of this
29 part.

30
31

1 (i) ~~Willfully or repeatedly~~ Violating ~~a rule of the~~
2 ~~board or the department or~~ a lawful order of the board or
3 department previously entered in a disciplinary hearing.

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

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

8 (k)~~(l)~~ Permitting, aiding, assisting, procuring, or
9 advising any person who is not licensed pursuant to this part,
10 contrary to this part or to any rule of the department or the
11 board.

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

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

18 (n)~~(o)~~ Delegating professional responsibilities to a
19 person when the licensee delegating such responsibilities
20 knows, or has reason to know, that such person is not
21 qualified by training, experience, or licensure to perform
22 them.

23 (o)~~(p)~~ Gross or repeated malpractice or the failure to
24 deliver respiratory care services with that level of care,
25 skill, and treatment which is recognized by a reasonably
26 prudent respiratory care practitioner or respiratory therapist
27 with similar professional training as being acceptable under
28 similar conditions and circumstances.

29 (p)~~(q)~~ Paying or receiving any commission, bonus,
30 kickback, or rebate to or from, or engaging in any split-fee
31 arrangement in any form whatsoever with, a person,

1 organization, or agency, either directly or indirectly, for
2 goods or services rendered to patients referred by or to
3 providers of health care goods and services, including, but
4 not limited to, hospitals, nursing homes, clinical
5 laboratories, ambulatory surgical centers, or pharmacies. The
6 provisions of this paragraph shall not be construed to prevent
7 the licensee from receiving a fee for professional
8 consultation services.

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

15 (r)~~(s)~~ Making deceptive, untrue, or fraudulent
16 representations in the delivery of respiratory care services
17 or employing a trick or scheme in the delivery of respiratory
18 care services if such a scheme or trick fails to conform to
19 the generally prevailing standards of other licensees within
20 the community.

21 (s)~~(t)~~ Soliciting patients, either personally or
22 through an agent, through the use of fraud, deception, or
23 otherwise misleading statements or through the exercise of
24 intimidation or undue influence.

25 (t)~~(u)~~ Failing to keep written respiratory care
26 records justifying the reason for the action taken by the
27 licensee.

28 (u)~~(v)~~ Exercising influence on the patient in such a
29 manner as to exploit the patient for the financial gain of the
30 licensee or a third party, which includes, but is not limited
31

1 to, the promoting or selling of services, goods, appliances,
2 or drugs.

3 (v)~~(w)~~ Performing professional services which have not
4 been duly ordered by a physician licensed pursuant to chapter
5 458 or chapter 459 and which are not in accordance with
6 protocols established by the hospital, other health care
7 provider, or the board, except as provided in ss. 743.064,
8 766.103, and 768.13.

9 (w)~~(x)~~ Being unable to deliver respiratory care
10 services with reasonable skill and safety to patients by
11 reason of illness or use of alcohol, drugs, narcotics,
12 chemicals, or any other type of material as a result of any
13 mental or physical condition. In enforcing this paragraph,
14 the department shall, upon probable cause, have authority to
15 compel a respiratory care practitioner or respiratory
16 therapist to submit to a mental or physical examination by
17 physicians designated by the department. The cost of
18 examination shall be borne by the licensee being examined.
19 The failure of a respiratory care practitioner or respiratory
20 therapist to submit to such an examination when so directed
21 constitutes an admission of the allegations against her or
22 him, upon which a default and a final order may be entered
23 without the taking of testimony or presentation of evidence,
24 unless the failure was due to circumstances beyond her or his
25 control. A respiratory care practitioner or respiratory
26 therapist affected under this paragraph shall at reasonable
27 intervals be afforded an opportunity to demonstrate that she
28 or he can resume the competent delivery of respiratory care
29 services with reasonable skill and safety to her or his
30 patients. In any proceeding under this paragraph, neither the
31 record of proceedings nor the orders entered by the board

1 shall be used against a respiratory care practitioner or
2 respiratory therapist in any other proceeding.

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

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

14 (b) ~~Revocation or suspension of licensure.~~

15 (c) ~~Imposition of an administrative fine not to exceed~~
16 ~~\$1,000 for each count or separate offense.~~

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

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

26 Section 41. Subsections (1) and (2) of section
27 468.518, Florida Statutes, are amended to read:

28 468.518 Grounds for disciplinary action.--

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

31

1 456.072(2)~~which the disciplinary actions in subsection (2)~~
2 ~~may be taken:~~

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

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

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

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

24 (c) Attempting to procure or procuring a license to
25 practice dietetics and nutrition or nutrition counseling by
26 fraud or material misrepresentation of material fact.

27 (d) Having a license to practice dietetics and
28 nutrition or nutrition counseling revoked, suspended, or
29 otherwise acted against, including the denial of licensure by
30 the licensing authority of another state, district, territory,
31 or country.

1 (e) 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 dietetics and nutrition or nutrition counseling or
5 the ability to practice dietetics and nutrition or nutrition
6 counseling.

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

15 (g) Advertising goods or services in a manner that is
16 fraudulent, false, deceptive, or misleading in form or
17 content.

18 (h) Committing an act of fraud or deceit, or of
19 negligence, incompetency, or misconduct in the practice of
20 dietetics and nutrition or nutrition counseling.

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

23 (j) Treating or undertaking to treat human ailments by
24 means other than by dietetics and nutrition practice or
25 nutrition counseling.

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

29 (l) Engaging directly or indirectly in the dividing,
30 transferring, assigning, rebating, or refunding of fees
31 received for professional services, or profiting by means of a

1 credit or other valuable consideration, such as an unearned
2 commission, discount, or gratuity, with any person referring a
3 patient or with any relative or business associate of the
4 referring person. Nothing in this part prohibits the members
5 of any regularly and properly organized business entity that
6 is composed of licensees under this part and recognized under
7 the laws of this state from making any division of their total
8 fees among themselves as they determine necessary.

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

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

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

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

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

25 (c) ~~Imposition of an administrative fine not to exceed~~
26 ~~\$1,000 for each violation;~~

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

28 (e) ~~Placement of the licensee on probation for a~~
29 ~~period of time and subject to such conditions as the board may~~
30 ~~specify, including requiring the licensee to attend continuing~~
31 ~~education courses or to work under the supervision of a~~

1 ~~licensed dietitian/nutritionist or licensed nutrition~~
2 ~~counselor; or~~

3 ~~(f) Restriction of the authorized scope of practice of~~
4 ~~the licensee.~~

5 Section 42. Section 468.719, Florida Statutes, is
6 amended to read:

7 468.719 Disciplinary actions.--

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

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

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

21 (b)(c) Committing incompetency or misconduct in the
22 practice of athletic training.

23 (c)(d) Committing fraud or deceit in the practice of
24 athletic training.

25 (d)(e) Committing negligence, gross negligence, or
26 repeated negligence in the practice of athletic training.

27 (e)(f) While practicing athletic training, being
28 unable to practice athletic training with reasonable skill and
29 safety to athletes by reason of illness or use of alcohol or
30 drugs or as a result of any mental or physical condition.

31

1 (f) Violating any provision of this chapter or chapter
2 456, or any rules adopted pursuant thereto.

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

12 Section 43. Section 468.811, Florida Statutes, is
13 amended to read:

14 468.811 Disciplinary proceedings.--

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

21 (a) Attempting to procure a license by fraudulent
22 misrepresentation.

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

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

1 federal laws or regulations regarding orthotics, prosthetics,
2 or pedorthics.

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

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

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

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

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

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

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

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

31

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 44. 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

- 1 (e) Circulating false, misleading, or deceptive
2 advertising.
- 3 (f) Unprofessional conduct, including any departure
4 from, or failure to conform to, acceptable standards related
5 to the delivery of electrolysis services.
- 6 (g) Engaging or attempting to engage in the illegal
7 possession, sale, or distribution of any illegal or controlled
8 substance.
- 9 (h) Willfully failing to report any known violation of
10 this chapter.
- 11 (i) Willfully or repeatedly violating a rule adopted
12 under this chapter, or an order of the board or department
13 previously entered in a disciplinary hearing.
- 14 (j) Engaging in the delivery of electrolysis services
15 without an active license.
- 16 (k) Employing an unlicensed person to practice
17 electrology.
- 18 (l) Failing to perform any statutory or legal
19 obligation placed upon an electrologist.
- 20 (m) 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) Delegating professional responsibilities to a
24 person the licensee knows, or has reason to know, is
25 unqualified by training, experience, or licensure to perform.
- 26 (o) Gross or repeated malpractice or the inability to
27 practice electrology with reasonable skill and safety.
- 28 (p) Judicially determined mental incompetency.
- 29 (q) Practicing or attempting to practice electrology
30 under a name other than her or his own.
- 31

1 (r) Being unable to practice electrology with
2 reasonable skill and safety because of a mental or physical
3 condition or illness, or the use of alcohol, controlled
4 substances, or any other substance which impairs one's ability
5 to practice.

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

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

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

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

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

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

1 (v) Violating any provision of this chapter or chapter
2 456, or any rules adopted pursuant thereto.

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

13 ~~(a) Deny the application for licensure.~~

14 ~~(b) Revoke or suspend the license.~~

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

17 ~~(d) Place the licensee on probation for a specified~~
18 ~~time and subject the licensee to such conditions as the board~~
19 ~~determines necessary, including, but not limited to, requiring~~
20 ~~treatment, continuing education courses, reexamination, or~~
21 ~~working under the supervision of another licensee.~~

22 ~~(e) Issue a reprimand to the licensee.~~

23 ~~(f) Restriction of a licensee's practice.~~

24 Section 45. Subsections (1) and (2) of section
25 480.046, Florida Statutes, are amended to read:

26 480.046 Grounds for disciplinary action by the
27 board.--

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

1 ~~(2) may be taken against a massage therapist or massage~~
2 ~~establishment licensed under this act:~~

3 (a) Attempting to procure a license to practice
4 massage by bribery or fraudulent misrepresentation.

5 (b) Having a license to practice massage 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, of a crime in any jurisdiction which directly
11 relates to the practice of massage or to the ability to
12 practice massage. Any plea of nolo contendere shall be
13 considered a conviction for purposes of this chapter.

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

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

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

21 (g) Being unable to practice massage with reasonable
22 skill and safety by reason of illness or use of alcohol,
23 drugs, narcotics, chemicals, or any other type of material or
24 as a result of any mental or physical condition. In enforcing
25 this paragraph, the department shall have, upon probable
26 cause, authority to compel a massage therapist to submit to a
27 mental or physical examination by physicians designated by the
28 department. Failure of a massage therapist to submit to such
29 examination when so directed, unless the failure was due to
30 circumstances beyond her or his control, shall constitute an
31 admission of the allegations against her or him, consequent

1 upon which a default and final order may be entered without
2 the taking of testimony or presentation of evidence. A
3 massage therapist affected under this paragraph shall at
4 reasonable intervals be afforded an opportunity to demonstrate
5 that she or he can resume the competent practice of massage
6 with reasonable skill and safety to clients.

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

12 (i) 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 (j) 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.

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

25 (l) Refusing to permit the department to inspect the
26 business premises of the licensee during regular business
27 hours.

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

30 (n) Practicing massage at a site, location, or place
31 which is not duly licensed as a massage establishment, except

1 that a massage therapist, as provided by rules adopted by the
2 board, may provide massage services, excluding colonic
3 irrigation, at the residence of a client, at the office of the
4 client, at a sports event, at a convention, or at a trade
5 show.

6 (o) 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 license an applicant.~~

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

18 ~~(c) Issuance of a reprimand or censure.~~

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

21 Section 46. Section 483.825, Florida Statutes, is
22 amended to read:

23 483.825 Grounds for disciplinary action.--

24 (1) The following acts constitute grounds for denial
25 of a license or disciplinary action, as specified in s.
26 456.072(2)which disciplinary actions specified in s. 483.827
27 ~~may be taken against applicants, registrants, and licensees~~
28 ~~under this part:~~

29 ~~(a)(1)~~ (a) Attempting to obtain, obtaining, or renewing a
30 license or registration under this part by bribery, by

31

1 fraudulent misrepresentation, or through an error of the
2 department or the board.

3 (b)~~(2)~~ Engaging in or attempting to engage in, or
4 representing herself or himself as entitled to perform, any
5 clinical laboratory procedure or category of procedures not
6 authorized pursuant to her or his license.

7 (c)~~(3)~~ Demonstrating incompetence or making consistent
8 errors in the performance of clinical laboratory examinations
9 or procedures or erroneous reporting.

10 (d)~~(4)~~ Performing a test and rendering a report
11 thereon to a person not authorized by law to receive such
12 services.

13 (e)~~(5)~~ Has been convicted or found guilty of, or
14 entered a plea of nolo contendere to, regardless of
15 adjudication, a crime in any jurisdiction which directly
16 relates to the activities of clinical laboratory personnel or
17 involves moral turpitude or fraudulent or dishonest dealing.
18 The record of a conviction certified or authenticated in such
19 form as to be admissible in evidence under the laws of the
20 state shall be admissible as prima facie evidence of such
21 guilt.

22 (f)~~(6)~~ Having been adjudged mentally or physically
23 incompetent.

24 (g)~~(7)~~ ~~Violating or~~ Aiding and abetting in the
25 violation of any provision of this part or the rules adopted
26 hereunder.

27 (h)~~(8)~~ Reporting a test result when no laboratory test
28 was performed on a clinical specimen.

29 (i)~~(9)~~ Knowingly advertising false services or
30 credentials.

31

1 (j)~~(10)~~ Having a license revoked, suspended, or
2 otherwise acted against, including the denial of licensure, by
3 the licensing authority of another jurisdiction. The licensing
4 authority's acceptance of a relinquishment of a license,
5 stipulation, consent order, or other settlement, offered in
6 response to or in anticipation of the filing of administrative
7 charges against the licensee, shall be construed as action
8 against the licensee.

9 (k)~~(11)~~ Failing to report to the board, in writing,
10 within 30 days that an action under subsection (5), subsection
11 (6), or subsection (10) has been taken against the licensee or
12 one's license to practice as clinical laboratory personnel in
13 another state, territory, country, or other jurisdiction.

14 (l)~~(12)~~ Being unable to perform or report clinical
15 laboratory examinations with reasonable skill and safety to
16 patients by reason of illness or use of alcohol, drugs,
17 narcotics, chemicals, or any other type of material or as a
18 result of any mental or physical condition. In enforcing this
19 subsection, the department shall have, upon a finding of the
20 secretary or his or her designee that probable cause exists to
21 believe that the licensee is unable to practice because of the
22 reasons stated in this subsection, the authority to issue an
23 order to compel a licensee to submit to a mental or physical
24 examination by physicians designated by the department. If
25 the licensee refuses to comply with such order, the
26 department's order directing such examination may be enforced
27 by filing a petition for enforcement in the circuit court
28 where the licensee resides or does business. The department
29 shall be entitled to the summary procedure provided in s.
30 51.011. A licensee affected under this subsection shall at
31 reasonable intervals be afforded an opportunity to demonstrate

1 that he or she can resume competent practice with reasonable
2 skill and safety to patients.

3 (m)~~(13)~~ Delegating professional responsibilities to a
4 person when the licensee delegating such responsibilities
5 knows, or has reason to know, that such person is not
6 qualified by training, experience, or licensure to perform
7 them.

8 (n)~~(14)~~ Violating a previous order of the board
9 entered in a disciplinary proceeding.

10 (o)~~(15)~~ Failing to report to the department a person
11 or other licensee who the licensee knows is in violation of
12 this chapter or the rules of the department or board adopted
13 hereunder.

14 (p)~~(16)~~ Making or filing a report which the licensee
15 knows to be false, intentionally or negligently failing to
16 file a report or record required by state or federal law,
17 willfully impeding or obstructing such filing or inducing
18 another person to do so, including, but not limited to,
19 impeding an agent of the state from obtaining a report or
20 record for investigative purposes. Such reports or records
21 shall include only those generated in the capacity as a
22 licensed clinical laboratory personnel.

23 (q)~~(17)~~ Paying or receiving any commission, bonus,
24 kickback, or rebate, or engaging in any split-fee arrangement
25 in any form whatsoever with a physician, organization, agency,
26 or person, either directly or indirectly for patients referred
27 to providers of health care goods and services including, but
28 not limited to, hospitals, nursing homes, clinical
29 laboratories, ambulatory surgical centers, or pharmacies. The
30 provisions of this subsection shall not be construed to
31

1 prevent a clinical laboratory professional from receiving a
2 fee for professional consultation services.

3 (r)~~(18)~~ Exercising influence on a patient or client in
4 such a manner as to exploit the patient or client for the
5 financial gain of the licensee or other third party, which
6 shall include, but not be limited to, the promoting, selling,
7 or withholding of services, goods, appliances, referrals, or
8 drugs.

9 (s)~~(19)~~ Practicing or offering to practice beyond the
10 scope permitted by law or rule, or accepting or performing
11 professional services or responsibilities which the licensee
12 knows or has reason to know that he or she is not competent to
13 perform.

14 (t)~~(20)~~ Misrepresenting or concealing a material fact
15 at any time during any phase of the licensing, investigative,
16 or disciplinary process, procedure, or proceeding.

17 (u)~~(21)~~ Improperly interfering with an investigation
18 or any disciplinary proceeding.

19 (v)~~(22)~~ Engaging in or attempting to engage in sexual
20 misconduct, causing undue embarrassment or using disparaging
21 language or language of a sexual nature towards a patient,
22 exploiting superior/subordinate, professional/patient,
23 instructor/student relationships for personal gain, sexual
24 gratification, or advantage.

25 (w) Violating any provision of this chapter or chapter
26 456, or any rules adopted pursuant thereto.

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

1 who is found guilty of violating any provision of s.
2 456.072(1).

3 (3) In determining the amount of the fine to be levied
4 for a violation, as provided in subsection (1), the following
5 factors shall be considered:

6 (a) The severity of the violation, including the
7 probability that death or serious harm to the health or safety
8 of any person will result or has resulted, the severity of the
9 actual or potential harm, and the extent to which the
10 provisions of this part were violated.

11 (b) Actions taken by the licensee to correct the
12 violation or to remedy complaints.

13 (c) Any previous violation by the licensee.

14 (d) The financial benefit to the licensee of
15 committing or continuing the violation.

16 Section 47. Section 483.827, Florida Statutes, is
17 repealed.

18 Section 48. Subsection (6) of section 483.901, Florida
19 Statutes, is amended to read:

20 483.901 Medical physicists; definitions; licensure.--

21 (6) LICENSE REQUIRED.--An individual may not engage in
22 the practice of medical physics, including the specialties of
23 diagnostic radiological physics, therapeutic radiological
24 physics, medical nuclear radiological physics, or medical
25 health physics, without a license issued by the department for
26 the appropriate specialty.

27 (a) The department shall adopt rules to administer
28 this section which specify license application and renewal
29 fees, continuing education requirements, and standards for
30 practicing medical physics. The council shall recommend to
31 the department continuing education requirements that shall be

1 a condition of license renewal. The department shall require
2 a minimum of 24 hours per biennium of continuing education
3 offered by an organization recommended by the council and
4 approved by the department. The department, upon
5 recommendation of the council, may adopt rules to specify
6 continuing education requirements for persons who hold a
7 license in more than one specialty.

8 (b) In order to apply for a medical physicist license
9 in one or more specialties, a person must file an individual
10 application for each specialty with the department. The
11 application must be on a form prescribed by the department and
12 must be accompanied by a nonrefundable application fee for
13 each specialty.

14 (c) The department may issue a license to an eligible
15 applicant if the applicant meets all license requirements. At
16 any time before the department issues a license, the applicant
17 may request in writing that the application be withdrawn. To
18 reapply, the applicant must submit a new application and an
19 additional nonrefundable application fee and must meet all
20 current licensure requirements.

21 (d) The department shall review each completed
22 application for a license which the department receives.

23 (e) On receipt of an application and fee as specified
24 in this section, the department may issue a license to
25 practice medical physics in this state on or after October 1,
26 1997, to a person who is board certified in the medical
27 physics specialty in which the applicant applies to practice
28 by the American Board of Radiology for diagnostic radiological
29 physics, therapeutic radiological physics, or medical nuclear
30 radiological physics; by the American Board of Medical Physics
31 for diagnostic radiological physics, therapeutic radiological

1 physics, or medical nuclear radiological physics; or by the
2 American Board of Health Physics or an equivalent certifying
3 body approved by the department.

4 (f) A licensee shall:

5 1. Display the license in a place accessible to the
6 public; and

7 2. Report immediately any change in the licensee's
8 address or name to the department.

9 (g) The following acts constitute ~~are~~ grounds for
10 denial of a license or disciplinary action, as specified in s.
11 456.072(2) ~~which the disciplinary actions in paragraph (h) may~~
12 ~~be taken:~~

13 1. Obtaining or attempting to obtain a license by
14 bribery, fraud, knowing misrepresentation, or concealment of
15 material fact or through an error of the department.

16 2. Having a license denied, revoked, suspended, or
17 otherwise acted against in another jurisdiction.

18 3. Being convicted or found guilty of, or entering a
19 plea of nolo contendere to, regardless of adjudication, a
20 crime in any jurisdiction which relates to the practice of, or
21 the ability to practice, the profession of medical physics.

22 4. Willfully failing to file a report or record
23 required for medical physics or willfully impeding or
24 obstructing the filing of a report or record required by this
25 section or inducing another person to do so.

26 5. Making misleading, deceptive, or fraudulent
27 representations in or related to the practice of medical
28 physics.

29 6. Willfully failing to report any known violation of
30 this section or any rule adopted thereunder.

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1 ~~7. Willfully or repeatedly violating a rule adopted~~
2 ~~under this section or an order of the department.~~

3 7.8. Failing to perform any statutory or legal
4 obligation placed upon a licensee.

5 ~~8.9.~~ Aiding, assisting, procuring, employing, or
6 advising any unlicensed person to practice medical physics
7 contrary to this section or any rule adopted thereunder.

8 ~~9.10.~~ Delegating or contracting for the performance of
9 professional responsibilities by a person when the licensee
10 delegating or contracting such responsibilities knows, or has
11 reason to know, such person is not qualified by training,
12 experience, and authorization to perform them.

13 ~~10.11.~~ Practicing or offering to practice beyond the
14 scope permitted by law or accepting and performing
15 professional responsibilities the licensee knows, or has
16 reason to know, the licensee is not competent to perform.

17 ~~11.12.~~ Gross or repeated malpractice or the inability
18 to practice medical physics with reasonable skill and safety.

19 ~~12.13.~~ Judicially determined mental incompetency.

20 ~~13.14.~~ Being unable to practice medical physics with
21 reasonable skill and safety because of a mental or physical
22 condition or illness or the use of alcohol, controlled
23 substances, or any other substance which impairs one's ability
24 to practice.

25 a. The department may, upon probable cause, compel a
26 licensee to submit to a mental or physical examination by
27 physicians designated by the department. The cost of an
28 examination shall be borne by the licensee, and the licensee's
29 failure to submit to such an examination constitutes an
30 admission of the allegations against the licensee, consequent
31 upon which a default and a final order may be entered without

1 the taking of testimony or presentation of evidence, unless
2 the failure was due to circumstances beyond the licensee's
3 control.

4 b. A licensee who is disciplined under this
5 subparagraph shall, at reasonable intervals, be afforded an
6 opportunity to demonstrate that the licensee can resume the
7 practice of medical physics with reasonable skill and safety.

8 c. With respect to any proceeding under this
9 subparagraph, the record of proceedings or the orders entered
10 by the department may not be used against a licensee in any
11 other proceeding.

12 14. Violating any provision of this chapter or chapter
13 456, or any rules adopted pursuant thereto.

14 (h) The board may enter an order denying licensure or
15 imposing any of the penalties in s. 456.072(2) against any
16 applicant for licensure or licensee who is found guilty of
17 violating any provision of subsection (1) of this section or
18 who is found guilty of violating any provision of s.
19 456.072(1).~~When the department finds any person guilty of any~~
20 ~~of the grounds set forth in paragraph (g), including conduct~~
21 ~~that would constitute a substantial violation of paragraph (g)~~
22 ~~which occurred prior to licensure, it may enter an order~~
23 ~~imposing one or more of the following penalties:~~

24 1. ~~Deny the application for licensure.~~

25 2. ~~Revoke or suspend the license.~~

26 3. ~~Impose an administrative fine for each count or~~
27 ~~separate offense.~~

28 4. ~~Place the licensee on probation for a specified~~
29 ~~time and subject the licensee to such conditions as the~~
30 ~~department determines necessary, including requiring~~

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1 ~~treatment, continuing education courses, or working under the~~
2 ~~monitoring or supervision of another licensee.~~

3 ~~5. Restrict a licensee's practice.~~

4 ~~6. Issue a reprimand to the licensee.~~

5 (i) The department may not issue or reinstate a
6 license to a person it has deemed unqualified until it is
7 satisfied that such person has complied with the terms and
8 conditions of the final order and that the licensee can safely
9 practice medical physics.

10 (j) Upon receipt of a complete application and the fee
11 set forth by rule, the department may issue a
12 physicist-in-training certificate to a person qualified to
13 practice medical physics under direct supervision. The
14 department may establish by rule requirements for initial
15 certification and renewal of a physicist-in-training
16 certificate.

17 Section 49. Subsections (1) and (2) of section
18 484.014, Florida Statutes, are amended to read:

19 484.014 Disciplinary actions.--

20 (1) The following acts constitute ~~relating to the~~
21 ~~practice of opticianry shall be~~ grounds for denial of a
22 license or disciplinary action, as specified in s. 456.072(2)
23 ~~both disciplinary action against an optician as set forth in~~
24 ~~this section and cease and desist or other related action by~~
25 ~~the department as set forth in s. 456.065 against any person~~
26 ~~operating an optical establishment who engages in, aids, or~~
27 ~~abets any such violation:~~

28 (a) Procuring or attempting to procure a license by
29 misrepresentation, bribery, or fraud or through an error of
30 the department or the board.

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1 (b) Procuring or attempting to procure a license for
2 any other person by making or causing to be made any false
3 representation.

4 (c) Making or filing a report or record which the
5 licensee knows to be false, intentionally or negligently
6 failing to file a report or record required by federal or
7 state law, willfully impeding or obstructing such filing, or
8 inducing another person to do so. Such reports or records
9 shall include only those which the person is required to make
10 or file as an optician.

11 (d) Failing to make fee or price information readily
12 available by providing such information upon request or upon
13 the presentation of a prescription.

14 (e) Advertising goods or services in a manner which is
15 fraudulent, false, deceptive, or misleading in form or
16 content.

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

19 ~~(g) Violation or repeated violation of this part or of~~
20 ~~chapter 456 or any rules promulgated pursuant thereto.~~

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

23 (h)~~(i)~~ Violation of a lawful order of the board or
24 department previously entered in a disciplinary hearing or
25 failing to comply with a lawfully issued subpoena of the
26 department.

27 (i)~~(j)~~ Violation of any provision of s. 484.012.

28 (j)~~(k)~~ Conspiring with another licensee or with any
29 person to commit an act, or committing an act, which would
30 coerce, intimidate, or preclude another licensee from lawfully
31 advertising her or his services.

- 1 (k)~~(l)~~ Willfully submitting to any third-party payor a
2 claim for services which were not provided to a patient.
- 3 (l)~~(m)~~ Failing to keep written prescription files.
- 4 (m)~~(n)~~ Willfully failing to report any person who the
5 licensee knows is in violation of this part or of rules of the
6 department or the board.
- 7 (n)~~(o)~~ Exercising influence on a client in such a
8 manner as to exploit the client for financial gain of the
9 licensee or of a third party.
- 10 (o)~~(p)~~ Gross or repeated malpractice.
- 11 (p)~~(q)~~ Permitting any person not licensed as an
12 optician in this state to fit or dispense any lenses,
13 spectacles, eyeglasses, or other optical devices which are
14 part of the practice of opticianry.
- 15 (q)~~(r)~~ Being convicted or found guilty of, or entering
16 a plea of nolo contendere to, regardless of adjudication, in a
17 court of this state or other jurisdiction, a crime which
18 relates to the ability to practice opticianry or to the
19 practice of opticianry.
- 20 (r)~~(s)~~ Having been disciplined by a regulatory agency
21 in another state for any offense that would constitute a
22 violation of Florida law or rules regulating opticianry.
- 23 (s)~~(t)~~ Being unable to practice opticianry with
24 reasonable skill and safety by reason of illness or use of
25 drugs, narcotics, chemicals, or any other type of material or
26 as a result of any mental or physical condition. An optician
27 affected under this paragraph shall at reasonable intervals be
28 afforded an opportunity to demonstrate that she or he can
29 resume the competent practice of opticianry with reasonable
30 skill and safety to her or his customers.
- 31

1 (t) Violating any provision of this chapter or chapter
2 456, or any rules adopted pursuant thereto.

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

11 ~~(a) Refusal to certify to the department an~~
12 ~~application for licensure.~~

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

14 ~~(c) Imposition of an administrative fine not to exceed~~
15 ~~\$1,000 for each count or separate offense.~~

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

17 ~~(e) Placement of the optician on probation for a~~
18 ~~period of time and subject to such conditions as the board may~~
19 ~~specify, including requiring the optician to submit to~~
20 ~~treatment or to work under the supervision of another~~
21 ~~optician.~~

22 Section 50. Subsections (1) and (2) of section
23 484.056, Florida Statutes, are amended to read:

24 484.056 Disciplinary proceedings.--

25 (1) The following acts constitute relating to the
26 practice of dispensing hearing aids shall be grounds for
27 denial of a license or disciplinary action, as specified in s.
28 456.072(2)both disciplinary action against a hearing aid
29 specialist as set forth in this section and cease and desist
30 or other related action by the department as set forth in s.
31 456.065 against any person owning or operating a hearing aid

1 ~~establishment who engages in, aids, or abets any such~~
2 ~~violation:~~

3 (a) Violation of any provision of s. 456.072(1), s.
4 484.0512, or s. 484.053.

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

8 (c) Having a license to dispense hearing aids revoked,
9 suspended, or otherwise acted against, including the denial of
10 licensure, by the licensing authority of another state,
11 territory, or country.

12 (d) 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 the
15 practice of dispensing hearing aids or the ability to practice
16 dispensing hearing aids, including violations of any federal
17 laws or regulations regarding hearing aids.

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

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

29 (g) Proof that the licensee is guilty of fraud or
30 deceit or of negligence, incompetency, or misconduct in the
31 practice of dispensing hearing aids.

1 ~~(h)~~ Violation or repeated violation of this part or of
2 chapter 456, or any rules promulgated pursuant thereto.

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

7 (i)~~(j)~~ Practicing with a revoked, suspended, inactive,
8 or delinquent license.

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

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

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

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

30 (n)~~(o)~~ Representing, directly or by implication, that
31 a hearing aid utilizing bone conduction has certain specified

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

6 (o)~~(p)~~ Making any predictions or prognostications as
7 to the future course of a hearing impairment, either in
8 general terms or with reference to an individual person.

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

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

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

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

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

28 (u)~~(v)~~ Failing to provide all information as described
29 in s. 484.051(1).

30
31

1 ~~(v)~~(w) Exercising influence on a client in such a
2 manner as to exploit the client for financial gain of the
3 licensee or of a third party.

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

6 (2)(a) The board may enter an order denying licensure
7 or 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).~~Except as provided in paragraph (b), when the~~
12 ~~board finds any hearing aid specialist to be guilty of any of~~
13 ~~the grounds set forth in subsection (1), it may enter an order~~
14 ~~imposing one or more of the following penalties:~~

15 1. ~~Denial of an application for licensure.~~

16 2. ~~Revocation or suspension of a license.~~

17 3. ~~Imposition of an administrative fine not to exceed~~
18 ~~\$1,000 for each count or separate offense.~~

19 4. ~~Issuance of a reprimand.~~

20 5. ~~Placing the hearing aid specialist on probation for~~
21 ~~a period of time and subject to such conditions as the board~~
22 ~~may specify, including requiring the hearing aid specialist to~~
23 ~~attend continuing education courses or to work under the~~
24 ~~supervision of another hearing aid specialist.~~

25 6. ~~Restricting the authorized scope of practice.~~

26 (b) The board shall revoke the license of any hearing
27 aid specialist found guilty of canvassing as described in this
28 section.

29 Section 51. Subsections (1) and (2) of section
30 486.125, Florida Statutes, are amended to read:

31

1 486.125 Refusal, revocation, or suspension of license;
2 administrative fines and other disciplinary measures.--

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

7 (a) Being unable to practice physical therapy with
8 reasonable skill and safety to patients by reason of illness
9 or use of alcohol, drugs, narcotics, chemicals, or any other
10 type of material or as a result of any mental or physical
11 condition.

12 1. In enforcing this paragraph, upon a finding of the
13 secretary or the secretary's designee that probable cause
14 exists to believe that the licensee is unable to practice
15 physical therapy due to the reasons stated in this paragraph,
16 the department shall have the authority to compel a physical
17 therapist or physical therapist assistant to submit to a
18 mental or physical examination by a physician designated by
19 the department. If the licensee refuses to comply with such
20 order, the department's order directing such examination may
21 be enforced by filing a petition for enforcement in the
22 circuit court where the licensee resides or serves as a
23 physical therapy practitioner. The licensee against whom the
24 petition is filed shall not be named or identified by initials
25 in any public court records or documents, and the proceedings
26 shall be closed to the public. The department shall be
27 entitled to the summary procedure provided in s. 51.011.

28 2. A physical therapist or physical therapist
29 assistant whose license is suspended or revoked pursuant to
30 this subsection shall, at reasonable intervals, be given an
31 opportunity to demonstrate that she or he can resume the

1 competent practice of physical therapy with reasonable skill
2 and safety to patients.

3 3. Neither the record of proceeding nor the orders
4 entered by the board in any proceeding under this subsection
5 may be used against a physical therapist or physical therapist
6 assistant in any other proceeding.

7 (b) Having committed fraud in the practice of physical
8 therapy or deceit in obtaining a license as a physical
9 therapist or as a physical therapist assistant.

10 (c) Being convicted or found guilty regardless of
11 adjudication, of a crime in any jurisdiction which directly
12 relates to the practice of physical therapy or to the ability
13 to practice physical therapy. The entry of any plea of nolo
14 contendere shall be considered a conviction for purpose of
15 this chapter.

16 (d) Having treated or undertaken to treat human
17 ailments by means other than by physical therapy, as defined
18 in this chapter.

19 (e) Failing to maintain acceptable standards of
20 physical therapy practice as set forth by the board in rules
21 adopted pursuant to this chapter.

22 (f) Engaging directly or indirectly in the dividing,
23 transferring, assigning, rebating, or refunding of fees
24 received for professional services, or having been found to
25 profit by means of a credit or other valuable consideration,
26 such as an unearned commission, discount, or gratuity, with
27 any person referring a patient or with any relative or
28 business associate of the referring person. Nothing in this
29 chapter shall be construed to prohibit the members of any
30 regularly and properly organized business entity which is
31 comprised of physical therapists and which is recognized under

1 the laws of this state from making any division of their total
2 fees among themselves as they determine necessary.

3 (g) Having a license revoked or suspended; having had
4 other disciplinary action taken against her or him; or having
5 had her or his application for a license refused, revoked, or
6 suspended by the licensing authority of another state,
7 territory, or country.

8 (h) ~~Violating any provision of this chapter, a rule of~~
9 ~~the board or department, or~~ a lawful order of the board or
10 department previously entered in a disciplinary hearing.

11 (i) Making or filing a report or record which the
12 licensee knows to be false. Such reports or records shall
13 include only those which are signed in the capacity of a
14 physical therapist.

15 (j) Practicing or offering to practice beyond the
16 scope permitted by law or accepting and performing
17 professional responsibilities which the licensee knows or has
18 reason to know that she or he is not competent to perform,
19 including, but not limited to, specific spinal manipulation.

20 (k) Violating any provision of this chapter or chapter
21 456, or any rules adopted pursuant thereto.

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

30 (a) ~~Refusal to certify to the department an~~
31 ~~application for licensure.~~

- 1 ~~(b) Revocation or suspension of a license.~~
2 ~~(c) Restriction of practice.~~
3 ~~(d) Imposition of an administrative fine not to exceed~~
4 ~~\$1,000 for each count or separate offense.~~
5 ~~(e) Issuance of a reprimand.~~
6 ~~(f) Placement of the physical therapist or physical~~
7 ~~therapist assistant on probation for a period of time and~~
8 ~~subject to such conditions as the board may specify,~~
9 ~~including, but not limited to, requiring the physical~~
10 ~~therapist or physical therapist assistant to submit to~~
11 ~~treatment, to attend continuing education courses, to submit~~
12 ~~to reexamination, or to work under the supervision of another~~
13 ~~physical therapist.~~
14 ~~(g) Recovery of actual costs of investigation and~~
15 ~~prosecution.~~

16 Section 52. Section 490.009, Florida Statutes, is
17 amended to read:

18 490.009 Discipline.--

19 ~~(1) When the department or, in the case of~~
20 ~~psychologists, the board finds that an applicant, provisional~~
21 ~~licensee, or licensee whom it regulates under this chapter has~~
22 ~~committed any of the acts set forth in subsection (2), it may~~
23 ~~issue an order imposing one or more of the following~~
24 ~~penalties:~~

25 ~~(a) Denial of an application for licensure, either~~
26 ~~temporarily or permanently.~~

27 ~~(b) Revocation of an application for licensure, either~~
28 ~~temporarily or permanently.~~

29 ~~(c) Suspension for a period of up to 5 years or~~
30 ~~revocation of a license, after hearing.~~

31

1 ~~(d) Immediate suspension of a license pursuant to s.~~
2 ~~120.60(6).~~

3 ~~(e) Imposition of an administrative fine not to exceed~~
4 ~~\$5,000 for each count or separate offense.~~

5 ~~(f) Issuance of a public reprimand.~~

6 ~~(g) Placement of an applicant or licensee on probation~~
7 ~~for a period of time and subject to conditions specified by~~
8 ~~the department or, in the case of psychologists, by the board,~~
9 ~~including, but not limited to, requiring the applicant or~~
10 ~~licensee to submit to treatment, to attend continuing~~
11 ~~education courses, to submit to reexamination, or to work~~
12 ~~under the supervision of a designated licensee.~~

13 ~~(h) Restriction of practice.~~

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

19 (a) Attempting to obtain, obtaining, or renewing a
20 license under this chapter by bribery or fraudulent
21 misrepresentation or through an error of the board or
22 department.

23 (b) Having a license to practice a comparable
24 profession revoked, suspended, or otherwise acted against,
25 including the denial of certification or licensure by another
26 state, territory, or country.

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 his or her profession or the
30 ability to practice his or her profession. A plea of nolo
31 contendere creates a rebuttable presumption of guilt of the

1 underlying criminal charges. However, the board shall allow
2 the person who is the subject of the disciplinary proceeding
3 to present any evidence relevant to the underlying charges and
4 circumstances surrounding the plea.

5 (d) False, deceptive, or misleading advertising or
6 obtaining a fee or other thing of value on the representation
7 that beneficial results from any treatment will be guaranteed.

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

10 (f) Maintaining a professional association with any
11 person who the applicant or licensee knows, or has reason to
12 believe, is in violation of this chapter or of a rule of the
13 department or, in the case of psychologists, of the department
14 or the board.

15 (g) Knowingly aiding, assisting, procuring, or
16 advising any nonlicensed person to hold himself or herself out
17 as licensed under this chapter.

18 (h) Failing to perform any statutory or legal
19 obligation placed upon a person licensed under this chapter.

20 (i) Willfully making or filing a false report or
21 record; failing to file a report or record required by state
22 or federal law; willfully impeding or obstructing the filing
23 of a report or record; or inducing another person to make or
24 file a false report or record or to impede or obstruct the
25 filing of a report or record. Such report or record includes
26 only a report or record which requires the signature of a
27 person licensed under this chapter.

28 (j) Paying a kickback, rebate, bonus, or other
29 remuneration for receiving a patient or client, or receiving a
30 kickback, rebate, bonus, or other remuneration for referring a
31 patient or client to another provider of mental health care

1 services or to a provider of health care services or goods;
2 referring a patient or client to oneself for services on a
3 fee-paid basis when those services are already being paid for
4 by some other public or private entity; or entering into a
5 reciprocal referral agreement.

6 (k) Committing any act upon a patient or client which
7 would constitute sexual battery or which would constitute
8 sexual misconduct as defined in s. 490.0111.

9 (l) Making misleading, deceptive, untrue, or
10 fraudulent representations in the practice of any profession
11 licensed under this chapter.

12 (m) Soliciting patients or clients personally, or
13 through an agent, through the use of fraud, intimidation,
14 undue influence, or a form of overreaching or vexatious
15 conduct.

16 (n) Failing to make available to a patient or client,
17 upon written request, copies of test results, reports, or
18 documents in the possession or under the control of the
19 licensee which have been prepared for and paid for by the
20 patient or client.

21 (o) Failing to respond within 30 days to a written
22 communication from the department concerning any investigation
23 by the department or to make available any relevant records
24 with respect to any investigation about the licensee's conduct
25 or background.

26 (p) Being unable to practice the profession for which
27 he or she is licensed under this chapter with reasonable skill
28 or competence as a result of any mental or physical condition
29 or by reason of illness; drunkenness; or excessive use of
30 drugs, narcotics, chemicals, or any other substance. In
31 enforcing this paragraph, upon a finding by the secretary, the

1 secretary's designee, or the board that probable cause exists
2 to believe that the licensee is unable to practice the
3 profession because of the reasons stated in this paragraph,
4 the department shall have the authority to compel a licensee
5 to submit to a mental or physical examination by psychologists
6 or physicians designated by the department or board. If the
7 licensee refuses to comply with the department's order, the
8 department may file a petition for enforcement in the circuit
9 court of the circuit in which the licensee resides or does
10 business. The licensee shall not be named or identified by
11 initials in the petition or in any other public court records
12 or documents, and the enforcement proceedings shall be closed
13 to the public. The department shall be entitled to the
14 summary procedure provided in s. 51.011. A licensee affected
15 under this paragraph shall be afforded an opportunity at
16 reasonable intervals to demonstrate that he or she can resume
17 the competent practice for which he or she is licensed with
18 reasonable skill and safety to patients.

19 ~~(g) Violating provisions of this chapter, or of~~
20 ~~chapter 456, or any rules adopted pursuant thereto.~~

21 (g)~~(r)~~ Performing any treatment or prescribing any
22 therapy which, by the prevailing standards of the mental
23 health professions in the community, would constitute
24 experimentation on human subjects, without first obtaining
25 full, informed, and written consent.

26 (r)~~(s)~~ Failing to meet the minimum standards of
27 performance in professional activities when measured against
28 generally prevailing peer performance, including the
29 undertaking of activities for which the licensee is not
30 qualified by training or experience.

31

1 ~~(s)(t)~~ Delegating professional responsibilities to a
2 person whom the licensee knows or has reason to know is not
3 qualified by training or experience to perform such
4 responsibilities.

5 ~~(t)(u)~~ Violating a rule relating to the regulation of
6 the profession or a lawful order of the department previously
7 entered in a disciplinary hearing.

8 ~~(u)(v)~~ Failing to maintain in confidence a
9 communication made by a patient or client in the context of
10 such services, except as provided in s. 490.0147.

11 ~~(v)(w)~~ Making public statements which are derived from
12 test data, client contacts, or behavioral research and which
13 identify or damage research subjects or clients.

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

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

22 Section 53. Section 491.009, Florida Statutes, is
23 amended to read:

24 491.009 Discipline.--

25 ~~(1) When the department or the board finds that an~~
26 ~~applicant, licensee, provisional licensee, registered intern,~~
27 ~~or certificateholder whom it regulates under this chapter has~~
28 ~~committed any of the acts set forth in subsection (2), it may~~
29 ~~issue an order imposing one or more of the following~~
30 ~~penalties:~~

31

1 ~~(a) Denial of an application for licensure,~~
2 ~~registration, or certification, either temporarily or~~
3 ~~permanently.~~

4 ~~(b) Revocation of an application for licensure,~~
5 ~~registration, or certification, either temporarily or~~
6 ~~permanently.~~

7 ~~(c) Suspension for a period of up to 5 years or~~
8 ~~revocation of a license, registration, or certificate, after~~
9 ~~hearing.~~

10 ~~(d) Immediate suspension of a license, registration,~~
11 ~~or certificate pursuant to s. 120.60(6).~~

12 ~~(e) Imposition of an administrative fine not to exceed~~
13 ~~\$1,000 for each count or separate offense.~~

14 ~~(f) Issuance of a public reprimand.~~

15 ~~(g) Placement of an applicant, licensee, registered~~
16 ~~intern, or certificateholder on probation for a period of time~~
17 ~~and subject to such conditions as the board may specify,~~
18 ~~including, but not limited to, requiring the applicant,~~
19 ~~licensee, registered intern, or certificateholder to submit to~~
20 ~~treatment, to attend continuing education courses, to submit~~
21 ~~to reexamination, or to work under the supervision of a~~
22 ~~designated licensee or certificateholder.~~

23 ~~(h) Restriction of practice.~~

24 ~~(1)(2) The following acts constitute of a licensee,~~
25 ~~provisional licensee, registered intern, certificateholder, or~~
26 ~~applicant are grounds for denial of a license or disciplinary~~
27 ~~action, as specified in s. 456.072(2)which the disciplinary~~
28 ~~actions listed in subsection (1) may be taken:~~

29 (a) Attempting to obtain, obtaining, or renewing a
30 license, registration, or certificate under this chapter by
31

1 bribery or fraudulent misrepresentation or through an error of
2 the board or the department.

3 (b) Having a license, registration, or certificate to
4 practice a comparable profession revoked, suspended, or
5 otherwise acted against, including the denial of certification
6 or licensure by another state, territory, or country.

7 (c) Being convicted or found guilty of, regardless of
8 adjudication, or having entered a plea of nolo contendere to,
9 a crime in any jurisdiction which directly relates to the
10 practice of his or her profession or the ability to practice
11 his or her profession. However, in the case of a plea of nolo
12 contendere, the board shall allow the person who is the
13 subject of the disciplinary proceeding to present evidence in
14 mitigation relevant to the underlying charges and
15 circumstances surrounding the plea.

16 (d) False, deceptive, or misleading advertising or
17 obtaining a fee or other thing of value on the representation
18 that beneficial results from any treatment will be guaranteed.

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

21 (f) Maintaining a professional association with any
22 person who the applicant, licensee, registered intern, or
23 certificateholder knows, or has reason to believe, is in
24 violation of this chapter or of a rule of the department or
25 the board.

26 (g) Knowingly aiding, assisting, procuring, or
27 advising any nonlicensed, nonregistered, or noncertified
28 person to hold himself or herself out as licensed, registered,
29 or certified under this chapter.

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1 (h) Failing to perform any statutory or legal
2 obligation placed upon a person licensed, registered, or
3 certified under this chapter.

4 (i) Willfully making or filing a false report or
5 record; failing to file a report or record required by state
6 or federal law; willfully impeding or obstructing the filing
7 of a report or record; or inducing another person to make or
8 file a false report or record or to impede or obstruct the
9 filing of a report or record. Such report or record includes
10 only a report or record which requires the signature of a
11 person licensed, registered, or certified under this chapter.

12 (j) Paying a kickback, rebate, bonus, or other
13 remuneration for receiving a patient or client, or receiving a
14 kickback, rebate, bonus, or other remuneration for referring a
15 patient or client to another provider of mental health care
16 services or to a provider of health care services or goods;
17 referring a patient or client to oneself for services on a
18 fee-paid basis when those services are already being paid for
19 by some other public or private entity; or entering into a
20 reciprocal referral agreement.

21 (k) Committing any act upon a patient or client which
22 would constitute sexual battery or which would constitute
23 sexual misconduct as defined pursuant to s. 491.0111.

24 (l) Making misleading, deceptive, untrue, or
25 fraudulent representations in the practice of any profession
26 licensed, registered, or certified under this chapter.

27 (m) Soliciting patients or clients personally, or
28 through an agent, through the use of fraud, intimidation,
29 undue influence, or a form of overreaching or vexatious
30 conduct.

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1 (n) Failing to make available to a patient or client,
2 upon written request, copies of tests, reports, or documents
3 in the possession or under the control of the licensee,
4 registered intern, or certificateholder which have been
5 prepared for and paid for by the patient or client.

6 (o) Failing to respond within 30 days to a written
7 communication from the department or the board concerning any
8 investigation by the department or the board, or failing to
9 make available any relevant records with respect to any
10 investigation about the licensee's, registered intern's, or
11 certificateholder's conduct or background.

12 (p) Being unable to practice the profession for which
13 he or she is licensed, registered, or certified under this
14 chapter with reasonable skill or competence as a result of any
15 mental or physical condition or by reason of illness;
16 drunkenness; or excessive use of drugs, narcotics, chemicals,
17 or any other substance. In enforcing this paragraph, upon a
18 finding by the secretary, the secretary's designee, or the
19 board that probable cause exists to believe that the licensee,
20 registered intern, or certificateholder is unable to practice
21 the profession because of the reasons stated in this
22 paragraph, the department shall have the authority to compel a
23 licensee, registered intern, or certificateholder to submit to
24 a mental or physical examination by psychologists, physicians,
25 or other licensees under this chapter, designated by the
26 department or board. If the licensee, registered intern, or
27 certificateholder refuses to comply with such order, the
28 department's order directing the examination may be enforced
29 by filing a petition for enforcement in the circuit court in
30 the circuit in which the licensee, registered intern, or
31 certificateholder resides or does business. The licensee,

1 registered intern, or certificateholder against whom the
2 petition is filed shall not be named or identified by initials
3 in any public court records or documents, and the proceedings
4 shall be closed to the public. The department shall be
5 entitled to the summary procedure provided in s. 51.011. A
6 licensee, registered intern, or certificateholder affected
7 under this paragraph shall at reasonable intervals be afforded
8 an opportunity to demonstrate that he or she can resume the
9 competent practice for which he or she is licensed,
10 registered, or certified with reasonable skill and safety to
11 patients.

12 ~~(q) Violating provisions of this chapter, or of~~
13 ~~chapter 456, or any rules adopted pursuant thereto.~~

14 (q)~~(r)~~ Performing any treatment or prescribing any
15 therapy which, by the prevailing standards of the mental
16 health professions in the community, would constitute
17 experimentation on human subjects, without first obtaining
18 full, informed, and written consent.

19 (r)~~(s)~~ Failing to meet the minimum standards of
20 performance in professional activities when measured against
21 generally prevailing peer performance, including the
22 undertaking of activities for which the licensee, registered
23 intern, or certificateholder is not qualified by training or
24 experience.

25 (s)~~(t)~~ Delegating professional responsibilities to a
26 person whom the licensee, registered intern, or
27 certificateholder knows or has reason to know is not qualified
28 by training or experience to perform such responsibilities.

29 (t)~~(u)~~ Violating a rule relating to the regulation of
30 the profession or a lawful order of the department or the
31 board previously entered in a disciplinary hearing.

1 (u)~~(v)~~ Failure of the licensee, registered intern, or
2 certificateholder to maintain in confidence a communication
3 made by a patient or client in the context of such services,
4 except as provided in s. 491.0147.

5 (v)~~(w)~~ Making public statements which are derived from
6 test data, client contacts, or behavioral research and which
7 identify or damage research subjects or clients.

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

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

16 Section 54. Subsection (3) of section 456.065, Florida
17 Statutes, is amended to read:

18 456.065 Unlicensed practice of a health care
19 profession; intent; cease and desist notice; penalties;
20 enforcement; citations; fees; allocation and disposition of
21 moneys collected.--

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

1 ~~balance.~~The department shall make direct charges to the
2 Medical Quality Assurance Trust Fund by profession. The
3 department shall seek board advice regarding enforcement
4 methods and strategies. The department shall directly credit
5 the Medical Quality Assurance Trust Fund, by profession, with
6 the revenues received from the department's efforts to enforce
7 licensure provisions. The department shall include all
8 financial and statistical data resulting from unlicensed
9 activity enforcement as a separate category in the quarterly
10 management report provided for in s. 456.025. For an
11 unlicensed activity account, a balance which remains at the
12 end of a renewal cycle may, with concurrence of the applicable
13 board and the department, be transferred to the operating fund
14 account of that profession. The department shall also use
15 these funds to inform and educate consumers generally on the
16 importance of using licensed health care practitioners.

17 Section 55. Effective October 1, 2001, paragraphs (e)
18 and (f) of subsection (4) of section 458.347, Florida
19 Statutes, are amended to read:

20 458.347 Physician assistants.--

21 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

22 (e) A supervisory physician may delegate to a fully
23 licensed physician assistant the authority to prescribe any
24 medication used in the supervisory physician's practice unless
25 ~~if~~ such medication is listed on the formulary created pursuant
26 to paragraph (f). A fully licensed physician assistant may
27 only prescribe such medication under the following
28 circumstances:

29 1. A physician assistant must clearly identify to the
30 patient that he or she is a physician assistant. Furthermore,
31 the physician assistant must inform the patient that the

1 patient has the right to see the physician prior to any
2 prescription being prescribed by the physician assistant.

3 2. The supervisory physician must notify the
4 department of his or her intent to delegate, on a
5 department-approved form, before delegating such authority and
6 notify the department of any change in prescriptive privileges
7 of the physician assistant.

8 3. The physician assistant must file with the
9 department, before commencing to prescribe, evidence that he
10 or she has completed a continuing medical education course of
11 at least 3 classroom hours in prescriptive practice, conducted
12 by an accredited program approved by the boards, which course
13 covers the limitations, responsibilities, and privileges
14 involved in prescribing medicinal drugs, or evidence that he
15 or she has received education comparable to the continuing
16 education course as part of an accredited physician assistant
17 training program.

18 4. The physician assistant must file with the
19 department, before commencing to prescribe, evidence that the
20 physician assistant has a minimum of 3 months of clinical
21 experience in the specialty area of the supervising physician.

22 5. The physician assistant must file with the
23 department a signed affidavit that he or she has completed a
24 minimum of 10 continuing medical education hours in the
25 specialty practice in which the physician assistant has
26 prescriptive privileges with each licensure renewal
27 application.

28 6. The department shall issue a license and a
29 prescriber number to the physician assistant granting
30 authority for the prescribing of medicinal drugs authorized
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1 within this paragraph upon completion of the foregoing
2 requirements.

3 7. The prescription must be written in a form that
4 complies with chapter 499 and must contain, in addition to the
5 supervisory physician's name, address, and telephone number,
6 the physician assistant's prescriber number. Unless it is a
7 drug sample dispensed by the physician assistant, the
8 prescription must be filled in a pharmacy permitted under
9 chapter 465 and must be dispensed in that pharmacy by a
10 pharmacist licensed under chapter 465. The appearance of the
11 prescriber number creates a presumption that the physician
12 assistant is authorized to prescribe the medicinal drug and
13 the prescription is valid.

14 8. The physician assistant must note the prescription
15 in the appropriate medical record, and the supervisory
16 physician must review and sign each notation. For dispensing
17 purposes only, the failure of the supervisory physician to
18 comply with these requirements does not affect the validity of
19 the prescription.

20 9. This paragraph does not prohibit a supervisory
21 physician from delegating to a physician assistant the
22 authority to order medication for a hospitalized patient of
23 the supervisory physician.

24
25 This paragraph does not apply to facilities licensed pursuant
26 to chapter 395.

27 ~~(f)1. There is created a five-member committee~~
28 ~~appointed by the Secretary of Health. The committee must be~~
29 ~~composed of one fully licensed physician assistant licensed~~
30 ~~pursuant to this section or s. 459.022, two physicians~~
31 ~~licensed pursuant to this chapter, one of whom supervises a~~

1 ~~fully licensed physician assistant, one osteopathic physician~~
2 ~~licensed pursuant to chapter 459, and one pharmacist licensed~~
3 ~~pursuant to chapter 465 who is not licensed pursuant to this~~
4 ~~chapter or chapter 459.~~ The council committee shall establish
5 a formulary of medicinal drugs that for which a fully licensed
6 physician assistant, licensed under this section or s.
7 459.022, may not prescribe. The formulary must ~~may not~~ include
8 controlled substances as defined in chapter 893,
9 ~~antineoplastics, antipsychotics, radiopharmaceuticals, general~~
10 ~~anesthetics and or radiographic contrast materials, and all or~~
11 ~~any~~ parenteral preparations except insulin and epinephrine.

12 2. In establishing the formulary, the council shall
13 consult with a pharmacist licensed under chapter 465, but not
14 licensed under this chapter or chapter 459, who shall be
15 selected by the Secretary of Health.

16 3.2. Only the council ~~committee~~ shall add to, delete
17 from, or modify the formulary. Any person who requests an
18 addition, deletion, or modification of a medicinal drug listed
19 on such formulary has the burden of proof to show cause why
20 such addition, deletion, or modification should be made.

21 4.3. The boards shall adopt the formulary required by
22 this paragraph, and each addition, deletion, or modification
23 to the formulary, by rule. Notwithstanding any provision of
24 chapter 120 to the contrary, the formulary rule shall be
25 effective 60 days after the date it is filed with the
26 Secretary of State. Upon adoption of the formulary, the
27 department shall mail a copy of such formulary to each fully
28 licensed physician assistant, licensed under this section or
29 s. 459.022, and to each pharmacy licensed by the state. The
30 boards shall establish, by rule, a fee not to exceed \$200 to
31 fund the provisions of this paragraph and paragraph (e).

1 Section 56. Effective October 1, 2001, subsection (4)
2 and paragraph (c) of subsection (9) of section 459.022,
3 Florida Statutes, are amended to read:

4 459.022 Physician assistants.--

5 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

6 (a) The boards shall adopt, by rule, the general
7 principles that supervising physicians must use in developing
8 the scope of practice of a physician assistant under direct
9 supervision and under indirect supervision. These principles
10 shall recognize the diversity of both specialty and practice
11 settings in which physician assistants are used.

12 (b) This chapter does not prevent third-party payors
13 from reimbursing employers of physician assistants for covered
14 services rendered by licensed physician assistants.

15 (c) Licensed physician assistants may not be denied
16 clinical hospital privileges, except for cause, so long as the
17 supervising physician is a staff member in good standing.

18 (d) A supervisory physician may delegate to a licensed
19 physician assistant, pursuant to a written protocol, the
20 authority to act according to s. 154.04(1)(c). Such delegated
21 authority is limited to the supervising physician's practice
22 in connection with a county health department as defined and
23 established pursuant to chapter 154. The boards shall adopt
24 rules governing the supervision of physician assistants by
25 physicians in county health departments.

26 (e) A supervisory physician may delegate to a fully
27 licensed physician assistant the authority to prescribe any
28 medication used in the supervisory physician's practice unless
29 ~~if~~ such medication is listed on the formulary created pursuant
30 to s. 458.347. A fully licensed physician assistant may only
31 prescribe such medication under the following circumstances:

1 1. A physician assistant must clearly identify to the
2 patient that she or he is a physician assistant. Furthermore,
3 the physician assistant must inform the patient that the
4 patient has the right to see the physician prior to any
5 prescription being prescribed by the physician assistant.

6 2. The supervisory physician must notify the
7 department of her or his intent to delegate, on a
8 department-approved form, before delegating such authority and
9 notify the department of any change in prescriptive privileges
10 of the physician assistant.

11 3. The physician assistant must file with the
12 department, before commencing to prescribe, evidence that she
13 or he has completed a continuing medical education course of
14 at least 3 classroom hours in prescriptive practice, conducted
15 by an accredited program approved by the boards, which course
16 covers the limitations, responsibilities, and privileges
17 involved in prescribing medicinal drugs, or evidence that she
18 or he has received education comparable to the continuing
19 education course as part of an accredited physician assistant
20 training program.

21 4. The physician assistant must file with the
22 department, before commencing to prescribe, evidence that the
23 physician assistant has a minimum of 3 months of clinical
24 experience in the specialty area of the supervising physician.

25 5. The physician assistant must file with the
26 department a signed affidavit that she or he has completed a
27 minimum of 10 continuing medical education hours in the
28 specialty practice in which the physician assistant has
29 prescriptive privileges with each licensure renewal
30 application.

31

1 6. The department shall issue a license and a
2 prescriber number to the physician assistant granting
3 authority for the prescribing of medicinal drugs authorized
4 within this paragraph upon completion of the foregoing
5 requirements.

6 7. The prescription must be written in a form that
7 complies with chapter 499 and must contain, in addition to the
8 supervisory physician's name, address, and telephone number,
9 the physician assistant's prescriber number. Unless it is a
10 drug sample dispensed by the physician assistant, the
11 prescription must be filled in a pharmacy permitted under
12 chapter 465, and must be dispensed in that pharmacy by a
13 pharmacist licensed under chapter 465. The appearance of the
14 prescriber number creates a presumption that the physician
15 assistant is authorized to prescribe the medicinal drug and
16 the prescription is valid.

17 8. The physician assistant must note the prescription
18 in the appropriate medical record, and the supervisory
19 physician must review and sign each notation. For dispensing
20 purposes only, the failure of the supervisory physician to
21 comply with these requirements does not affect the validity of
22 the prescription.

23 9. This paragraph does not prohibit a supervisory
24 physician from delegating to a physician assistant the
25 authority to order medication for a hospitalized patient of
26 the supervisory physician.

27
28 This paragraph does not apply to facilities licensed pursuant
29 to chapter 395.

30 ~~(f)1. There is created a five-member committee~~
31 ~~appointed by the Secretary of Health. The committee must be~~

1 ~~composed of one fully licensed physician assistant licensed~~
2 ~~pursuant to this section or s. 458.347, two physicians~~
3 ~~licensed pursuant to chapter 458, one of whom supervises a~~
4 ~~fully licensed physician assistant, one osteopathic physician~~
5 ~~licensed pursuant to this chapter, and one pharmacist licensed~~
6 ~~pursuant to chapter 465 who is not licensed pursuant to this~~
7 ~~chapter or chapter 458. The committee shall establish a~~
8 ~~formulary of medicinal drugs for which a fully licensed~~
9 ~~physician assistant may prescribe. The formulary may not~~
10 ~~include controlled substances as defined in chapter 893,~~
11 ~~antineoplastics, antipsychotics, radiopharmaceuticals, general~~
12 ~~anesthetics or radiographic contrast materials, or any~~
13 ~~parenteral preparations except insulin and epinephrine.~~

14 2. ~~Only the committee shall add to, delete from, or~~
15 ~~modify the formulary. Any person who requests an addition,~~
16 ~~deletion, or modification of a medicinal drug listed on such~~
17 ~~formulary has the burden of proof to show cause why such~~
18 ~~addition, deletion, or modification should be made.~~

19 3. ~~The boards shall adopt the formulary required by~~
20 ~~this paragraph, and each addition, deletion, or modification~~
21 ~~to the formulary, by rule. Notwithstanding any provision of~~
22 ~~chapter 120 to the contrary, the formulary rule shall be~~
23 ~~effective 60 days after the date it is filed with the~~
24 ~~Secretary of State. Upon adoption of the formulary, the~~
25 ~~department shall mail a copy of such formulary to each fully~~
26 ~~licensed physician assistant and to each pharmacy licensed by~~
27 ~~the state. The boards shall establish, by rule, a fee not to~~
28 ~~exceed \$200 to fund the provisions of this paragraph and~~
29 ~~paragraph (e).~~

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

1 (c) The council shall:

2 1. Recommend to the department the licensure of
3 physician assistants.

4 2. Develop all rules regulating the use of physician
5 assistants by physicians under chapter 458 and this chapter,
6 except for rules relating to the formulary developed under s.
7 458.347~~(4)(f)~~. The council shall also develop rules to ensure
8 that the continuity of supervision is maintained in each
9 practice setting. The boards shall consider adopting a
10 proposed rule developed by the council at the regularly
11 scheduled meeting immediately following the submission of the
12 proposed rule by the council. A proposed rule submitted by
13 the council may not be adopted by either board unless both
14 boards have accepted and approved the identical language
15 contained in the proposed rule. The language of all proposed
16 rules submitted by the council must be approved by both boards
17 pursuant to each respective board's guidelines and standards
18 regarding the adoption of proposed rules. If either board
19 rejects the council's proposed rule, that board must specify
20 its objection to the council with particularity and include
21 any recommendations it may have for the modification of the
22 proposed rule.

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

25 4. Address concerns and problems of practicing
26 physician assistants in order to improve safety in the
27 clinical practices of licensed physician assistants.

28 Section 57. Subsections (6) is added to section
29 456.003, Florida Statutes, to read:

30 456.003 Legislative intent; requirements.--

31

1 (6) Unless expressly and specifically granted in
2 statute, the duties conferred on the boards do not include the
3 enlargement, modification, or contravention of the lawful
4 scope of practice of the profession regulated by the boards.
5 This subsection shall not prohibit the boards, or the
6 department when there is no board, from taking disciplinary
7 action or issuing a declaratory statement.

8 Section 58. (1)(a) The Agency for Health Care
9 Administration shall create an Organ Transplant Task Force
10 within the Agency for Health Care Administration, which task
11 force must be funded by existing agency funds.

12 (b) Task force participants shall be responsible for
13 only the expenses that they generate individually through
14 participation. The agency shall be responsible for expenses
15 incidental to the production of any required data or reports.

16 (2) The task force shall consist of up to 15 members.
17 The task force chairperson shall be selected by majority vote
18 of a quorum present. Eight members shall constitute a quorum.
19 The membership shall include, but not be limited to, a balance
20 of members representing the Agency for Health Care
21 Administration, health care facilities that have existing
22 organ transplantation programs, individual organ transplant
23 health care practitioners, pediatric organ transplantation
24 programs, organ procurement agencies, and organ transplant
25 recipients or family members.

26 (3) The task force shall meet for the purpose of
27 studying and making recommendations regarding current and
28 future supply of organs in relation to the number of existing
29 organ transplantation programs and the future necessity of the
30 issuance of a certificate of need for proposed organ
31 transplantation programs. At a minimum, the task force shall

1 submit a report to the Legislature which includes a summary of
2 the method of allocation and distribution of organs; a list of
3 facilities performing multiple organ transplants and the
4 number being performed; the number of Medicaid and charity
5 care patients who have received organ transplants by existing
6 organ transplant programs; suggested mechanisms for funding
7 organ transplants, which shall include, but need not limited
8 to, an organ transplant trust fund for the treatment of
9 Medicaid and charity patients; the impact of trends in health
10 care delivery and financing on organ transplantation; and the
11 number of certificates of need applications reviewed by the
12 Agency for Health Care Administration in the last 5 years,
13 including the number approved or denied and the number
14 litigated.

15 (4) The task force shall meet at the call of the
16 chairperson. The task force shall submit a report to the
17 Governor, the President of the Senate, and the Speaker of the
18 House of Representatives by January 15, 2002. The task force
19 is abolished effective December 31, 2002.

20 Section 59. Section 409.9205, Florida Statutes, is
21 amended to read:

22 409.9205 Medicaid Fraud Control Unit; ~~law enforcement~~
23 ~~officers.--~~

24 (1) Except as provided in s. 110.205, all positions in
25 the Medicaid Fraud Control Unit of the Department of Legal
26 Affairs are hereby transferred to the Career Service System.

27 (2) All investigators employed by the Medicaid Fraud
28 Control Unit who have been certified under s. 943.1395 are law
29 enforcement officers of the state. Such investigators have
30 the authority to conduct criminal investigations, bear arms,
31 make arrests, and apply for, serve, and execute search

1 warrants, arrest warrants, capias, and other process
2 throughout the state pertaining to Medicaid fraud as described
3 in this chapter. The Attorney General shall provide
4 reasonable notice of criminal investigations conducted by the
5 Medicaid Fraud Control Unit to, and coordinate those
6 investigations with, the sheriffs of the respective counties.
7 ~~Investigators employed by the Medicaid Fraud Control Unit are~~
8 ~~not eligible for membership in the Special Risk Class of the~~
9 ~~Florida Retirement System under s. 121.0515.~~

10 Section 60. Subsection (1) of section 483.245, Florida
11 Statutes, is amended to read:

12 483.245 Rebates prohibited; penalties.--

13 (1) It is unlawful for any person to pay or receive
14 any commission, bonus, kickback, or rebate or engage in any
15 split-fee arrangement in any form whatsoever with any dialysis
16 facility, physician, surgeon, organization, agency, or person,
17 either directly or indirectly, for patients referred to a
18 clinical laboratory licensed under this part.

19 Section 61. Subsection (3) of section 232.435, Florida
20 Statutes, is amended to read:

21 232.435 Extracurricular athletic activities; athletic
22 trainers.--

23 (3)~~(a)~~ To the extent practicable, a school district
24 program should include the following employment classification
25 and advancement scheme:

26 1. First responder.--To qualify as a first responder,
27 a person must possess a professional, temporary, part-time,
28 adjunct, or substitute certificate pursuant to s. 231.17, be
29 certified in cardiopulmonary resuscitation, first aid, and
30 have 15 semester hours in courses such as care and prevention
31 of athletic injuries, anatomy, physiology, nutrition,

1 counseling, and other similar courses approved by the
2 Commissioner of Education. This person may only administer
3 first aid and similar care.~~Teacher apprentice trainer I.--To~~
4 ~~qualify as a teacher apprentice trainer I, a person must~~
5 ~~possess a professional, temporary, part-time, adjunct, or~~
6 ~~substitute certificate pursuant to s. 231.17, be certified in~~
7 ~~first aid and cardiopulmonary resuscitation, and have earned a~~
8 ~~minimum of 6 semester hours or the equivalent number of~~
9 ~~inservice education points in the basic prevention and care of~~
10 ~~athletic injuries.~~

11 ~~2. Teacher apprentice trainer II.--To qualify as a~~
12 ~~teacher apprentice trainer II, a person must meet the~~
13 ~~requirements of teacher apprentice trainer I and also have~~
14 ~~earned a minimum of 15 additional semester hours or the~~
15 ~~equivalent number of inservice education points in such~~
16 ~~courses as anatomy, physiology, use of modalities, nutrition,~~
17 ~~counseling, and other courses approved by the Commissioner of~~
18 ~~Education.~~

19 ~~2.3. Teacher athletic trainer.--To qualify as a~~
20 ~~teacher athletic trainer, a person must possess a~~
21 ~~professional, temporary, part-time, adjunct, or substitute~~
22 ~~certificate pursuant to s. 232.17, and be licensed as required~~
23 ~~by part XIII of chapter 468 meet the requirements of teacher~~
24 ~~apprentice trainer II, be certified by the Department of~~
25 ~~Education or a nationally recognized athletic trainer~~
26 ~~association, and perform one or more of the following~~
27 ~~functions: preventing athletic injuries; recognizing,~~
28 ~~evaluating, managing, treating, and rehabilitating athletic~~
29 ~~injuries; administering an athletic training program; and~~
30 ~~educating and counseling athletes.~~

31

1 ~~(b) If a school district uses the services of an~~
2 ~~athletic trainer who is not a teacher athletic trainer or a~~
3 ~~teacher apprentice trainer within the requirements of this~~
4 ~~section, such athletic trainer must be licensed as required by~~
5 ~~part XIII of chapter 468.~~

6 Section 62. Paragraph (b) of subsection (1) of section
7 383.14, Florida Statutes, is amended to read:

8 383.14 Screening for metabolic disorders, other
9 hereditary and congenital disorders, and environmental risk
10 factors.--

11 (1) SCREENING REQUIREMENTS.--To help ensure access to
12 the maternal and child health care system, the Department of
13 Health shall promote the screening of all infants born in
14 Florida for phenylketonuria and other metabolic, hereditary,
15 and congenital disorders known to result in significant
16 impairment of health or intellect, as screening programs
17 accepted by current medical practice become available and
18 practical in the judgment of the department. The department
19 shall also promote the identification and screening of all
20 infants born in this state and their families for
21 environmental risk factors such as low income, poor education,
22 maternal and family stress, emotional instability, substance
23 abuse, and other high-risk conditions associated with
24 increased risk of infant mortality and morbidity to provide
25 early intervention, remediation, and prevention services,
26 including, but not limited to, parent support and training
27 programs, home visitation, and case management.
28 Identification, perinatal screening, and intervention efforts
29 shall begin prior to and immediately following the birth of
30 the child by the attending health care provider. Such efforts
31 shall be conducted in hospitals, perinatal centers, county

1 health departments, school health programs that provide
2 prenatal care, and birthing centers, and reported to the
3 Office of Vital Statistics.

4 (b) Postnatal screening.--A risk factor analysis using
5 the department's designated risk assessment instrument shall
6 also be conducted as part of the medical screening process
7 upon the birth of a child and submitted to the department's
8 Office of Vital Statistics for recording and other purposes
9 provided for in this chapter. The department's screening
10 process for risk assessment shall include a scoring mechanism
11 and procedures that establish thresholds for notification,
12 further assessment, referral, and eligibility for services by
13 professionals or paraprofessionals consistent with the level
14 of risk. Procedures for developing and using the screening
15 instrument, notification, referral, and care coordination
16 services, reporting requirements, management information, and
17 maintenance of a computer-driven registry in the Office of
18 Vital Statistics which ensures privacy safeguards must be
19 consistent with the provisions and plans established under
20 chapter 411, Pub. L. No. 99-457, and this chapter. Procedures
21 established for reporting information and maintaining a
22 confidential registry must include a mechanism for a
23 centralized information depository at the state and county
24 levels. The department shall coordinate with existing risk
25 assessment systems and information registries. The department
26 must ensure, to the maximum extent possible, that the
27 screening information registry is integrated with the
28 department's automated data systems, including the Florida
29 On-line Recipient Integrated Data Access (FLORIDA) system.
30 Tests and screenings must be performed by the State Public
31 Health Laboratory, in coordination with Children's Medical

1 Services, at such times and in such manner as is prescribed by
2 the department after consultation with the Genetics and Infant
3 Screening Advisory Council and the State Coordinating Council
4 for School Readiness Programs.

5 Section 63. Section 395.0197, Florida Statutes, is
6 amended to read:

7 395.0197 Internal risk management program.--

8 (1) Every licensed facility shall, as a part of its
9 administrative functions, establish an internal risk
10 management program that includes all of the following
11 components:

12 (a) The investigation and analysis of the frequency
13 and causes of general categories and specific types of adverse
14 incidents to patients.

15 (b) The development of appropriate measures to
16 minimize the risk of adverse incidents to patients, including,
17 but not limited to:

18 1. Risk management and risk prevention education and
19 training of all nonphysician personnel as follows:

20 a. Such education and training of all nonphysician
21 personnel as part of their initial orientation; and

22 b. At least 1 hour of such education and training
23 annually for all ~~nonphysician~~ personnel of the licensed
24 facility working in clinical areas and providing patient care,
25 except those persons licensed as health care practitioners who
26 are required to complete continuing education coursework
27 pursuant to chapter 456 or the respective practice act.

28 2. A prohibition, except when emergency circumstances
29 require otherwise, against a staff member of the licensed
30 facility attending a patient in the recovery room, unless the
31 staff member is authorized to attend the patient in the

1 recovery room and is in the company of at least one other
2 person. However, a licensed facility is exempt from the
3 two-person requirement if it has:

- 4 a. Live visual observation;
- 5 b. Electronic observation; or
- 6 c. Any other reasonable measure taken to ensure
7 patient protection and privacy.

8 3. A prohibition against an unlicensed person from
9 assisting or participating in any surgical procedure unless
10 the facility has authorized the person to do so following a
11 competency assessment, and such assistance or participation is
12 done under the direct and immediate supervision of a licensed
13 physician and is not otherwise an activity that may only be
14 performed by a licensed health care practitioner.

15 4. Development, implementation, and ongoing evaluation
16 of procedures, protocols, and systems to accurately identify
17 patients, planned procedures, and the correct site of the
18 planned procedure so as to minimize the performance of a
19 surgical procedure on the wrong patient, a wrong surgical
20 procedure, a wrong-site surgical procedure, or a surgical
21 procedure otherwise unrelated to the patient's diagnosis or
22 medical condition.

23 (c) The analysis of patient grievances that relate to
24 patient care and the quality of medical services.

25 (d) The development and implementation of an incident
26 reporting system based upon the affirmative duty of all health
27 care providers and all agents and employees of the licensed
28 health care facility to report adverse incidents to the risk
29 manager, or to his or her designee, within 3 business days
30 after their occurrence.

31

1 (2) The internal risk management program is the
2 responsibility of the governing board of the health care
3 facility. Each licensed facility shall hire a risk manager,
4 licensed under s. 395.10974 ~~part IX of chapter 626~~, who is
5 responsible for implementation and oversight of such
6 facility's internal risk management program as required by
7 this section. A risk manager must not be made responsible for
8 more than four internal risk management programs in separate
9 licensed facilities, unless the facilities are under one
10 corporate ownership or the risk management programs are in
11 rural hospitals.

12 (3) In addition to the programs mandated by this
13 section, other innovative approaches intended to reduce the
14 frequency and severity of medical malpractice and patient
15 injury claims shall be encouraged and their implementation and
16 operation facilitated. Such additional approaches may include
17 extending internal risk management programs to health care
18 providers' offices and the assuming of provider liability by a
19 licensed health care facility for acts or omissions occurring
20 within the licensed facility.

21 (4) The agency shall, ~~after consulting with the~~
22 ~~Department of Insurance~~, adopt rules governing the
23 establishment of internal risk management programs to meet the
24 needs of individual licensed facilities. Each internal risk
25 management program shall include the use of incident reports
26 to be filed with an individual of responsibility who is
27 competent in risk management techniques in the employ of each
28 licensed facility, such as an insurance coordinator, or who is
29 retained by the licensed facility as a consultant. The
30 individual responsible for the risk management program shall
31 have free access to all medical records of the licensed

1 facility. The incident reports are part of the workpapers of
2 the attorney defending the licensed facility in litigation
3 relating to the licensed facility and are subject to
4 discovery, but are not admissible as evidence in court. A
5 person filing an incident report is not subject to civil suit
6 by virtue of such incident report. As a part of each internal
7 risk management program, the incident reports shall be used to
8 develop categories of incidents which identify problem areas.
9 Once identified, procedures shall be adjusted to correct the
10 problem areas.

11 (5) For purposes of reporting to the agency pursuant
12 to this section, the term "adverse incident" means an event
13 over which health care personnel could exercise control and
14 which is associated in whole or in part with medical
15 intervention, rather than the condition for which such
16 intervention occurred, and which:

17 (a) Results in one of the following injuries:

- 18 1. Death;
- 19 2. Brain or spinal damage;
- 20 3. Permanent disfigurement;
- 21 4. Fracture or dislocation of bones or joints;
- 22 5. A resulting limitation of neurological, physical,
23 or sensory function which continues after discharge from the
24 facility;
- 25 6. Any condition that required specialized medical
26 attention or surgical intervention resulting from nonemergency
27 medical intervention, other than an emergency medical
28 condition, to which the patient has not given his or her
29 informed consent; or
- 30 7. Any condition that required the transfer of the
31 patient, within or outside the facility, to a unit providing a

1 more acute level of care due to the adverse incident, rather
2 than the patient's condition prior to the adverse incident;

3 (b) Was the performance of a surgical procedure on the
4 wrong patient, a wrong surgical procedure, a wrong-site
5 surgical procedure, or a surgical procedure otherwise
6 unrelated to the patient's diagnosis or medical condition;

7 (c) Required the surgical repair of damage resulting
8 to a patient from a planned surgical procedure, where the
9 damage was not a recognized specific risk, as disclosed to the
10 patient and documented through the informed-consent process;
11 or

12 (d) Was a procedure to remove unplanned foreign
13 objects remaining from a surgical procedure.

14 (6)(a) Each licensed facility subject to this section
15 shall submit an annual report to the agency summarizing the
16 incident reports that have been filed in the facility for that
17 year. The report shall include:

18 1. The total number of adverse incidents.

19 2. A listing, by category, of the types of operations,
20 diagnostic or treatment procedures, or other actions causing
21 the injuries, and the number of incidents occurring within
22 each category.

23 3. A listing, by category, of the types of injuries
24 caused and the number of incidents occurring within each
25 category.

26 4. A code number using the health care professional's
27 licensure number and a separate code number identifying all
28 other individuals directly involved in adverse incidents to
29 patients, the relationship of the individual to the licensed
30 facility, and the number of incidents in which each individual
31 has been directly involved. Each licensed facility shall

1 maintain names of the health care professionals and
2 individuals identified by code numbers for purposes of this
3 section.

4 5. A description of all malpractice claims filed
5 against the licensed facility, including the total number of
6 pending and closed claims and the nature of the incident which
7 led to, the persons involved in, and the status and
8 disposition of each claim. Each report shall update status and
9 disposition for all prior reports.

10 (b) The information reported to the agency pursuant to
11 paragraph (a) which relates to persons licensed under chapter
12 458, chapter 459, chapter 461, or chapter 466 shall be
13 reviewed by the agency. The agency shall determine whether
14 any of the incidents potentially involved conduct by a health
15 care professional who is subject to disciplinary action, in
16 which case the provisions of s. 456.073 shall apply.

17 (c) The report submitted to the agency shall also
18 contain the name and license number of the risk manager of the
19 licensed facility, a copy of its policy and procedures which
20 govern the measures taken by the facility and its risk manager
21 to reduce the risk of injuries and adverse incidents, and the
22 results of such measures. The annual report is confidential
23 and is not available to the public pursuant to s. 119.07(1) or
24 any other law providing access to public records. The annual
25 report is not discoverable or admissible in any civil or
26 administrative action, except in disciplinary proceedings by
27 the agency or the appropriate regulatory board. The annual
28 report is not available to the public as part of the record of
29 investigation for and prosecution in disciplinary proceedings
30 made available to the public by the agency or the appropriate
31 regulatory board. However, the agency or the appropriate

1 regulatory board shall make available, upon written request by
2 a health care professional against whom probable cause has
3 been found, any such records which form the basis of the
4 determination of probable cause.

5 (7) The licensed facility shall notify the agency no
6 later than 1 business day after the risk manager or his or her
7 designee has received a report pursuant to paragraph (1)(d)
8 and can determine within 1 business day that any of the
9 following adverse incidents has occurred, whether occurring in
10 the licensed facility or arising from health care prior to
11 admission in the licensed facility:

12 (a) The death of a patient;

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

14 (c) The performance of a surgical procedure on the
15 wrong patient;

16 (d) The performance of a wrong-site surgical
17 procedure; or

18 (e) The performance of a wrong surgical procedure.
19

20 The notification must be made in writing and be provided by
21 facsimile device or overnight mail delivery. The notification
22 must include information regarding the identity of the
23 affected patient, the type of adverse incident, the initiation
24 of an investigation by the facility, and whether the events
25 causing or resulting in the adverse incident represent a
26 potential risk to other patients.

27 (8) Any of the following adverse incidents, whether
28 occurring in the licensed facility or arising from health care
29 prior to admission in the licensed facility, shall be reported
30 by the facility to the agency within 15 calendar days after
31 its occurrence:

- 1 (a) The death of a patient;
- 2 (b) Brain or spinal damage to a patient;
- 3 (c) The performance of a surgical procedure on the
4 wrong patient;
- 5 (d) The performance of a wrong-site surgical
6 procedure;
- 7 (e) The performance of a wrong surgical procedure;
- 8 (f) The performance of a surgical procedure that is
9 medically unnecessary or otherwise unrelated to the patient's
10 diagnosis or medical condition;
- 11 (g) The surgical repair of damage resulting to a
12 patient from a planned surgical procedure, where the damage is
13 not a recognized specific risk, as disclosed to the patient
14 and documented through the informed-consent process; or
- 15 (h) The performance of procedures to remove unplanned
16 foreign objects remaining from a surgical procedure.

17

18 The agency may grant extensions to this reporting requirement
19 for more than 15 days upon justification submitted in writing
20 by the facility administrator to the agency. The agency may
21 require an additional, final report. These reports shall not
22 be available to the public pursuant to s. 119.07(1) or any
23 other law providing access to public records, nor be
24 discoverable or admissible in any civil or administrative
25 action, except in disciplinary proceedings by the agency or
26 the appropriate regulatory board, nor shall they be available
27 to the public as part of the record of investigation for and
28 prosecution in disciplinary proceedings made available to the
29 public by the agency or the appropriate regulatory board.
30 However, the agency or the appropriate regulatory board shall
31 make available, upon written request by a health care

1 professional against whom probable cause has been found, any
2 such records which form the basis of the determination of
3 probable cause. The agency may investigate, as it deems
4 appropriate, any such incident and prescribe measures that
5 must or may be taken in response to the incident. The agency
6 shall review each incident and determine whether it
7 potentially involved conduct by the health care professional
8 who is subject to disciplinary action, in which case the
9 provisions of s. 456.073 shall apply.

10 (9) The agency shall publish on the agency's website,
11 no less than quarterly, a summary and trend analysis of
12 adverse incident reports received pursuant to this section,
13 which shall not include information that would identify the
14 patient, the reporting facility, or the health care
15 practitioners involved. The agency shall publish on the
16 agency's website an annual summary and trend analysis of all
17 adverse incident reports and malpractice claims information
18 provided by facilities in their annual reports, which shall
19 not include information that would identify the patient, the
20 reporting facility, or the practitioners involved. The
21 purpose of the publication of the summary and trend analysis
22 is to promote the rapid dissemination of information relating
23 to adverse incidents and malpractice claims to assist in
24 avoidance of similar incidents and reduce morbidity and
25 mortality.

26 (10)~~(9)~~ The internal risk manager of each licensed
27 facility shall:

28 (a) Investigate every allegation of sexual misconduct
29 which is made against a member of the facility's personnel who
30 has direct patient contact, when the allegation is that the
31

1 sexual misconduct occurred at the facility or on the grounds
2 of the facility. ~~and~~

3 (b) Report every allegation of sexual misconduct to
4 the administrator of the licensed facility.

5 (c) Notify the family or guardian of the victim, if a
6 minor, that an allegation of sexual misconduct has been made
7 and that an investigation is being conducted. ~~and~~

8 (d) Report to the Department of Health every
9 allegation of sexual misconduct, as defined in chapter 456 and
10 the respective practice act, by a licensed health care
11 practitioner that involves a patient.

12 ~~(11)(10)~~ Any witness who witnessed or who possesses
13 actual knowledge of the act that is the basis of an allegation
14 of sexual abuse shall:

15 (a) Notify the local police; and

16 (b) Notify the hospital risk manager and the
17 administrator.

18
19 For purposes of this subsection, "sexual abuse" means acts of
20 a sexual nature committed for the sexual gratification of
21 anyone upon, or in the presence of, a vulnerable adult,
22 without the vulnerable adult's informed consent, or a minor.
23 "Sexual abuse" includes, but is not limited to, the acts
24 defined in s. 794.011(1)(h), fondling, exposure of a
25 vulnerable adult's or minor's sexual organs, or the use of the
26 vulnerable adult or minor to solicit for or engage in
27 prostitution or sexual performance. "Sexual abuse" does not
28 include any act intended for a valid medical purpose or any
29 act which may reasonably be construed to be a normal
30 caregiving action.

31

1 (12)~~(11)~~ A person who, with malice or with intent to
2 discredit or harm a licensed facility or any person, makes a
3 false allegation of sexual misconduct against a member of a
4 licensed facility's personnel is guilty of a misdemeanor of
5 the second degree, punishable as provided in s. 775.082 or s.
6 775.083.

7 (13)~~(12)~~ In addition to any penalty imposed pursuant
8 to this section, the agency shall require a written plan of
9 correction from the facility. For a single incident or series
10 of isolated incidents that are nonwillful violations of the
11 reporting requirements of this section, the agency shall first
12 seek to obtain corrective action by the facility. If the
13 correction is not demonstrated within the timeframe
14 established by the agency or if there is a pattern of
15 nonwillful violations of this section, the agency may impose
16 an administrative fine, not to exceed \$5,000 for any violation
17 of the reporting requirements of this section. The
18 administrative fine for repeated nonwillful violations shall
19 not exceed \$10,000 for any violation. The administrative fine
20 for each intentional and willful violation may not exceed
21 \$25,000 per violation, per day. The fine for an intentional
22 and willful violation of this section may not exceed \$250,000.
23 In determining the amount of fine to be levied, the agency
24 shall be guided by s. 395.1065(2)(b). This subsection does not
25 apply to the notice requirements under subsection (7).

26 (14)~~(13)~~ The agency shall have access to all licensed
27 facility records necessary to carry out the provisions of this
28 section. The records obtained by the agency under subsection
29 (6), subsection (8), or subsection(10)~~(9)~~ are not available
30 to the public under s. 119.07(1), nor shall they be
31 discoverable or admissible in any civil or administrative

1 action, except in disciplinary proceedings by the agency or
2 the appropriate regulatory board, nor shall records obtained
3 pursuant to s. 456.071 be available to the public as part of
4 the record of investigation for and prosecution in
5 disciplinary proceedings made available to the public by the
6 agency or the appropriate regulatory board. However, the
7 agency or the appropriate regulatory board shall make
8 available, upon written request by a health care professional
9 against whom probable cause has been found, any such records
10 which form the basis of the determination of probable cause,
11 except that, with respect to medical review committee records,
12 s. 766.101 controls.

13 (15)~~(14)~~ The meetings of the committees and governing
14 board of a licensed facility held solely for the purpose of
15 achieving the objectives of risk management as provided by
16 this section shall not be open to the public under the
17 provisions of chapter 286. The records of such meetings are
18 confidential and exempt from s. 119.07(1), except as provided
19 in subsection~~(14)~~(13).

20 (16)~~(15)~~ The agency shall review, as part of its
21 licensure inspection process, the internal risk management
22 program at each licensed facility regulated by this section to
23 determine whether the program meets standards established in
24 statutes and rules, whether the program is being conducted in
25 a manner designed to reduce adverse incidents, and whether the
26 program is appropriately reporting incidents under this
27 section ~~subsections (5), (6), (7), and (8)~~.

28 (17)~~(16)~~ There shall be no monetary liability on the
29 part of, and no cause of action for damages shall arise
30 against, any risk manager, licensed under s. 395.10974 ~~part IX~~
31 ~~of chapter 626~~, for the implementation and oversight of the

1 internal risk management program in a facility licensed under
2 this chapter or chapter 390 as required by this section, for
3 any act or proceeding undertaken or performed within the scope
4 of the functions of such internal risk management program if
5 the risk manager acts without intentional fraud.

6 (18) A privilege against civil liability is hereby
7 granted to any licensed risk manager or licensed facility with
8 regard to information furnished pursuant to this chapter,
9 unless the licensed risk manager or facility acted in bad
10 faith or with malice in providing such information.

11 (19)~~(17)~~ If the agency, through its receipt of any
12 reports required under this section ~~the annual reports~~
13 ~~prescribed in subsection (6)~~ or through any investigation, has
14 a reasonable belief that conduct by a staff member or employee
15 of a licensed facility is grounds for disciplinary action by
16 the appropriate regulatory board, the agency shall report this
17 fact to such regulatory board.

18 ~~(18) The agency shall annually publish a report~~
19 ~~summarizing the information contained in the annual incident~~
20 ~~reports submitted by licensed facilities pursuant to~~
21 ~~subsection (6) and disciplinary actions reported to the agency~~
22 ~~pursuant to s. 395.0193. The report must, at a minimum,~~
23 ~~summarize:~~

24 ~~(a) Adverse incidents, by category of reported~~
25 ~~incident, and by type of professional involved.~~

26 ~~(b) Types of malpractice claims filed, by type of~~
27 ~~professional involved.~~

28 ~~(c) Disciplinary actions taken against professionals,~~
29 ~~by type of professional involved.~~

30 (20) It shall be unlawful for any person to coerce,
31 intimidate, or preclude a risk manager from lawfully executing

1 his or her reporting obligations pursuant to this chapter.
2 Such unlawful action shall be subject to civil monetary
3 penalties not to exceed \$10,000 per violation.

4 Section 64. Section 395.10972, Florida Statutes, is
5 amended to read:

6 395.10972 Health Care Risk Manager Advisory
7 Council.--The Secretary of Health Care Administration may
8 appoint a seven-member ~~five-member~~ advisory council to advise
9 the agency on matters pertaining to health care risk managers.
10 The members of the council shall serve at the pleasure of the
11 secretary. The council shall designate a chair. The council
12 shall meet at the call of the secretary or at those times as
13 may be required by rule of the agency. The members of the
14 advisory council shall receive no compensation for their
15 services, but shall be reimbursed for travel expenses as
16 provided in s. 112.061. The council shall consist of
17 individuals representing the following areas:

18 (1) Two shall be active health care risk managers,
19 including one risk manager who is recommended by and a member
20 of the Florida Society of Healthcare Risk Management.

21 (2) One shall be an active hospital administrator.

22 (3) One shall be an employee of an insurer or
23 self-insurer of medical malpractice coverage.

24 (4) One shall be a representative of the
25 health-care-consuming public.

26 (5) Two shall be licensed health care practitioners,
27 one of whom shall be licensed as a physician under chapter 458
28 or chapter 459.

29 Section 65. Paragraph (b) of subsection (2) of section
30 395.701, Florida Statutes, is amended to read:

31

1 395.701 Annual assessments on net operating revenues
2 for inpatient and outpatient services to fund public medical
3 assistance; administrative fines for failure to pay
4 assessments when due; exemption.--

5 (2)

6 (b) There is imposed upon each hospital an assessment
7 in an amount equal to 1 percent of the annual net operating
8 revenue for outpatient services for each hospital, such
9 revenue to be determined by the agency, based on the actual
10 experience of the hospital as reported to the agency. While
11 prior year report worksheets may be reconciled to the
12 hospital's audited financial statements, no additional audited
13 financial components may be required for the purposes of
14 determining the amount of the assessment imposed pursuant to
15 this section other than those in effect on July 1, 2000.

16 Within 6 months after the end of each hospital fiscal year,
17 the agency shall certify the amount of the assessment for each
18 hospital. The assessment shall be payable to and collected by
19 the agency in equal quarterly amounts, on or before the first
20 day of each calendar quarter, beginning with the first full
21 calendar quarter that occurs after the agency certifies the
22 amount of the assessment for each hospital. All moneys
23 collected pursuant to this subsection shall be deposited into
24 the Public Medical Assistance Trust Fund.

25 Section 66. Section 409.905, Florida Statutes, is
26 amended to read:

27 409.905 Mandatory Medicaid services.--The agency may
28 make payments for the following services, which are required
29 of the state by Title XIX of the Social Security Act,
30 furnished by Medicaid providers to recipients who are
31 determined to be eligible on the dates on which the services

1 were provided. Any service under this section shall be
2 provided only when medically necessary and in accordance with
3 state and federal law. Mandatory services rendered by
4 providers in mobile units to Medicaid recipients may be
5 restricted by the agency. Nothing in this section shall be
6 construed to prevent or limit the agency from adjusting fees,
7 reimbursement rates, lengths of stay, number of visits, number
8 of services, or any other adjustments necessary to comply with
9 the availability of moneys and any limitations or directions
10 provided for in the General Appropriations Act or chapter 216.

11 (1) ADVANCED REGISTERED NURSE PRACTITIONER
12 SERVICES.--The agency shall pay for services provided to a
13 recipient by a licensed advanced registered nurse practitioner
14 who has a valid collaboration agreement with a licensed
15 physician on file with the Department of Health or who
16 provides anesthesia services in accordance with established
17 protocol required by state law and approved by the medical
18 staff of the facility in which the anesthetic service is
19 performed. Reimbursement for such services must be provided in
20 an amount that equals not less than 80 percent of the
21 reimbursement to a physician who provides the same services,
22 unless otherwise provided for in the General Appropriations
23 Act.

24 (2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND
25 TREATMENT SERVICES.--The agency shall pay for early and
26 periodic screening and diagnosis of a recipient under age 21
27 to ascertain physical and mental problems and conditions and
28 provide treatment to correct or ameliorate these problems and
29 conditions. These services include all services determined by
30 the agency to be medically necessary for the treatment,
31 correction, or amelioration of these problems, including

1 personal care, private duty nursing, durable medical
2 equipment, physical therapy, occupational therapy, speech
3 therapy, respiratory therapy, and immunizations.

4 (3) FAMILY PLANNING SERVICES.--The agency shall pay
5 for services necessary to enable a recipient voluntarily to
6 plan family size or to space children. These services include
7 information; education; counseling regarding the availability,
8 benefits, and risks of each method of pregnancy prevention;
9 drugs and supplies; and necessary medical care and followup.
10 Each recipient participating in the family planning portion of
11 the Medicaid program must be provided freedom to choose any
12 alternative method of family planning, as required by federal
13 law.

14 (4) HOME HEALTH CARE SERVICES.--The agency shall pay
15 for nursing and home health aide services, supplies,
16 appliances, and durable medical equipment, necessary to assist
17 a recipient living at home. An entity that provides services
18 pursuant to this subsection shall be licensed under part IV of
19 chapter 400 or part II of chapter 499, if appropriate. These
20 services, equipment, and supplies, or reimbursement therefor,
21 may be limited as provided in the General Appropriations Act
22 and do not include services, equipment, or supplies provided
23 to a person residing in a hospital or nursing facility. In
24 providing home health care services, the agency may require
25 prior authorization of care based on diagnosis.

26 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay
27 for all covered services provided for the medical care and
28 treatment of a recipient who is admitted as an inpatient by a
29 licensed physician or dentist to a hospital licensed under
30 part I of chapter 395. However, the agency shall limit the
31 payment for inpatient hospital services for a Medicaid

1 recipient 21 years of age or older to 45 days or the number of
2 days necessary to comply with the General Appropriations Act.

3 (a) The agency is authorized to implement
4 reimbursement and utilization management reforms in order to
5 comply with any limitations or directions in the General
6 Appropriations Act, which may include, but are not limited to:
7 prior authorization for inpatient psychiatric days; enhanced
8 utilization and concurrent review programs for highly utilized
9 services; reduction or elimination of covered days of service;
10 adjusting reimbursement ceilings for variable costs; adjusting
11 reimbursement ceilings for fixed and property costs; and
12 implementing target rates of increase.

13 (b) A licensed hospital maintained primarily for the
14 care and treatment of patients having mental disorders or
15 mental diseases is not eligible to participate in the hospital
16 inpatient portion of the Medicaid program except as provided
17 in federal law. However, the department shall apply for a
18 waiver, within 9 months after June 5, 1991, designed to
19 provide hospitalization services for mental health reasons to
20 children and adults in the most cost-effective and lowest cost
21 setting possible. Such waiver shall include a request for the
22 opportunity to pay for care in hospitals known under federal
23 law as "institutions for mental disease" or "IMD's." The
24 waiver proposal shall propose no additional aggregate cost to
25 the state or Federal Government, and shall be conducted in
26 Hillsborough County, Highlands County, Hardee County, Manatee
27 County, and Polk County. The waiver proposal may incorporate
28 competitive bidding for hospital services, comprehensive
29 brokering, prepaid capitated arrangements, or other mechanisms
30 deemed by the department to show promise in reducing the cost
31 of acute care and increasing the effectiveness of preventive

1 care. When developing the waiver proposal, the department
2 shall take into account price, quality, accessibility,
3 linkages of the hospital to community services and family
4 support programs, plans of the hospital to ensure the earliest
5 discharge possible, and the comprehensiveness of the mental
6 health and other health care services offered by participating
7 providers.

8 (c) Agency for Health Care Administration shall adjust
9 a hospital's current inpatient per diem rate to reflect the
10 cost of serving the Medicaid population at that institution
11 if:

12 1. The hospital experiences an increase in Medicaid
13 caseload by more than 25 percent in any year, primarily
14 resulting from the closure of a hospital in the same service
15 area occurring after July 1, 1995; or

16 2. The hospital's Medicaid per diem rate is at least
17 25 percent below the Medicaid per patient cost for that year.

18
19 No later than November 1, 2000, the agency must provide
20 estimated costs for any adjustment in a hospital inpatient per
21 diem pursuant to this paragraph to the Executive Office of the
22 Governor, the House of Representatives General Appropriations
23 Committee, and the Senate Budget Committee. Before the agency
24 implements a change in a hospital's inpatient per diem rate
25 pursuant to this paragraph, the Legislature must have
26 specifically appropriated sufficient funds in the 2001-2002
27 General Appropriations Act to support the increase in cost as
28 estimated by the agency. This paragraph is repealed on July 1,
29 2001.

30 (6) HOSPITAL OUTPATIENT SERVICES.--The agency shall
31 pay for preventive, diagnostic, therapeutic, or palliative

1 care and other services provided to a recipient in the
2 outpatient portion of a hospital licensed under part I of
3 chapter 395, and provided under the direction of a licensed
4 physician or licensed dentist, except that payment for such
5 care and services is limited to \$1,500 per state fiscal year
6 per recipient, unless an exception has been made by the
7 agency, and with the exception of a Medicaid recipient under
8 age 21, in which case the only limitation is medical
9 necessity.

10 (7) INDEPENDENT LABORATORY SERVICES.--The agency shall
11 pay for medically necessary diagnostic laboratory procedures
12 ordered by a licensed physician or other licensed practitioner
13 of the healing arts which are provided for a recipient in a
14 laboratory that meets the requirements for Medicare
15 participation and is licensed under chapter 483, if required.

16 (8) NURSING FACILITY SERVICES.--The agency shall pay
17 for 24-hour-a-day nursing and rehabilitative services for a
18 recipient in a nursing facility licensed under part II of
19 chapter 400 or in a rural hospital, as defined in s. 395.602,
20 or in a Medicare certified skilled nursing facility operated
21 by a hospital, as defined by s. 395.002(11), that is licensed
22 under part I of chapter 395, and in accordance with provisions
23 set forth in s. 409.908(2)(a), which services are ordered by
24 and provided under the direction of a licensed physician.
25 However, if a nursing facility has been destroyed or otherwise
26 made uninhabitable by natural disaster or other emergency and
27 another nursing facility is not available, the agency must pay
28 for similar services temporarily in a hospital licensed under
29 part I of chapter 395 provided federal funding is approved and
30 available.

31

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

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 67. 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

1 known as "Intermediate Care Facilities for the Developmentally
2 Disabled." Optional services may include:

3 (1) ADULT DENTURE SERVICES.--The agency may pay for
4 dentures, the procedures required to seat dentures, and the
5 repair and reline of dentures, provided by or under the
6 direction of a licensed dentist, for a recipient who is age 21
7 or older. However, Medicaid will not provide reimbursement for
8 dental services provided in a mobile dental unit, except for a
9 mobile dental unit:

10 (a) Owned by, operated by, or having a contractual
11 agreement with the Department of Health and complying with
12 Medicaid's county health department clinic services program
13 specifications as a county health department clinic services
14 provider.

15 (b) Owned by, operated by, or having a contractual
16 arrangement with a federally qualified health center and
17 complying with Medicaid's federally qualified health center
18 specifications as a federally qualified health center
19 provider.

20 (c) Rendering dental services to Medicaid recipients,
21 21 years of age and older, at nursing facilities.

22 (d) Owned by, operated by, or having a contractual
23 agreement with a state-approved dental educational
24 institution.

25 (2) ADULT HEALTH SCREENING SERVICES.--The agency may
26 pay for an annual routine physical examination, conducted by
27 or under the direction of a licensed physician, for a
28 recipient age 21 or older, without regard to medical
29 necessity, in order to detect and prevent disease, disability,
30 or other health condition or its progression.

31

1 (3) AMBULATORY SURGICAL CENTER SERVICES.--The agency
2 may pay for services provided to a recipient in an ambulatory
3 surgical center licensed under part I of chapter 395, by or
4 under the direction of a licensed physician or dentist.

5 (4) BIRTH CENTER SERVICES.--The agency may pay for
6 examinations and delivery, recovery, and newborn assessment,
7 and related services, provided in a licensed birth center
8 staffed with licensed physicians, certified nurse midwives,
9 and midwives licensed in accordance with chapter 467, to a
10 recipient expected to experience a low-risk pregnancy and
11 delivery.

12 (5) CASE MANAGEMENT SERVICES.--The agency may pay for
13 primary care case management services rendered to a recipient
14 pursuant to a federally approved waiver, and targeted case
15 management services for specific groups of targeted
16 recipients, for which funding has been provided and which are
17 rendered pursuant to federal guidelines. The agency is
18 authorized to limit reimbursement for targeted case management
19 services in order to comply with any limitations or directions
20 provided for in the General Appropriations Act.
21 Notwithstanding s. 216.292, the Department of Children and
22 Family Services may transfer general funds to the Agency for
23 Health Care Administration to fund state match requirements
24 exceeding the amount specified in the General Appropriations
25 Act for targeted case management services.

26 (6) CHILDREN'S DENTAL SERVICES.--The agency may pay
27 for diagnostic, preventive, or corrective procedures,
28 including orthodontia in severe cases, provided to a recipient
29 under age 21, by or under the supervision of a licensed
30 dentist. Services provided under this program include
31 treatment of the teeth and associated structures of the oral

1 cavity, as well as treatment of disease, injury, or impairment
2 that may affect the oral or general health of the individual.
3 However, Medicaid will not provide reimbursement for dental
4 services provided in a mobile dental unit, except for a mobile
5 dental unit:

6 (a) Owned by, operated by, or having a contractual
7 agreement with the Department of Health and complying with
8 Medicaid's county health department clinic services program
9 specifications as a county health department clinic services
10 provider.

11 (b) Owned by, operated by, or having a contractual
12 arrangement with a federally qualified health center and
13 complying with Medicaid's federally qualified health center
14 specifications as a federally qualified health center
15 provider.

16 (c) Rendering dental services to Medicaid recipients,
17 21 years of age and older, at nursing facilities.

18 (d) Owned by, operated by, or having a contractual
19 agreement with a state-approved dental educational
20 institution.

21 (7) CHIROPRACTIC SERVICES.--The agency may pay for
22 manual manipulation of the spine and initial services,
23 screening, and X rays provided to a recipient by a licensed
24 chiropractic physician.

25 (8) COMMUNITY MENTAL HEALTH SERVICES.--The agency may
26 pay for rehabilitative services provided to a recipient by a
27 mental health or substance abuse provider licensed by the
28 agency and under contract with the agency or the Department of
29 Children and Family Services to provide such services. Those
30 services which are psychiatric in nature shall be rendered or
31 recommended by a psychiatrist, and those services which are

1 medical in nature shall be rendered or recommended by a
2 physician or psychiatrist. The agency must develop a provider
3 enrollment process for community mental health providers which
4 bases provider enrollment on an assessment of service need.
5 The provider enrollment process shall be designed to control
6 costs, prevent fraud and abuse, consider provider expertise
7 and capacity, and assess provider success in managing
8 utilization of care and measuring treatment outcomes.
9 Providers will be selected through a competitive procurement
10 or selective contracting process. In addition to other
11 community mental health providers, the agency shall consider
12 for enrollment mental health programs licensed under chapter
13 395 and group practices licensed under chapter 458, chapter
14 459, chapter 490, or chapter 491. The agency is also
15 authorized to continue operation of its behavioral health
16 utilization management program and may develop new services if
17 these actions are necessary to ensure savings from the
18 implementation of the utilization management system. The
19 agency shall coordinate the implementation of this enrollment
20 process with the Department of Children and Family Services
21 and the Department of Juvenile Justice. The agency is
22 authorized to utilize diagnostic criteria in setting
23 reimbursement rates, to preauthorize certain high-cost or
24 highly utilized services, to limit or eliminate coverage for
25 certain services, or to make any other adjustments necessary
26 to comply with any limitations or directions provided for in
27 the General Appropriations Act.

28 (9) DIALYSIS FACILITY SERVICES.--Subject to specific
29 appropriations being provided for this purpose, the agency may
30 pay a dialysis facility that is approved as a dialysis
31 facility in accordance with Title XVIII of the Social Security

1 Act, for dialysis services that are provided to a Medicaid
2 recipient under the direction of a physician licensed to
3 practice medicine or osteopathic medicine in this state,
4 including dialysis services provided in the recipient's home
5 by a hospital-based or freestanding dialysis facility.

6 (10) DURABLE MEDICAL EQUIPMENT.--The agency may
7 authorize and pay for certain durable medical equipment and
8 supplies provided to a Medicaid recipient as medically
9 necessary.

10 (11) HEALTHY START SERVICES.--The agency may pay for a
11 continuum of risk-appropriate medical and psychosocial
12 services for the Healthy Start program in accordance with a
13 federal waiver. The agency may not implement the federal
14 waiver unless the waiver permits the state to limit enrollment
15 or the amount, duration, and scope of services to ensure that
16 expenditures will not exceed funds appropriated by the
17 Legislature or available from local sources. If the Health
18 Care Financing Administration does not approve a federal
19 waiver for Healthy Start services, the agency, in consultation
20 with the Department of Health and the Florida Association of
21 Healthy Start Coalitions, is authorized to establish a
22 Medicaid certified-match program for Healthy Start services.
23 Participation in the Healthy Start certified-match program
24 shall be voluntary, and reimbursement shall be limited to the
25 federal Medicaid share to Medicaid-enrolled Healthy Start
26 coalitions for services provided to Medicaid recipients. The
27 agency shall take no action to implement a certified-match
28 program without ensuring that the amendment and review
29 requirements of ss. 216.177 and 216.181 have been met.

30 (12) HEARING SERVICES.--The agency may pay for hearing
31 and related services, including hearing evaluations, hearing

1 aid devices, dispensing of the hearing aid, and related
2 repairs, if provided to a recipient by a licensed hearing aid
3 specialist, otolaryngologist, otologist, audiologist, or
4 physician.

5 (13) HOME AND COMMUNITY-BASED SERVICES.--The agency
6 may pay for home-based or community-based services that are
7 rendered to a recipient in accordance with a federally
8 approved waiver program.

9 (14) HOSPICE CARE SERVICES.--The agency may pay for
10 all reasonable and necessary services for the palliation or
11 management of a recipient's terminal illness, if the services
12 are provided by a hospice that is licensed under part VI of
13 chapter 400 and meets Medicare certification requirements.

14 (15) INTERMEDIATE CARE FACILITY FOR THE
15 DEVELOPMENTALLY DISABLED SERVICES.--The agency may pay for
16 health-related care and services provided on a 24-hour-a-day
17 basis by a facility licensed and certified as a Medicaid
18 Intermediate Care Facility for the Developmentally Disabled,
19 for a recipient who needs such care because of a developmental
20 disability.

21 (16) INTERMEDIATE CARE SERVICES.--The agency may pay
22 for 24-hour-a-day intermediate care nursing and rehabilitation
23 services rendered to a recipient in a nursing facility
24 licensed under part II of chapter 400, if the services are
25 ordered by and provided under the direction of a physician.

26 (17) OPTOMETRIC SERVICES.--The agency may pay for
27 services provided to a recipient, including examination,
28 diagnosis, treatment, and management, related to ocular
29 pathology, if the services are provided by a licensed
30 optometrist or physician.

31

1 (18) PHYSICIAN ASSISTANT SERVICES.--The agency may pay
2 for all services provided to a recipient by a physician
3 assistant licensed under s. 458.347 or s. 459.022.
4 Reimbursement for such services must be not less than 80
5 percent of the reimbursement that would be paid to a physician
6 who provided the same services.

7 (19) PODIATRIC SERVICES.--The agency may pay for
8 services, including diagnosis and medical, surgical,
9 palliative, and mechanical treatment, related to ailments of
10 the human foot and lower leg, if provided to a recipient by a
11 podiatric physician licensed under state law.

12 (20) PRESCRIBED DRUG SERVICES.--The agency may pay for
13 medications that are prescribed for a recipient by a physician
14 or other licensed practitioner of the healing arts authorized
15 to prescribe medications and that are dispensed to the
16 recipient by a licensed pharmacist or physician in accordance
17 with applicable state and federal law.

18 (21) REGISTERED NURSE FIRST ASSISTANT SERVICES.--The
19 agency may pay for all services provided to a recipient by a
20 registered nurse first assistant as described in s. 464.027.
21 Reimbursement for such services may not be less than 80
22 percent of the reimbursement that would be paid to a physician
23 providing the same services.

24 (22) STATE HOSPITAL SERVICES.--The agency may pay for
25 all-inclusive psychiatric inpatient hospital care provided to
26 a recipient age 65 or older in a state mental hospital.

27 (23) VISUAL SERVICES.--The agency may pay for visual
28 examinations, eyeglasses, and eyeglass repairs for a
29 recipient, if they are prescribed by a licensed physician
30 specializing in diseases of the eye or by a licensed
31 optometrist.

1 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The
2 Agency for Health Care Administration, in consultation with
3 the Department of Children and Family Services, may establish
4 a targeted case-management pilot project in those counties
5 identified by the Department of Children and Family Services
6 and for the community-based child welfare project in Sarasota
7 and Manatee counties, as authorized under s. 409.1671. These
8 projects shall be established for the purpose of determining
9 the impact of targeted case management on the child welfare
10 program and the earnings from the child welfare program.
11 Results of the pilot projects shall be reported to the Child
12 Welfare Estimating Conference and the Social Services
13 Estimating Conference established under s. 216.136. The number
14 of projects may not be increased until requested by the
15 Department of Children and Family Services, recommended by the
16 Child Welfare Estimating Conference and the Social Services
17 Estimating Conference, and approved by the Legislature. The
18 covered group of individuals who are eligible to receive
19 targeted case management include children who are eligible for
20 Medicaid; who are between the ages of birth through 21; and
21 who are under protective supervision or postplacement
22 supervision, under foster-care supervision, or in shelter care
23 or foster care. The number of individuals who are eligible to
24 receive targeted case management shall be limited to the
25 number for whom the Department of Children and Family Services
26 has available matching funds to cover the costs. The general
27 revenue funds required to match the funds for services
28 provided by the community-based child welfare projects are
29 limited to funds available for services described under s.
30 409.1671. The Department of Children and Family Services may
31

1 transfer the general revenue matching funds as billed by the
2 Agency for Health Care Administration.

3 Section 68. Present subsections (7) through (11) of
4 section 456.013, Florida Statutes, are renumbered as
5 subsections (8) through (12), respectively, and a new
6 subsection (7) is added to that section to read:

7 456.013 Department; general licensing provisions.--

8 (7) The boards, or the department when there is no
9 board, shall require the completion of a 2-hour course
10 relating to prevention of medical errors as part of the
11 licensure and renewal process. The 2-hour course shall count
12 towards the total number of continuing education hours
13 required for the profession. The course shall be approved by
14 the board or department, as appropriate, and shall include a
15 study of root-cause analysis, error reduction and prevention,
16 and patient safety. If the course is being offered by a
17 facility licensed pursuant to chapter 395 for its employees,
18 the board may approve up to 1 hour of the 2-hour course to be
19 specifically related to error reduction and prevention methods
20 used in that facility.

21 Section 69. Subsection (19) is added to section
22 456.057, Florida Statutes, to read:

23 456.057 Ownership and control of patient records;
24 report or copies of records to be furnished.--

25 (19) The board, or department when there is no board,
26 may temporarily or permanently appoint a person or entity as a
27 custodian of medical records in the event of the death of a
28 practitioner, the mental or physical incapacitation of the
29 practitioner, or the abandonment of medical records by a
30 practitioner. The custodian appointed shall comply with all

31

1 provisions of this section, including the release of patient
2 records.

3 Section 70. Subsection (3) is added to section
4 456.063, Florida Statutes, to read:

5 456.063 Sexual misconduct; disqualification for
6 license, certificate, or registration.--

7 (3) Licensed health care practitioners shall report
8 allegations of sexual misconduct to the department, regardless
9 of the practice setting in which the alleged sexual misconduct
10 occurred.

11 Section 71. Paragraphs (c) and (q) of subsection (1)
12 of section 456.072, Florida Statutes, are amended, paragraphs
13 (aa), (bb), and (cc) are added to that subsection, paragraphs
14 (c), (d), and (e) of subsection (2) and subsection (4) are
15 amended, and paragraphs (i) and (j) are added to subsection
16 (2) of that section, to read:

17 456.072 Grounds for discipline; penalties;
18 enforcement.--

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

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

27 (q) ~~Violating any provision of this chapter, the~~
28 ~~applicable professional practice act, a rule of the department~~
29 ~~or the board, or~~ a lawful order of the department or the
30 board, or failing to comply with a lawfully issued subpoena of
31 the department.

1 (aa) Performing or attempting to perform health care
2 services on the wrong patient, a wrong-site procedure, a wrong
3 procedure, or an unauthorized procedure or a procedure that is
4 medically unnecessary or otherwise unrelated to the patient's
5 diagnosis or medical condition. For the purposes of this
6 paragraph, performing or attempting to perform health care
7 services includes the preparation of the patient.

8 (bb) Leaving a foreign body in a patient, such as a
9 sponge, clamp, forceps, surgical needle, or other
10 paraphernalia commonly used in surgical, examination, or other
11 diagnostic procedures. For the purposes of this paragraph, it
12 shall be legally presumed that retention of a foreign body is
13 not in the best interest of the patient and is not within the
14 standard of care of the profession, regardless of the intent
15 of the professional.

16 (cc) Violating any provision of this chapter, the
17 applicable practice act, or any rules adopted pursuant
18 thereto.

19 (2) When the board, or the department when there is no
20 board, finds any person guilty of the grounds set forth in
21 subsection (1) or of any grounds set forth in the applicable
22 practice act, including conduct constituting a substantial
23 violation of subsection (1) or a violation of the applicable
24 practice act which occurred prior to obtaining a license, it
25 may enter an order imposing one or more of the following
26 penalties:

27 (c) Restriction of practice or license, including, but
28 not limited to, restricting the licensee from practicing in
29 certain settings, restricting the licensee to work only under
30 designated conditions or in certain settings, restricting the
31 licensee from performing or providing designated clinical and

1 administrative services, restricting the licensee from
2 practicing more than a designated number of hours, or any
3 other restriction found to be necessary for the protection of
4 the public health, safety, and welfare.

5 (d) Imposition of an administrative fine not to exceed
6 \$10,000 for each count or separate offense. If the violation
7 is for fraud or making a false or fraudulent representation,
8 the board, or the department if there is no board, must impose
9 a fine of \$10,000 per count or offense.

10 (e) Issuance of a reprimand or letter of concern.

11 (i) Refund of fees billed and collected from the
12 patient or a third party on behalf of the patient.

13 (j) Requirement that the practitioner undergo remedial
14 education.

15

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

24 (4) In addition to any other discipline imposed
25 through final order, or citation, entered on or after July 1,
26 2001, pursuant to this section or discipline imposed through
27 final order, or citation, entered on or after July 1, 2001,
28 for a violation of any practice act, the board, or the
29 department when there is no board, shall ~~may~~ assess costs
30 related to the investigation and prosecution of the case. In
31 any case where the board or the department imposes a fine or

1 assessment and the fine or assessment is not paid within a
2 reasonable time, such reasonable time to be prescribed in the
3 rules of the board, or the department when there is no board,
4 or in the order assessing such fines or costs, the department
5 or the Department of Legal Affairs may contract for the
6 collection of, or bring a civil action to recover, the fine or
7 assessment.

8 Section 72. Paragraphs (a) and (c) of subsection (9)
9 of section 456.073, Florida Statutes, are amended, and,
10 effective upon this act becoming a law, subsection (13) is
11 added to that section, to read:

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

15 (9)(a) The department shall periodically notify the
16 person who filed the complaint, as well as the patient or the
17 patient's legal representative, of the status of the
18 investigation, indicating whether probable cause has been
19 found and the status of any civil action or administrative
20 proceeding or appeal.

21 (c) In any disciplinary case for which probable cause
22 is not found, the department shall so inform the person who
23 filed the complaint and notify that person that he or she may,
24 within 60 days, provide any additional information to the
25 department ~~probable cause panel~~ which may be relevant to the
26 decision. To facilitate the provision of additional
27 information, the person who filed the complaint may receive,
28 upon request, a copy of the department's expert report that
29 supported the recommendation for closure, if such a report was
30 relied upon by the department. In no way does this require the
31 department to procure an expert opinion or report if none was

1 used. Additionally, the identity of the expert shall remain
2 confidential.In any administrative proceeding under s.
3 120.57, the person who filed the disciplinary complaint shall
4 have the right to present oral or written communication
5 relating to the alleged disciplinary violations or to the
6 appropriate penalty.

7 (13) Notwithstanding any provision of law to the
8 contrary, an administrative complaint against a licensee shall
9 be filed within 6 years after the time of the incident or
10 occurrence giving rise to the complaint against the licensee.
11 If such incident or occurrence involved criminal actions,
12 diversion of controlled substances, sexual misconduct, or
13 impairment by the licensee, this subsection does not apply to
14 bar initiation of an investigation or filing of an
15 administrative complaint beyond the 6-year timeframe. In those
16 cases covered by this subsection in which it can be shown that
17 fraud, concealment, or intentional misrepresentation of fact
18 prevented the discovery of the violation of law, the period of
19 limitations is extended forward, but in no event to exceed 12
20 years after the time of the incident or occurrence.

21 Section 73. Subsection (1) of section 456.074, Florida
22 Statutes, is amended to read:

23 456.074 Certain health care practitioners; immediate
24 suspension of license.--

25 (1) The department shall issue an emergency order
26 suspending the license of any person licensed under chapter
27 458, chapter 459, chapter 460, chapter 461, chapter 462,
28 chapter 463, chapter 464, chapter 465, chapter 466, or chapter
29 484 who pleads guilty to, is convicted or found guilty of, or
30 who enters a plea of nolo contendere to, regardless of
31 adjudication, a felony under chapter 409, chapter 817,or

1 chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C.
2 ss. 1395-1396.

3 Section 74. Subsections (2) and (6) of section
4 456.077, Florida Statutes, are amended to read:

5 456.077 Authority to issue citations.--

6 (2) The board, or the department if there is no board,
7 shall adopt rules designating violations for which a citation
8 may be issued. Such rules shall designate as citation
9 violations those violations for which there is no substantial
10 threat to the public health, safety, and welfare. Violations
11 for which a citation may be issued shall include violations of
12 continuing education requirements, failure to timely pay
13 required fees and fines, failure to comply with the
14 requirements of ss. 381.026 and 381.0261 regarding the
15 dissemination of information regarding patient rights, failure
16 to comply with advertising requirements, failure to timely
17 update practitioner profile and credentialing files, failure
18 to display signs, licenses, and permits, failure to have
19 required reference books available, and all other violations
20 that do not pose a direct and serious threat to the health and
21 safety of the patient.

22 (6) A board ~~created on or after January 1, 1992,~~ has 6
23 months in which to enact rules designating violations and
24 penalties appropriate for citation offenses. Failure to enact
25 such rules gives the department exclusive authority to adopt
26 rules as required for implementing this section. A board has
27 continuous authority to amend its rules adopted pursuant to
28 this section.

29 Section 75. Section 456.081, Florida Statutes, is
30 amended to read:

31

1 456.081 Publication of information.--The department
2 and the boards shall have the authority to advise licensees
3 periodically, through the publication of a newsletter, about
4 information that the department or the board determines is of
5 interest to the industry. The department and the boards shall
6 maintain a website which contains copies of the newsletter;
7 information relating to adverse incident reports without
8 identifying the patient, practitioner, or facility in which
9 the adverse incident occurred until 10 days after probable
10 cause is found, at which time the name of the practitioner and
11 facility shall become public as part of the investigative
12 file; information about error prevention and safety
13 strategies; and information concerning best practices.Unless
14 otherwise prohibited by law, the department and the boards
15 shall publish on the website a summary of final orders entered
16 after July 1, 2001, resulting in disciplinary action ~~finer,~~
17 ~~suspensions, or revocations,~~ and any other information the
18 department or the board determines is of interest to the
19 public. In order to provide useful and timely information at
20 minimal cost, the department and boards may consult with, and
21 include information provided by, professional associations and
22 national organizations.

23 Section 76. Subsection (9) of section 458.331, Florida
24 Statutes, is amended to read:

25 458.331 Grounds for disciplinary action; action by the
26 board and department.--

27 (9) When an investigation of a physician is
28 undertaken, the department shall promptly furnish to the
29 physician or the physician's attorney a copy of the complaint
30 or document which resulted in the initiation of the
31 investigation. For purposes of this subsection, such

1 documents include, but are not limited to: the pertinent
2 portions of an annual report submitted to the department
3 pursuant to s. 395.0197(6); a report of an adverse incident
4 which is provided to the department pursuant to s.
5 395.0197~~(8)~~; a report of peer review disciplinary action
6 submitted to the department pursuant to s. 395.0193(4) or s.
7 458.337, providing that the investigations, proceedings, and
8 records relating to such peer review disciplinary action shall
9 continue to retain their privileged status even as to the
10 licensee who is the subject of the investigation, as provided
11 by ss. 395.0193(8) and 458.337(3); a report of a closed claim
12 submitted pursuant to s. 627.912; a presuit notice submitted
13 pursuant to s. 766.106(2); and a petition brought under the
14 Florida Birth-Related Neurological Injury Compensation Plan,
15 pursuant to s. 766.305(2). The physician may submit a written
16 response to the information contained in the complaint or
17 document which resulted in the initiation of the investigation
18 within 45 days after service to the physician of the complaint
19 or document. The physician's written response shall be
20 considered by the probable cause panel.

21 Section 77. Subsection (9) of section 459.015, Florida
22 Statutes, is amended to read:

23 459.015 Grounds for disciplinary action; action by the
24 board and department.--

25 (9) When an investigation of an osteopathic physician
26 is undertaken, the department shall promptly furnish to the
27 osteopathic physician or his or her attorney a copy of the
28 complaint or document which resulted in the initiation of the
29 investigation. For purposes of this subsection, such documents
30 include, but are not limited to: the pertinent portions of an
31 annual report submitted to the department pursuant to s.

1 395.0197(6); a report of an adverse incident which is provided
2 to the department pursuant to s. 395.0197(8); a report of peer
3 review disciplinary action submitted to the department
4 pursuant to s. 395.0193(4) or s. 459.016, provided that the
5 investigations, proceedings, and records relating to such peer
6 review disciplinary action shall continue to retain their
7 privileged status even as to the licensee who is the subject
8 of the investigation, as provided by ss. 395.0193(8) and
9 459.016(3); a report of a closed claim submitted pursuant to
10 s. 627.912; a presuit notice submitted pursuant to s.
11 766.106(2); and a petition brought under the Florida
12 Birth-Related Neurological Injury Compensation Plan, pursuant
13 to s. 766.305(2). The osteopathic physician may submit a
14 written response to the information contained in the complaint
15 or document which resulted in the initiation of the
16 investigation within 45 days after service to the osteopathic
17 physician of the complaint or document. The osteopathic
18 physician's written response shall be considered by the
19 probable cause panel.

20 Section 78. Effective January 1, 2002, subsection (4)
21 of section 641.51, Florida Statutes, is amended to read:

22 641.51 Quality assurance program; second medical
23 opinion requirement.--

24 (4) The organization shall ensure that only a
25 physician with an active, unencumbered license ~~licensed~~ under
26 chapter 458 or chapter 459, ~~or an allopathic or osteopathic~~
27 ~~physician with an active, unencumbered license in another~~
28 ~~state with similar licensing requirements~~ may render an
29 adverse determination regarding a service provided by a
30 physician licensed in this state. The organization shall
31 submit to the treating provider and the subscriber written

1 notification regarding the organization's adverse
2 determination within 2 working days after the subscriber or
3 provider is notified of the adverse determination. The written
4 notification must include the utilization review criteria or
5 benefits provisions used in the adverse determination,
6 identify the physician who rendered the adverse determination,
7 and be signed by an authorized representative of the
8 organization or the physician who rendered the adverse
9 determination. The organization must include with the
10 notification of an adverse determination information
11 concerning the appeal process for adverse determinations. This
12 provision does not create authority for the Board of Medicine
13 or Board of Osteopathic Medicine to regulate the organization;
14 however, the Board of Medicine and the Board of Osteopathic
15 Medicine continue to have jurisdiction over licensees of their
16 respective boards.

17 Section 79. Subsection (5) of section 465.019, Florida
18 Statutes, is amended to read:

19 465.019 Institutional pharmacies; permits.--

20 (5) All institutional pharmacies shall be under the
21 professional supervision of a consultant pharmacist, and the
22 compounding and dispensing of medicinal drugs shall be done
23 only by a licensed pharmacist. Every institutional pharmacy
24 that employs or otherwise utilizes pharmacy technicians shall
25 have a written policy and procedures manual specifying those
26 duties, tasks, and functions which a pharmacy technician is
27 allowed to perform.

28 Section 80. Section 465.0196, Florida Statutes, is
29 amended to read:

30 465.0196 Special pharmacy permits.--Any person
31 desiring a permit to operate a pharmacy which does not fall

1 within the definitions set forth in s. 465.003(11)(a)1., 2.,
2 and 3. shall apply to the department for a special pharmacy
3 permit. If the board certifies that the application complies
4 with the applicable laws and rules of the board governing the
5 practice of the profession of pharmacy, the department shall
6 issue the permit. No permit shall be issued unless a licensed
7 pharmacist is designated to undertake the professional
8 supervision of the compounding and dispensing of all drugs
9 dispensed by the pharmacy. The licensed pharmacist shall be
10 responsible for maintaining all drug records and for providing
11 for the security of the area in the facility in which the
12 compounding, storing, and dispensing of medicinal drugs
13 occurs. The permittee shall notify the department within 10
14 days of any change of the licensed pharmacist responsible for
15 such duties. Every permittee that employs or otherwise
16 utilizes pharmacy technicians shall have a written policy and
17 procedures manual specifying those duties, tasks, and
18 functions which a pharmacy technician is allowed to perform.

19 Section 81. Effective upon this act becoming a law and
20 operating retroactively to July 1, 2000, section 22 of Chapter
21 2000-256, Laws of Florida, is amended to read:

22 Section 22. The amendments to ss. 395.701 and
23 395.7015, Florida Statutes, by this act shall take effect July
24 1, 2000 ~~only upon the Agency for Health Care Administration~~
25 ~~receiving written confirmation from the federal Health Care~~
26 ~~Financing Administration that the changes contained in such~~
27 ~~amendments will not adversely affect the use of the remaining~~
28 ~~assessments as state match for the state's Medicaid program.~~

29 Section 82. The Department of Health and the Agency
30 for Health Care Administration shall conduct a review of all
31 statutorily imposed reporting requirements for health care

1 practitioners and health facilities. The department and the
2 agency shall report back to the Legislature on or before
3 November 1, 2001, with recommendations and suggested statutory
4 changes to streamline reporting requirements to avoid
5 duplicative, overlapping, and unnecessary reports or data
6 elements.

7 Section 83. Paragraph (r) is added to subsection (1)
8 of section 468.1755, Florida Statutes, and, for the purpose of
9 incorporating the amendment to section 456.072(1), Florida
10 Statutes, in a reference thereto, paragraph (a) of subsection
11 (1) of that section is reenacted, to read:

12 468.1755 Disciplinary proceedings.--

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

15 (a) Violation of any provision of s. 456.072(1) or s.
16 468.1745(1).

17 (r) Failing to implement an ongoing quality assurance
18 program directed by an interdisciplinary team that meets at
19 least every other month.

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

24 (a) Denial of an application for licensure.

25 (b) Revocation or suspension of a license.

26 (c) Imposition of an administrative fine not to exceed
27 \$1,000 for each count or separate offense.

28 (d) Issuance of a reprimand.

29 (e) Placement of the licensee on probation for a
30 period of time and subject to such conditions as the board may
31 specify, including requiring the licensee to attend continuing

1 education courses or to work under the supervision of another
2 licensee.

3 (f) Restriction of the authorized scope of practice.

4 Section 84. For the purpose of incorporating the
5 amendment to section 468.1755(1), Florida Statutes, in
6 reference thereto, subsection (3) of section 468.1695, Florida
7 Statutes, and section 468.1735, Florida Statutes, are
8 reenacted to read:

9 468.1695 Licensure by examination.--

10 (3) The department shall issue a license to practice
11 nursing home administration to any applicant who successfully
12 completes the examination in accordance with this section and
13 otherwise meets the requirements of this part. The department
14 shall not issue a license to any applicant who is under
15 investigation in this state or another jurisdiction for an
16 offense which would constitute a violation of s. 468.1745 or
17 s. 468.1755. Upon completion of the investigation, the
18 provisions of s. 468.1755 shall apply.

19 468.1735 Provisional license.--The board may establish
20 by rule requirements for issuance of a provisional license. A
21 provisional license shall be issued only to fill a position of
22 nursing home administrator that unexpectedly becomes vacant
23 due to illness, sudden death of the administrator, or
24 abandonment of position and shall be issued for one single
25 period as provided by rule not to exceed 6 months. The
26 department shall not issue a provisional license to any
27 applicant who is under investigation in this state or another
28 jurisdiction for an offense which would constitute a violation
29 of s. 468.1745 or s. 468.1755. Upon completion of the
30 investigation, the provisions of s. 468.1755 shall apply. The
31 provisional license may be issued to a person who does not

1 meet all of the licensing requirements established by this
2 part, but the board shall by rule establish minimal
3 requirements to ensure protection of the public health,
4 safety, and welfare. The provisional license shall be issued
5 to the person who is designated as the responsible person next
6 in command in the event of the administrator's departure. The
7 board may set an application fee not to exceed \$500 for a
8 provisional license.

9 Section 85. For the purpose of incorporating the
10 amendment to section 456.072(1), Florida Statutes, in a
11 reference thereto, paragraph (a) of subsection (1) of section
12 484.056, Florida Statutes, is reenacted to read:

13 484.056 Disciplinary proceedings.--

14 (1) The following acts relating to the practice of
15 dispensing hearing aids shall be grounds for both disciplinary
16 action against a hearing aid specialist as set forth in this
17 section and cease and desist or other related action by the
18 department as set forth in s. 456.065 against any person
19 owning or operating a hearing aid establishment who engages
20 in, aids, or abets any such violation:

21 (a) Violation of any provision of s. 456.072(1), s.
22 484.0512, or s. 484.053.

23 Section 86. Paragraph (a) of subsection (1), paragraph
24 (a) of subsection (7), and subsection (8) of section 766.101,
25 Florida Statutes, are amended to read:

26 766.101 Medical review committee, immunity from
27 liability.--

28 (1) As used in this section:

29 (a) The term "medical review committee" or "committee"
30 means:

31

- 1 1.a. A committee of a hospital or ambulatory surgical
2 center licensed under chapter 395 or a health maintenance
3 organization certificated under part I of chapter 641,
4 b. A committee of a physician-hospital organization, a
5 provider-sponsored organization, or an integrated delivery
6 system,
7 c. A committee of a state or local professional
8 society of health care providers,
9 d. A committee of a medical staff of a licensed
10 hospital or nursing home, provided the medical staff operates
11 pursuant to written bylaws that have been approved by the
12 governing board of the hospital or nursing home,
13 e. A committee of the Department of Corrections or the
14 Correctional Medical Authority as created under s. 945.602, or
15 employees, agents, or consultants of either the department or
16 the authority or both,
17 f. A committee of a professional service corporation
18 formed under chapter 621 or a corporation organized under
19 chapter 607 or chapter 617, which is formed and operated for
20 the practice of medicine as defined in s. 458.305(3), and
21 which has at least 25 health care providers who routinely
22 provide health care services directly to patients,
23 g. A committee of a mental health treatment facility
24 licensed under chapter 394 or a community mental health center
25 as defined in s. 394.907, provided the quality assurance
26 program operates pursuant to the guidelines which have been
27 approved by the governing board of the agency,
28 h. A committee of a substance abuse treatment and
29 education prevention program licensed under chapter 397
30 provided the quality assurance program operates pursuant to
31

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

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

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

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.

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

1 766.1115 Health care providers; creation of agency
2 relationship with governmental contractors.--

3 (4) CONTRACT REQUIREMENTS.--A health care provider
4 that executes a contract with a governmental contractor to
5 deliver health care services on or after April 17, 1992, as an
6 agent of the governmental contractor is an agent for purposes
7 of s. 768.28(9), while acting within the scope of duties
8 pursuant to the contract, if the contract complies with the
9 requirements of this section and regardless of whether the
10 individual treated is later found to be ineligible. A health
11 care provider under contract with the state may not be named
12 as a defendant in any action arising out of the medical care
13 or treatment provided on or after April 17, 1992, pursuant to
14 contracts entered into under this section. The contract must
15 provide that:

16 (c) Adverse incidents and information on treatment
17 outcomes must be reported by any health care provider to the
18 governmental contractor if such incidents and information
19 pertain to a patient treated pursuant to the contract. The
20 health care provider shall submit the reports required by s.
21 395.0197 ~~annually submit an adverse incident report that~~
22 ~~includes all information required by s. 395.0197(6)(a), unless~~
23 ~~the adverse incident involves a result described by s.~~
24 ~~395.0197(8), in which case it shall be reported within 15 days~~
25 ~~after the occurrence of such incident.~~ If an incident involves
26 a professional licensed by the Department of Health or a
27 facility licensed by the Agency for Health Care
28 Administration, the governmental contractor shall submit such
29 incident reports to the appropriate department or agency,
30 which shall review each incident and determine whether it
31 involves conduct by the licensee that is subject to

1 disciplinary action. All patient medical records and any
2 identifying information contained in adverse incident reports
3 and treatment outcomes which are obtained by governmental
4 entities pursuant to this paragraph are confidential and
5 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
6 I of the State Constitution.

7 Section 89. Section 456.047, Florida Statutes, is
8 amended to read:

9 456.047 Standardized credentialing for health care
10 practitioners.--

11 (1) INTENT.--The Legislature recognizes that an
12 efficient and effective health care practitioner credentialing
13 program helps to ensure access to quality health care and also
14 recognizes that health care practitioner credentialing
15 activities have increased significantly as a result of health
16 care reform and recent changes in health care delivery and
17 reimbursement systems. Moreover, the resulting duplication of
18 health care practitioner credentialing activities is
19 unnecessarily costly and cumbersome for both the practitioner
20 and the entity granting practice privileges. Therefore, it is
21 the intent of this section that a credentials collection
22 program be established which provides that, once a health care
23 practitioner's core credentials data are collected, they need
24 not be collected again, except for corrections, updates, and
25 modifications thereto. Furthermore, it is the intent of the
26 Legislature that the department and all entities and
27 practitioners work cooperatively to ensure the integrity and
28 accuracy of the program. Participation under this section
29 shall include those individuals licensed under chapter 458,
30 chapter 459, chapter 460, chapter 461, or s. 464.012. However,
31 the department shall, with the approval of the applicable

1 board, include other professions under the jurisdiction of the
2 Division of Medical Quality Assurance in this program,
3 provided they meet the requirements of s. 456.039 or s.
4 456.0391.

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

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

15 (b) "Core credentials data" means data that is primary
16 source verified and includes the following data: ~~current name,~~
17 ~~any former name, and any alias, any~~ professional education,
18 professional training, licensure, current Drug Enforcement
19 Administration certification, ~~social security number,~~
20 specialty board certification, Educational Commission for
21 Foreign Medical Graduates certification, and hospital or other
22 institutional affiliations, evidence of professional liability
23 coverage or evidence of financial responsibility as required
24 by s. 458.320, s. 459.0085, or s. 456.048, history of claims,
25 suits, judgments, or settlements, final disciplinary action
26 reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8.
27 The department may by rule designate additional core
28 credentials data elements, and Medicare or Medicaid sanctions.

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

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

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

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

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

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

19 (h) "Health care entity" means:

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

23 2. Any entity licensed by the Department of Insurance
24 as a prepaid health care plan or health maintenance
25 organization or as an insurer to provide coverage for health
26 care services through a network of providers or similar
27 organization licensed under chapter 627, chapter 636, chapter
28 641, or chapter 651; or

29 3. Any accredited medical school in this state.

30 (i) "Health care practitioner" means any person
31 licensed, or, for credentialing purposes only, any person

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

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

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

24 (k) "Primary source verification" means verification
25 of professional qualifications based on evidence obtained
26 directly from the issuing source of the applicable
27 qualification or from any other source deemed as a primary
28 source for such verification by the department or an
29 accrediting body approved by the department.

30

31

1 (1) "Professional training" means any internship,
2 residency, or fellowship relating to the profession for which
3 the health care practitioner is licensed or seeking licensure.

4 (m) "Specialty board certification" means
5 certification in a specialty issued by a specialty board
6 recognized by the board in this state that regulates the
7 profession for which the health care practitioner is licensed
8 or seeking licensure.

9 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

10 (a) Every health care practitioner shall:

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

15 2. Notify the department within 45 days of any
16 corrections, updates, or modifications to the core credentials
17 data either through his or her designated credentials
18 verification organization or by submitting the data directly.
19 Corrections, updates, and modifications to the core
20 credentials data provided the department under this section
21 shall comply with the updating requirements of s. 456.039(3)
22 or s. 456.0391(3) related to profiling.

23 (b) The department shall:

24 1. Maintain a complete, current file of applicable
25 core credentials data on each health care practitioner, which
26 shall include data provided in accordance with subparagraph
27 (a)1. and all updates provided in accordance with subparagraph
28 (a)2.

29 2. Release the core credentials data that is otherwise
30 confidential or exempt from the provisions of chapter 119 and
31 s. 24(a), Art. I of the State Constitution and any

1 corrections, updates, and modifications thereto, if authorized
2 by the health care practitioner.

3 3. Charge a fee to access the core credentials data,
4 which may not exceed the actual cost, including prorated setup
5 and operating costs, pursuant to the requirements of chapter
6 119.

7 4. Develop standardized forms to be used by the health
8 care practitioner or designated credentials verification
9 organization for the initial reporting of core credentials
10 data, for the health care practitioner to authorize the
11 release of core credentials data, and for the subsequent
12 reporting of corrections, updates, and modifications thereto.

13 (c) A registered credentials verification organization
14 may be designated by a health care practitioner to assist the
15 health care practitioner to comply with the requirements of
16 subparagraph (a)2. A designated credentials verification
17 organization shall:

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

20 2. Not provide the health care practitioner's core
21 credentials data, including all corrections, updates, and
22 modifications, without the authorization of the practitioner.

23 (d) This section shall not be construed to restrict in
24 any way the authority of the health care entity to credential
25 and to approve or deny an application for hospital staff
26 membership, clinical privileges, or managed care network
27 participation.

28 (4) DUPLICATION OF DATA PROHIBITED.--

29 (a) A health care entity or credentials verification
30 organization is prohibited from collecting or attempting to
31 collect duplicate core credentials data from any health care

1 practitioner if the information is available from the
2 department. This section shall not be construed to restrict
3 the right of any health care entity or credentials
4 verification organization to collect additional information
5 from the health care practitioner which is not included in the
6 core credentials data file. This section shall not be
7 construed to prohibit a health care entity or credentials
8 verification organization from obtaining all necessary
9 attestation and release form signatures and dates.

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

20 (5) STANDARDS AND REGISTRATION.--Any credentials
21 verification organization that does business in this state
22 must be fully accredited or certified as a credentials
23 verification organization by a national accrediting
24 organization as specified in paragraph (2)(a) and must
25 register with the department. The department may charge a
26 reasonable registration fee, not to exceed an amount
27 sufficient to cover its actual expenses in providing and
28 enforcing such registration. The department shall establish by
29 rule for biennial renewal of such registration. Failure by a
30 registered credentials verification organization to maintain
31 full accreditation or certification, to provide data as

1 authorized by the health care practitioner, to report to the
2 department changes, updates, and modifications to a health
3 care practitioner's records within the time period specified
4 in subparagraph (3)(a)2., or to comply with the prohibition
5 against collection of duplicate core credentials data from a
6 practitioner may result in denial of an application for
7 renewal of registration or in revocation or suspension of a
8 registration.

9 (6) PRIMARY SOURCE VERIFIED DATA.--Health care
10 entities and credentials verification organizations may rely
11 upon any data that has been primary source verified by the
12 department or its designee to meet primary source verification
13 requirements of national accrediting organizations.

14 (7)(6) LIABILITY.--No civil, criminal, or
15 administrative action may be instituted, and there shall be no
16 liability, against any registered credentials verification
17 organization or health care entity on account of its reliance
18 on any data obtained directly from the department.

19 (8)(7) LIABILITY INSURANCE REQUIREMENTS.--Each
20 credentials verification organization doing business in this
21 state shall maintain liability insurance appropriate to meet
22 the certification or accreditation requirements established in
23 this section.

24 (9)(8) RULES.--The department shall adopt rules
25 necessary to develop and implement the standardized core
26 credentials data collection program established by this
27 section.

28 Section 90. Section 232.61, Florida Statutes, is
29 amended to read:

30 232.61 Governing organization for athletics; adoption
31 of bylaws.--

1 (1) The organization shall adopt bylaws that, unless
2 specifically provided by statute, establish eligibility
3 requirements for all students who participate in high school
4 athletic competition in its member schools. The bylaws
5 governing residence and transfer shall allow the student to be
6 eligible in the school in which he or she first enrolls each
7 school year, or makes himself or herself a candidate for an
8 athletic team by engaging in a practice prior to enrolling in
9 any member school. The student shall be eligible in that
10 school so long as he or she remains enrolled in that school.
11 Subsequent eligibility shall be determined and enforced
12 through the organization's bylaws.

13 (2) The organization shall ~~also~~ adopt bylaws that
14 specifically prohibit the recruiting of students for athletic
15 purposes. The bylaws shall prescribe penalties and an appeals
16 process for athletic recruiting violations.

17 (3) The organization shall adopt bylaws that require
18 all students participating in interscholastic athletic
19 competition or who are candidates for an interscholastic
20 athletic team to satisfactorily pass a medical evaluation each
21 year prior to participating in interscholastic athletic
22 competition or engaging in any practice, tryout, workout, or
23 other physical activity associated with the student's
24 candidacy for an interscholastic athletic team. Such medical
25 evaluation can only be administered by a practitioner licensed
26 under the provisions of chapter 458, chapter 459, chapter 460,
27 or s. 464.012, and in good standing with the practitioner's
28 regulatory board. The bylaws shall establish requirements for
29 eliciting a student's medical history and performing the
30 medical evaluation required under this subsection, which shall
31 include minimum standards for the physical capabilities

1 necessary for participation in interscholastic athletic
2 competition as contained in a uniform preparticipation
3 physical evaluation form. The evaluation form shall provide
4 place for the signature of the practitioner performing the
5 evaluation with an attestation that each examination procedure
6 listed on the form was performed by the practitioner or by
7 someone under the direct supervision of the practitioner. The
8 form shall also contain a place for the practitioner to
9 indicate if a referral to another practitioner was made in
10 lieu of completion of a certain examination procedure. The
11 form shall provide a place for the practitioner to whom the
12 student was referred to complete the remaining sections and
13 attest to that portion of the examination. Practitioners
14 administering medical evaluations pursuant to this section
15 must know the minimum standards established by the
16 organization and certify that the student meets the standards.
17 If the practitioner determines that there are any abnormal
18 findings in the cardiovascular system, the student may not
19 participate unless a subsequent EKG or other cardiovascular
20 assessment indicates that the abnormality will not place the
21 student at risk during such participation. Results of such
22 medical evaluation must be provided to the school. No student
23 shall be eligible to participate in any interscholastic
24 athletic competition or engage in any practice, tryout,
25 workout, or other physical activity associated with the
26 student's candidacy for an interscholastic athletic team until
27 the results of the medical evaluation verifying that the
28 student has satisfactorily passed the evaluation have been
29 received and approved by the school.

30 (4) Notwithstanding the provisions of subsection (3),
31 a student may participate in interscholastic athletic

1 competition or be a candidate for an interscholastic athletic
2 team if the parent or guardian of the student objects in
3 writing to the student undergoing a medical evaluation because
4 such evaluation is contrary to his or her religious tenets or
5 practices, provided that no person or entity shall be held
6 liable for any injury or other damages suffered by such
7 student.

8 Section 91. Section 240.4075, Florida Statutes, is
9 amended to read:

10 240.4075 Nursing Student Loan Forgiveness Program.--

11 (1) To encourage qualified personnel to seek
12 employment in areas of this state in which critical nursing
13 shortages exist, there is established the Nursing Student Loan
14 Forgiveness Program. The primary function of the program is
15 to increase employment and retention of registered nurses and
16 licensed practical nurses in nursing homes and hospitals in
17 the state and in state-operated medical and health care
18 facilities, public schools, birth centers, and federally
19 sponsored community health centers ~~and teaching hospitals~~ by
20 making repayments toward loans received by students from
21 federal or state programs or commercial lending institutions
22 for the support of postsecondary study in accredited or
23 approved nursing programs.

24 (2) To be eligible, a candidate must have graduated
25 from an accredited or approved nursing program and have
26 received a Florida license as a licensed practical nurse or a
27 registered nurse or a Florida certificate as an advanced
28 registered nurse practitioner.

29 (3) Only loans to pay the costs of tuition, books, and
30 living expenses shall be covered, at an amount not to exceed
31 \$4,000 for each year of education towards the degree obtained.

1 (4) Receipt of funds pursuant to this program shall be
2 contingent upon continued proof of employment in the
3 designated facilities in this state. Loan principal payments
4 shall be made by the Department of Health ~~Education~~ directly
5 to the federal or state programs or commercial lending
6 institutions holding the loan as follows:

7 (a) Twenty-five percent of the loan principal and
8 accrued interest shall be retired after the first year of
9 nursing;

10 (b) Fifty percent of the loan principal and accrued
11 interest shall be retired after the second year of nursing;

12 (c) Seventy-five percent of the loan principal and
13 accrued interest shall be retired after the third year of
14 nursing; and

15 (d) The remaining loan principal and accrued interest
16 shall be retired after the fourth year of nursing.

17
18 In no case may payment for any nurse exceed \$4,000 in any
19 12-month period.

20 (5) There is created the Nursing Student Loan
21 Forgiveness Trust Fund to be administered by the Department of
22 Health ~~Education~~ pursuant to this section and s. 240.4076 and
23 department rules. The Comptroller shall authorize
24 expenditures from the trust fund upon receipt of vouchers
25 approved by the Department of Health ~~Education~~. All moneys
26 collected from the private health care industry and other
27 private sources for the purposes of this section shall be
28 deposited into the Nursing Student Loan Forgiveness Trust
29 Fund. Any balance in the trust fund at the end of any fiscal
30 year shall remain therein and shall be available for carrying
31 out the purposes of this section and s. 240.4076.

1 (6) In addition to licensing fees imposed under part I
2 of chapter 464, there is hereby levied and imposed an
3 additional fee of \$5, which fee shall be paid upon licensure
4 or renewal of nursing licensure. Revenues collected from the
5 fee imposed in this subsection shall be deposited in the
6 Nursing Student Loan Forgiveness Trust Fund of the Department
7 of Health Education and will be used solely for the purpose of
8 carrying out the provisions of this section and s. 240.4076.
9 Up to 50 percent of the revenues appropriated to implement
10 this subsection may be used for the nursing scholarship
11 program established pursuant to s. 240.4076.

12 (7)(a) Funds contained in the Nursing Student Loan
13 Forgiveness Trust Fund which are to be used for loan
14 forgiveness for those nurses employed by hospitals, birth
15 centers, and nursing homes must be matched on a
16 dollar-for-dollar basis by contributions from the employing
17 institutions, except that this provision shall not apply to
18 state-operated medical and health care facilities, public
19 schools, county health departments, federally sponsored
20 community health centers, or teaching hospitals as defined in
21 s. 408.07, family practice teaching hospitals as defined in s.
22 395.805, or specialty hospitals for children as used in s.
23 409.9119. If in any given fiscal quarter there are
24 insufficient funds in the trust fund to grant all eligible
25 applicant requests, awards shall be based on the following
26 priority of employer: county health departments; federally
27 sponsored community health centers; state-operated medical and
28 health care facilities; public schools; teaching hospitals as
29 defined in s. 408.07; family practice teaching hospitals as
30 defined in s. 395.805; specialty hospitals for children as

31

1 used in s. 409.9119; and other hospitals, birth centers, and
2 nursing homes.

3 (b) All Nursing Student Loan Forgiveness Trust Fund
4 moneys shall be invested pursuant to s. 18.125. Interest
5 income accruing to that portion of the trust fund not matched
6 shall increase the total funds available for loan forgiveness
7 and scholarships. Pledged contributions shall not be eligible
8 for matching prior to the actual collection of the total
9 private contribution for the year.

10 (8) The Department of Health ~~Education~~ may solicit
11 technical assistance relating to the conduct of this program
12 from the Department of Education ~~Health~~.

13 (9) The Department of Health ~~Education~~ is authorized
14 to recover from the Nursing Student Loan Forgiveness Trust
15 Fund its costs for administering the Nursing Student Loan
16 Forgiveness Program.

17 (10) The Department of Health ~~Education~~ may adopt
18 rules necessary to administer this program.

19 (11) This section shall be implemented only as
20 specifically funded.

21 Section 92. Section 240.4076, Florida Statutes, is
22 amended to read:

23 240.4076 Nursing scholarship program.--

24 (1) There is established within the Department of
25 Health ~~Education~~ a scholarship program for the purpose of
26 attracting capable and promising students to the nursing
27 profession.

28 (2) A scholarship applicant shall be enrolled as a
29 full-time or part-time student in the upper division of an
30 approved nursing program leading to the award of a
31 baccalaureate degree or graduate degree to qualify for a

1 nursing faculty position or as an ~~or any~~ advanced registered
2 nurse practitioner ~~degree~~ or be enrolled as a full-time or
3 part-time student in an approved program leading to the award
4 of an associate degree in nursing ~~or a diploma in nursing~~.

5 (3) A scholarship may be awarded for no more than 2
6 years, in an amount not to exceed \$8,000 per year. However,
7 registered nurses pursuing a graduate degree for a faculty
8 position or to practice as an advanced registered nurse
9 practitioner ~~degree~~ may receive up to \$12,000 per year.
10 Beginning July 1, 1998, these amounts shall be adjusted by the
11 amount of increase or decrease in the consumer price index for
12 urban consumers published by the United States Department of
13 Commerce.

14 (4) Credit for repayment of a scholarship shall be as
15 follows:

16 (a) For each full year of scholarship assistance, the
17 recipient agrees to work for 12 months in a faculty position
18 in a college of nursing or community college nursing program
19 in this state or at a health care facility in a medically
20 underserved area as approved by the Department of Health
21 ~~Education~~. Scholarship recipients who attend school on a
22 part-time basis shall have their employment service obligation
23 prorated in proportion to the amount of scholarship payments
24 received.

25 (b) Eligible health care facilities include nursing
26 homes and hospitals in this state, state-operated medical or
27 health care facilities, public schools, county health
28 departments, federally sponsored community health centers,
29 colleges of nursing in universities in this state, and
30 community college nursing programs in this state ~~or teaching~~
31 ~~hospitals as defined in s. 408.07~~. The recipient shall be

1 encouraged to complete the service obligation at a single
2 employment site. If continuous employment at the same site is
3 not feasible, the recipient may apply to the department for a
4 transfer to another approved health care facility.

5 (c) Any recipient who does not complete an appropriate
6 program of studies or who does not become licensed shall repay
7 to the Department of Health Education, on a schedule to be
8 determined by the department, the entire amount of the
9 scholarship plus 18 percent interest accruing from the date of
10 the scholarship payment. Moneys repaid shall be deposited into
11 the Nursing Student Loan Forgiveness Trust Fund established in
12 s. 240.4075. However, the department may provide additional
13 time for repayment if the department finds that circumstances
14 beyond the control of the recipient caused or contributed to
15 the default.

16 (d) Any recipient who does not accept employment as a
17 nurse at an approved health care facility or who does not
18 complete 12 months of approved employment for each year of
19 scholarship assistance received shall repay to the Department
20 of Health Education an amount equal to two times the entire
21 amount of the scholarship plus interest accruing from the date
22 of the scholarship payment at the maximum allowable interest
23 rate permitted by law. Repayment shall be made within 1 year
24 of notice that the recipient is considered to be in default.
25 However, the department may provide additional time for
26 repayment if the department finds that circumstances beyond
27 the control of the recipient caused or contributed to the
28 default.

29 (5) Scholarship payments shall be transmitted to the
30 recipient upon receipt of documentation that the recipient is
31 enrolled in an approved nursing program. The Department of

1 Health Education shall develop a formula to prorate payments
2 to scholarship recipients so as not to exceed the maximum
3 amount per academic year.

4 (6) The Department of Health Education shall adopt
5 rules, including rules to address extraordinary circumstances
6 that may cause a recipient to default on either the school
7 enrollment or employment contractual agreement, to implement
8 this section and may solicit technical assistance relating to
9 the conduct of this program from the Department of Health.

10 (7) The Department of Health Education is authorized
11 to recover from the Nursing Student Loan Forgiveness Trust
12 Fund its costs for administering the nursing scholarship
13 program.

14 Section 93. All powers, duties, and functions, rules,
15 records, personnel, property, and unexpended balances of
16 appropriations, allocations, or other funds of the Department
17 of Education relating to the Nursing Student Loan Forgiveness
18 Program and the nursing scholarship program are transferred by
19 a type two transfer, as defined in s. 20.06(2), Florida
20 Statutes, to the Department of Health.

21 Section 94. Effective July 1, 2003, section 464.005,
22 Florida Statutes, is amended to read:

23 464.005 Board headquarters.--The board shall maintain
24 its official headquarters in Tallahassee ~~the city in which it~~
25 ~~has been domiciled for the past 5 years.~~

26 Section 95. Subsections (1) and (2) of section
27 464.008, Florida Statutes, are amended to read:

28 464.008 Licensure by examination.--

29 (1) Any person desiring to be licensed as a registered
30 nurse or licensed practical nurse shall apply to the

31

1 department to take the licensure examination. The department
2 shall examine each applicant who:

3 (a) Has completed the application form and remitted a
4 fee set by the board not to exceed \$150 and has remitted an
5 examination fee set by the board not to exceed \$75 plus the
6 actual per applicant cost to the department for purchase of
7 the examination from the National Council of State Boards of
8 Nursing or a similar national organization.

9 (b) Has provided sufficient information on or after
10 October 1, 1989, which must be submitted by the department for
11 a statewide criminal records correspondence check through the
12 Department of Law Enforcement.

13 (c) Is in good mental and physical health, is a
14 recipient of a high school diploma or the equivalent, and has
15 completed the requirements for graduation from an approved
16 program, or its equivalent as determined by the board, for the
17 preparation of registered nurses or licensed practical nurses,
18 whichever is applicable. Courses successfully completed in a
19 professional nursing program which are at least equivalent to
20 a practical nursing program may be used to satisfy the
21 education requirements for licensure as a licensed practical
22 nurse.

23 (d) Has the ability to communicate in the English
24 language, which may be determined by an examination given by
25 the department.

26 (2) Each applicant who passes the examination and
27 provides proof of meeting the educational requirements
28 specified in subsection (1)~~graduation from an approved~~
29 ~~nursing program~~ shall, unless denied pursuant to s. 464.018,
30 be entitled to licensure as a registered professional nurse or
31 a licensed practical nurse, whichever is applicable.

1 Section 96. Section 464.009, Florida Statutes, is
2 amended to read:

3 464.009 Licensure by endorsement.--

4 (1) The department shall issue the appropriate license
5 by endorsement to practice professional or practical nursing
6 to an applicant who, upon applying to the department and
7 remitting a fee set by the board not to exceed \$100,
8 demonstrates to the board that he or she:

9 (a) Holds a valid license to practice professional or
10 practical nursing in another state of the United States,
11 provided that, when the applicant secured his or her original
12 license, the requirements for licensure were substantially
13 equivalent to or more stringent than those existing in Florida
14 at that time; or

15 (b) Meets the qualifications for licensure in s.
16 464.008 and has successfully completed a state, regional, or
17 national examination which is substantially equivalent to or
18 more stringent than the examination given by the department.

19 (2) Such examinations and requirements from other
20 states shall be presumed to be substantially equivalent to or
21 more stringent than those in this state. Such presumption
22 shall not arise until January 1, 1980. However, the board may,
23 by rule, specify states the examinations and requirements of
24 which shall not be presumed to be substantially equivalent to
25 those of this state.

26 (3) The applicant must submit to the department a set
27 of fingerprints on a form and under procedures specified by
28 the department, along with a payment in an amount equal to the
29 costs incurred by the Department of Health for the criminal
30 background check of the applicant. The Department of Health
31 shall submit the fingerprints provided by the applicant to the

1 Florida Department of Law Enforcement for a statewide criminal
2 history check, and the Florida Department of Law Enforcement
3 shall forward the fingerprints to the Federal Bureau of
4 Investigation for a national criminal history check of the
5 applicant. The Department of Health shall review the results
6 of the criminal history check, issue a license to an applicant
7 who has met all of the other requirements for licensure and
8 has no criminal history, and shall refer all applicants with
9 criminal histories back to the board for determination as to
10 whether a license should be issued and under what conditions.

11 (4)(3) The department shall not issue a license by
12 endorsement to any applicant who is under investigation in
13 another state for an act which would constitute a violation of
14 this part or chapter 456 until such time as the investigation
15 is complete, at which time the provisions of s. 464.018 shall
16 apply.

17 (5) The department shall develop an electronic
18 applicant notification process and provide electronic
19 notification when the application has been received and when
20 background screenings have been completed, and shall issue a
21 license within 30 days after completion of all required data
22 collection and verification. This 30-day period to issue a
23 license shall be tolled if the applicant must appear before
24 the board due to information provided on the application or
25 obtained through screening and data collection and
26 verification procedures.

27 Section 97. Section 464.0195, Florida Statutes, is
28 created to read:

29 464.0195 Florida Center for Nursing; goals.--There is
30 established the Florida Center for Nursing to address issues
31 of supply and demand for nursing, including issues of

1 recruitment, retention, and utilization of nurse workforce
2 resources. The Legislature finds that the center will repay
3 the state's investment by providing an ongoing strategy for
4 the allocation of the state's resources directed towards
5 nursing. The primary goals for the center shall be to:
6 (1) Develop a strategic statewide plan for nursing
7 manpower in this state by:
8 (a) Establishing and maintaining a database on nursing
9 supply and demand in the state, to include current supply and
10 demand, and future projections; and
11 (b) Selecting from the plan priorities to be
12 addressed.
13 (2) Convene various groups representative of nurses,
14 other health care providers, business and industry, consumers,
15 legislators, and educators to:
16 (a) Review and comment on data analysis prepared for
17 the center;
18 (b) Recommend systemic changes, including strategies
19 for implementation of recommended changes; and
20 (c) Evaluate and report the results of these efforts
21 to the Legislature and others.
22 (3) Enhance and promote recognition, reward, and
23 renewal activities for nurses in the state by:
24 (a) Promoting nursing excellence programs such as
25 magnet recognition by the American Nurses Credentialing
26 Center;
27 (b) Proposing and creating additional reward,
28 recognition, and renewal activities for nurses; and
29 (c) Promoting media and positive image-building
30 efforts for nursing.
31

1 Section 98. Section 464.0196, Florida Statutes, is
2 created to read:

3 464.0196 Florida Center for Nursing; board of
4 directors.--

5 (1) The Florida Center for Nursing shall be governed
6 by a policy-setting board of directors. The board shall
7 consist of 16 members, with a simple majority of the board
8 being nurses representative of various practice areas. Other
9 members shall include representatives of other health care
10 professions, business and industry, health care providers, and
11 consumers. The members of the board shall be appointed by the
12 Governor as follows:

13 (a) Four members recommended by the President of the
14 Senate, at least one of whom shall be a registered nurse
15 recommended by the Florida Organization of Nurse Executives
16 and at least one other representative of the hospital industry
17 recommended by the Florida Hospital Association;

18 (b) Four members recommended by the Speaker of the
19 House of Representatives, at least one of whom shall be a
20 registered nurse recommended by the Florida Nurses Association
21 and at least one other representative of the long-term care
22 industry;

23 (c) Four members recommended by the Governor, two of
24 whom shall be registered nurses; and

25 (d) Four nurse educators recommended by the State
26 Board of Education, one of whom shall be a dean of a College
27 of Nursing at a state university, one other shall be a
28 director of a nursing program in a state community college.

29 (2) The initial terms of the members shall be as
30 follows:

31

1 (a) Of the members appointed pursuant to paragraph
2 (1)(a), two shall be appointed for terms expiring June 30,
3 2005, one for a term expiring June 30, 2004, and one for a
4 term expiring June 30, 2003.

5 (b) Of the members appointed pursuant to paragraph
6 (1)(b), one shall be appointed for a term expiring June 30,
7 2005, two for terms expiring June 30, 2004, and one for a term
8 expiring June 20, 2003.

9 (c) Of the members appointed pursuant to paragraph
10 (1)(c), one shall be appointed for a term expiring June 30,
11 2005, one for a term expiring June 30, 2004, and two for terms
12 expiring June 30, 2003.

13 (d) Of the members appointed pursuant to paragraph
14 (1)(d), the terms of two members recommended by the State
15 Board of Education shall expire June 30, 2005; the term of the
16 member who is a dean of a College of Nursing at a state
17 university shall expire June 30, 2004; and the term of the
18 member who is a director of a state community college nursing
19 program shall expire June 30, 2003.

20
21 After the initial appointments expire, the terms of all the
22 members shall be for 3 years, with no member serving more than
23 two consecutive terms.

24 (3) The board shall have the following powers and
25 duties:

26 (a) To employ an executive director.

27 (b) To determine operational policy.

28 (c) To elect a chair and officers, to serve 2-year
29 terms. The chair and officers may not succeed themselves.

30 (d) To establish committees of the board as needed.

31

1 (e) To appoint a multidisciplinary advisory council
2 for input and advice on policy matters.

3 (f) To implement the major functions of the center as
4 established in the goals set out in s. 464.0195.

5 (g) To seek and accept nonstate funds for sustaining
6 the center and carrying out center policy.

7 (4) The members of the board are entitled to receive
8 per diem and allowances prescribed by law for state boards and
9 commissions.

10 Section 99. Section 464.0197, Florida Statutes, is
11 created to read:

12 464.0197 Florida Center for Nursing; state budget
13 support.--The Legislature finds that it is imperative that the
14 state protect its investment and progress made in nursing
15 efforts to date. The Legislature finds that the Florida Center
16 for Nursing is the appropriate means to do so. The center
17 shall have state budget support for its operations so that it
18 may have adequate resources for the tasks the Legislature has
19 set out in s. 464.0195.

20 Section 100. The Board of Nursing within the
21 Department of Health shall hold in abeyance until July 1,
22 2002, the development of any rule pursuant to s. 464.019(2),
23 Florida Statutes, which relates to the establishment of
24 faculty/student clinical ratios. The Board of Nursing and the
25 Department of Education shall submit to the President of the
26 Senate and the Speaker of the House of Representatives by
27 December 31, 2001, an implementation plan that details both
28 the impact and the cost of any such proposed rule change.

29 Section 101. Subsection (1) of section 464.0205,
30 Florida Statutes, is amended to read:

31 464.0205 Retired volunteer nurse certificate.--

1 (1) Any retired practical or registered nurse desiring
2 to serve indigent, underserved, or critical need populations
3 in this state may apply to the department for a retired
4 volunteer nurse certificate by providing:

5 (a) A complete application.

6 ~~(b) An application and processing fee of \$25.~~

7 (b)(c) Verification that the applicant had been
8 licensed to practice nursing in any jurisdiction in the United
9 States for at least 10 years, had retired or plans to retire,
10 intends to practice nursing only pursuant to the limitations
11 provided by the retired volunteer nurse certificate, and has
12 not committed any act that would constitute a violation under
13 s. 464.018(1).

14 (c)(d) Proof that the applicant meets the requirements
15 for licensure under s. 464.008 or s. 464.009.

16 Section 102. The Florida Legislature's Office of
17 Program Policy Analysis and Government Accountability shall
18 study the feasibility of maintaining the entire Medical
19 Quality Assurance function, including enforcement, within one
20 department, as recommended by the Auditor General in
21 Operational Report Number 01-063. The study shall be completed
22 and a report issued to the Legislature on or before November
23 30, 2001.

24 Section 103. Effective October 1, 2001, section
25 456.0375, Florida Statutes, is created to read:

26 456.0375 Registration of certain clinics;
27 requirements; discipline; exemptions.--

28 (1)(a) As used in this section, the term "clinic"
29 means a business operating in a single structure or facility,
30 or in a group of adjacent structures or facilities operating
31 under the same business name or management, at which health

1 care services are provided to individuals and which tender
2 charges for reimbursement for such services.

3 (b) For purposes of this section, the term "clinic"
4 does not include and the registration requirements herein do
5 not apply to:

6 1. Entities licensed or registered by the state
7 pursuant to chapter 390, chapter 394, chapter 395, chapter
8 397, chapter 400, chapter 463, chapter 465, chapter 466,
9 chapter 478, chapter 480, or chapter 484.

10 2. Entities exempt from federal taxation under 26
11 U.S.C. s. 501(c)(3).

12 3. Sole proprietorships, group practices,
13 partnerships, or corporations that provide health care
14 services by licensed health care practitioners pursuant to
15 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484,
16 486, 490, 491, or parts I, III, X, XIII, or XIV of chapter
17 468, or s. 464.012, which are wholly owned by licensed health
18 care practitioners or the licensed health care practitioner
19 and the spouse, parent, or child of a licensed health care
20 practitioner, so long as one of the owners who is a licensed
21 health care practitioner is supervising the services performed
22 therein and is legally responsible for the entity's compliance
23 with all federal and state laws. However, no health care
24 practitioner may supervise services beyond the scope of the
25 practitioner's license.

26 (2)(a) Every clinic, as defined in paragraph (1)(a),
27 must register, and must at all times maintain a valid
28 registration, with the Department of Health. Each clinic
29 location shall be registered separately even though operated
30 under the same business name or management, and each clinic
31 shall appoint a medical director or clinical director.

1 (b) The department shall adopt rules necessary to
2 implement the registration program, including rules
3 establishing the specific registration procedures, forms, and
4 fees. Registration fees must be reasonably calculated to
5 cover the cost of registration and must be of such amount that
6 the total fees collected do not exceed the cost of
7 administering and enforcing compliance with this section.
8 Registration may be conducted electronically. The registration
9 program must require:

10 1. The clinic to file the registration form with the
11 department within 60 days after the effective date of this
12 section or prior to the inception of operation. The
13 registration expires automatically 2 years after its date of
14 issuance and must be renewed biennially.

15 2. The registration form to contain the name,
16 residence and business address, phone number, and license
17 number of the medical director or clinical director for the
18 clinic.

19 3. The clinic to display the registration certificate
20 in a conspicuous location within the clinic readily visible to
21 all patients.

22 (3)(a) Each clinic must employ or contract with a
23 physician maintaining a full and unencumbered physician
24 license in accordance with chapter 458, chapter 459, chapter
25 460, or chapter 461 to serve as the medical director.
26 However, if the clinic is limited to providing health care
27 services pursuant to chapter 457, chapter 484, chapter 486,
28 chapter 490, or chapter 491 or part I, part III, part X, part
29 XIII, or part XIV of chapter 468, the clinic may appoint a
30 health care practitioner licensed under that chapter to serve
31 as a clinical director who is responsible for the clinic's

1 activities. A health care practitioner may not serve as the
2 clinical director if the services provided at the clinic are
3 beyond the scope of that practitioner's license.

4 (b) The medical director or clinical director shall
5 agree in writing to accept legal responsibility for the
6 following activities on behalf of the clinic. The medical
7 director or the clinical director shall:

8 1. Have signs identifying the medical director or
9 clinical director posted in a conspicuous location within the
10 clinic readily visible to all patients.

11 2. Ensure that all practitioners providing health care
12 services or supplies to patients maintain a current active and
13 unencumbered Florida license.

14 3. Review any patient referral contracts or agreements
15 executed by the clinic.

16 4. Ensure that all health care practitioners at the
17 clinic have active appropriate certification or licensure for
18 the level of care being provided.

19 5. Serve as the clinic records holder as defined in s.
20 456.057.

21 6. Ensure compliance with the recordkeeping, office
22 surgery, and adverse incident reporting requirements of
23 chapter 456, the respective practice acts, and rules adopted
24 thereunder.

25 7. Conduct systematic reviews of clinic billings to
26 ensure that the billings are not fraudulent or unlawful. Upon
27 discovery of an unlawful charge, the medical director shall
28 take immediate corrective action.

29 (c) Any contract to serve as a medical director or a
30 clinical director entered into or renewed by a physician or a
31 licensed health care practitioner in violation of this section

1 is void as contrary to public policy. This section shall
2 apply to contracts entered into or renewed on or after October
3 1, 2001.

4 (d) The department, in consultation with the boards,
5 shall adopt rules specifying limitations on the number of
6 registered clinics and licensees for which a medical director
7 or a clinical director may assume responsibility for purposes
8 of this section. In determining the quality of supervision a
9 medical director or a clinical director can provide, the
10 department shall consider the number of clinic employees,
11 clinic location, and services provided by the clinic.

12 (4)(a) All charges or reimbursement claims made by or
13 on behalf of a clinic that is required to be registered under
14 this section, but that is not so registered, are unlawful
15 charges and therefore are noncompensable and unenforceable.

16 (b) Any person establishing, operating, or managing an
17 unregistered clinic otherwise required to be registered under
18 this section commits a felony of the third degree, punishable
19 as provided in s. 775.082, s. 775.083, or s. 775.084.

20 (c) Any licensed health care practitioner who violates
21 this section is subject to discipline in accordance with
22 chapter 456 and the respective practice act.

23 (d) The department shall revoke the registration of
24 any clinic registered under this section for operating in
25 violation of the requirements of this section or the rules
26 adopted by the department.

27 (e) The department shall investigate allegations of
28 noncompliance with this section and the rules adopted pursuant
29 to this section.

30 Section 104. The sum of \$100,000 is appropriated from
31 the registration fees collected from clinics pursuant to s.

1 456.0375, Florida Statutes, and one-half of one full-time
2 equivalent position is authorized, to the Department of Health
3 for the purposes of regulating medical clinics pursuant to s.
4 456.0375, Florida Statutes. The appropriated funds shall be
5 deposited into the Medical Quality Assurance Trust Fund.

6 Section 105. Subsection (3) of section 456.031,
7 Florida Statutes, is amended to read:

8 456.031 Requirement for instruction on domestic
9 violence.--

10 (3)(a) In lieu of completing a course as required in
11 subsection (1), a licensee or certificateholder may complete a
12 course in end-of-life care and palliative health care, if the
13 licensee or certificateholder has completed an approved
14 domestic violence course in the immediately preceding
15 biennium.

16 (b) In lieu of completing a course as required by
17 subsection (1), a person licensed under chapter 466 who has
18 completed an approved domestic-violence education course in
19 the immediately preceding 2 years may complete a course
20 approved by the Board of Dentistry.

21 Section 106. Subsection (9) of section 456.033,
22 Florida Statutes, is amended to read:

23 456.033 Requirement for instruction for certain
24 licensees on human immunodeficiency virus and acquired immune
25 deficiency syndrome.--

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

31

1 (b) In lieu of completing a course as required by
2 subsection (1), a person licensed under chapter 466 who has
3 completed an approved AIDS/HIV course in the immediately
4 preceding 2 years may complete a course approved by the Board
5 of Dentistry.

6 Section 107. (1) Subsection (9) is added to section
7 627.419, Florida Statutes, to read:

8 627.419 Construction of policies.--

9 (9) With respect to any group or individual insurer
10 covering dental services, each claimant, or dentist acting for
11 a claimant, who has had a claim denied as not medically or
12 dentally necessary or who has had a claim payment based on an
13 alternate dental service in accordance with accepted dental
14 standards for adequate and appropriate care must be provided
15 an opportunity for an appeal to the insurer's licensed dentist
16 who is responsible for the medical necessity reviews under the
17 plan or is a member of the plan's peer review group. The
18 appeal may be by telephone, and the insurer's dentist must
19 respond within a reasonable time, not to exceed 15 business
20 days.

21 (2) This section shall apply to policies issued or
22 renewed on or after July 1, 2001.

23 Section 108. Paragraph (d) of subsection (3) of
24 section 468.302, Florida Statutes, is amended to read:

25 468.302 Use of radiation; identification of certified
26 persons; limitations; exceptions.--

27 (3)

28 (d) A person holding a certificate as a general
29 radiographer may not perform nuclear medicine and radiation
30 therapy procedures, except as provided in this paragraph. A
31 person who is a general radiographer certified pursuant to

1 this part who receives additional training and skills in
2 radiation therapy technology procedures as referenced in this
3 paragraph may assist with managing patients undergoing
4 radiation therapy treatments if that assistance is provided to
5 a person registered with the American Registry of Radiologic
6 Technologists in radiation therapy who is also certified
7 pursuant to this part as a radiation therapy technologist.
8 Both the general radiographer and the radiation therapy
9 technologist must perform these radiation therapy services
10 under the general supervision of a physician licensed under
11 chapter 458 or chapter 459 who is trained and skilled in
12 performing radiation therapy treatments. The radiation therapy
13 technologist identified under this paragraph may not delegate
14 any function to the general radiographer which could
15 reasonably be expected to create an unnecessary danger to a
16 patient's life, health, or safety. The general radiographer
17 identified under this section may not, however, perform the
18 following services while assisting the radiation therapy
19 technologist: radiation treatment planning, calculation of
20 radiation therapy doses, or any of the duties of a medical
21 physicist. The general radiographer identified under this
22 section must successfully complete a training program in the
23 following areas before assisting with radiation therapy
24 technology duties:
25 1. Principles of radiation therapy treatment;
26 2. Biological effects of radiation;
27 3. Radiation exposure and monitoring;
28 4. Radiation safety and protection;
29 5. Evaluation and handling of radiographic treatment
30 equipment and accessories; and
31

1 6. Patient positioning for radiation therapy
2 treatment.

3
4 In addition, a general radiographer may participate in
5 additional approved programs as provided by rule of the
6 department.

7 Section 109. Subsections (8) and (9) of section
8 468.352, Florida Statutes, are amended to read:

9 468.352 Definitions.--As used in this part, unless the
10 context otherwise requires, the term:

11 (8) "Registered respiratory therapist" means any
12 person licensed pursuant to this part who is employed to
13 deliver respiratory care services under the order of a
14 physician licensed pursuant to chapter 458 or chapter 459, and
15 in accordance with protocols established by a hospital, other
16 health care provider, or the board, and who functions in
17 situations of unsupervised patient contact requiring
18 individual judgment.

19 (9) "Certified respiratory therapist" or "respiratory
20 care practitioner" means any person licensed pursuant to this
21 part who is employed to deliver respiratory care services
22 under the order of a physician licensed pursuant to chapter
23 458 or chapter 459, and in accordance with protocols
24 established by a hospital, other health care provider, or the
25 board.

26 Section 110. Subsections (1) and (2) of section
27 468.355, Florida Statutes, are amended to read:

28 468.355 Eligibility for licensure; temporary
29 licensure.--

30
31

1 (1) To be eligible for licensure by the board as a
2 certified respiratory therapist ~~respiratory care practitioner~~,
3 an applicant must:

4 (a) Be at least 18 years old.

5 (b) Possess a high school diploma or a graduate
6 equivalency diploma.

7 (c) Meet at least one of the following criteria:

8 1. The applicant has successfully completed a training
9 program for respiratory therapy technicians or respiratory
10 therapists approved by the Commission on Accreditation of
11 Allied Health Education Programs, or the equivalent thereof,
12 as accepted by the board.

13 2. The applicant is currently a "Certified Respiratory
14 Therapist ~~Therapy Technician~~" certified by the National Board
15 for Respiratory Care, or the equivalent thereof, as accepted
16 by the board.

17 3. The applicant is currently a "Registered
18 Respiratory Therapist" registered by the National Board for
19 Respiratory Care, or the equivalent thereof, as accepted by
20 the board.

21
22 The criteria set forth in subparagraphs 2. and 3.
23 notwithstanding, the board shall periodically review the
24 examinations and standards of the National Board for
25 Respiratory Care and may reject those examinations and
26 standards if they are deemed inappropriate.

27 (2) To be eligible for licensure by the board as a
28 registered respiratory therapist, an applicant must:

29 (a) Be at least 18 years old.

30 (b) Possess a high school diploma or a graduate
31 equivalency diploma.

1 (c) Meet at least one of the following criteria:
2 1. The applicant has successfully completed a training
3 program for registered respiratory therapists approved by the
4 Commission on Accreditation of Allied Health Education
5 Programs, or the equivalent thereof, as accepted by the board.

6 2. The applicant is currently a "Registered
7 Respiratory Therapist" registered by the National Board for
8 Respiratory Care, or the equivalent thereof, as accepted by
9 the board.

10
11 The criteria set forth in subparagraphs 1. and 2.
12 notwithstanding, the board shall periodically review the
13 examinations and standards of the National Board for
14 Respiratory Care and may reject those examinations and
15 standards if they are deemed inappropriate.

16 Section 111. Section 468.357, Florida Statutes, is
17 amended to read:

18 468.357 Licensure by examination.--

19 (1) A person who desires to be licensed as a certified
20 respiratory therapist ~~respiratory care practitioner~~ may submit
21 an application to take the examination, in accordance with
22 board rule.

23 (a) Each applicant may take the examination who is
24 determined by the board to have:

25 1. Completed the application form and remitted the
26 applicable fee set by the board;

27 2. Submitted required documentation as required in s.
28 468.355; and

29 3. Remitted an examination fee set by the examination
30 provider.

31

1 (b) Examinations for licensure of certified
2 respiratory therapist ~~respiratory care practitioners~~ must be
3 conducted no less than two times a year in such geographical
4 locations or by such methods as are deemed advantageous to the
5 majority of the applicants.

6 (c) The examination given for certified respiratory
7 therapist ~~respiratory care practitioners~~ shall be the same as
8 that given by the National Board for Respiratory Care for
9 entry-level certification of respiratory therapists ~~therapy~~
10 ~~technicians~~. However, an equivalent examination may be
11 accepted by the board in lieu of that examination.

12 (2) Each applicant who passes the examination shall be
13 entitled to licensure as a certified respiratory therapist
14 ~~respiratory care practitioner~~, and the department shall issue
15 a license pursuant to this part to any applicant who
16 successfully completes the examination in accordance with this
17 section. However, the department shall not issue a license to
18 any applicant who is under investigation in another
19 jurisdiction for an offense which would constitute a violation
20 of this part. Upon completion of such an investigation, if the
21 applicant is found guilty of such an offense, the applicable
22 provisions of s. 468.365 will apply.

23 Section 112. Subsections (1) and (2) of section
24 468.358, Florida Statutes, are amended to read:

25 468.358 Licensure by endorsement.--

26 (1) Licensure as a certified respiratory therapist
27 ~~respiratory care practitioner~~ shall be granted by endorsement
28 to an individual who holds the "Certified Respiratory
29 Therapist ~~Therapy Technician~~" credential issued by the
30 National Board for Respiratory Care or an equivalent
31 credential acceptable to the board. Licensure by this

1 mechanism requires verification by oath and submission of
2 evidence satisfactory to the board that such credential is
3 held.

4 (2) Licensure as a registered respiratory therapist
5 shall be granted by endorsement to an individual who holds the
6 "Registered Respiratory Therapist" credential issued by the
7 National Board for Respiratory Care or an equivalent
8 credential acceptable to the board. Licensure by this
9 mechanism requires verification by oath and submission of
10 evidence satisfactory to the board that such credential is
11 held.

12 Section 113. Section 468.359, Florida Statutes, is
13 amended to read:

14 468.359 Assumption of title and use of
15 abbreviations.--

16 (1) Only persons who are licensed pursuant to this
17 part as respiratory care practitioners have the right to use
18 the title "Respiratory Care Practitioner" and the abbreviation
19 "RCP."

20 (2) Only persons who are licensed pursuant to this
21 part as registered respiratory therapists have the right to
22 use the title "Registered Respiratory Therapist" and the
23 abbreviation "RRT," when delivering services pursuant to this
24 part provided such persons have passed the Registry
25 Examination for Respiratory Therapists given by the National
26 Board for Respiratory Care.

27 (3) Only persons who are licensed pursuant to this
28 part as certified respiratory therapists have the right to use
29 the title "Certified Respiratory Therapist" and the
30 abbreviation "CRT" when delivering services pursuant to this
31 part. ~~graduates of board-approved programs for respiratory~~

1 ~~care practitioners may use the term "Graduate Respiratory~~
2 ~~Therapy Technician" and the abbreviation "GRTT."~~

3 ~~(4) Only persons who are graduates of board-approved~~
4 ~~programs for respiratory therapists may use the term "Graduate~~
5 ~~Respiratory Therapist" and the abbreviation "GRT."~~

6 ~~(4)(5)~~ No person in this state shall deliver
7 respiratory care services; advertise as, or assume the title
8 of, respiratory care practitioner, certified respiratory
9 therapist, or registered respiratory therapist; or use the
10 abbreviation "RCP, "CRT," or "RRT" that would lead the public
11 to believe that such person is licensed pursuant to this part
12 unless such person is so licensed; or take any other action
13 that would lead the public to believe that such person is
14 licensed pursuant to this part unless such person is so
15 licensed.

16 Section 114. Subsections (2), (3), and (4) of section
17 468.1155, Florida Statutes, are amended to read:

18 468.1155 Provisional license; requirements.--

19 (2) The department shall issue a provisional license
20 to practice speech-language pathology to each applicant who
21 the board 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 speech-language pathology from an institution of higher
27 learning which is, or at the time the applicant was enrolled
28 and graduated, was, accredited by an accrediting agency
29 recognized by the Council for Higher Education Commission on
30 Recognition of Postsecondary Accreditation or from an
31 institution which is ~~publicly recognized as~~ a member in good

1 standing with the Association of Universities and Colleges of
2 Canada. An applicant who graduated from or is currently
3 enrolled in a program at a university or college outside the
4 United States or Canada must present documentation of the
5 determination of equivalency to standards established by the
6 Council for Higher Education ~~Commission on Recognition of~~
7 ~~Postsecondary~~ Accreditation in order to qualify. The
8 applicant must have 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 audiology.
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 speech-language pathology.
19 (c) Completed 300 supervised clinical clock hours with
20 200 clock hours in the area of speech-language pathology or
21 completed the number of clock hours required by an accredited
22 institution meeting national certification standards. The
23 supervised clinical clock hours shall be completed within the
24 training institution or one of its cooperating programs.
25 (3) The department shall issue a provisional license
26 to practice audiology to each applicant who the board
27 certifies has:
28 (a) Completed the application form and remitted the
29 required fees, including a nonrefundable application fee.
30 (b) Received a master's degree or is currently
31 enrolled in a doctoral degree program with a major emphasis in

1 audiology from an institution of higher learning which is, or
2 at the time the applicant was enrolled and graduated was,
3 accredited by an accrediting agency recognized by the Council
4 for Higher Education Commission on Recognition of
5 ~~Postsecondary~~ Accreditation or from an institution which is
6 ~~publicly recognized as~~ a member in good standing with the
7 Association of Universities and Colleges of Canada. An
8 applicant who graduated from or is currently enrolled in a
9 program at a university or college outside the United States
10 or Canada must present documentation of the determination of
11 equivalency to standards established by the Council for Higher
12 Education Commission on Recognition of Postsecondary
13 Accreditation in order to qualify. The applicant must have
14 completed 60 semester hours that include:

15 1. Fundamental information applicable to the normal
16 development and use of speech, hearing, and language;
17 information about training in management of speech, hearing,
18 and language disorders; and information supplementary to these
19 fields.

20 2. Six semester hours in speech-language pathology.

21 3. Thirty of the required 60 semester hours in courses
22 acceptable toward a graduate degree by the college or
23 university in which these courses were taken, of which 24
24 semester hours must be in audiology.

25 (c) Completed 300 supervised clinical clock hours with
26 200 clock hours in the area of audiology or completed the
27 number of clock hours required by an accredited institution
28 meeting national certification standards. The supervised
29 clinical clock hours shall be completed within the training
30 institution or one of its cooperating programs.

31

1 (4) An applicant ~~for a provisional license~~ who has
2 received a master's degree or is currently enrolled in a
3 doctoral degree program with a major emphasis in
4 speech-language pathology as provided in subsection (2), or
5 audiology as provided in subsection (3), and who seeks
6 licensure in the area in which the applicant is not currently
7 licensed, must have completed 30 semester hours in courses
8 acceptable toward a graduate degree and 200 supervised
9 clinical clock hours in the second discipline from an
10 accredited institution.

11 Section 115. Paragraph (b) of subsection (1) and
12 paragraph (b) of subsection (2) of section 468.1215, Florida
13 Statutes, are amended to read:

14 468.1215 Speech-language pathology assistant and
15 audiology assistant; certification.--

16 (1) The department shall issue a certificate as a
17 speech-language pathology assistant to each applicant who the
18 board certifies has:

19 (b) Earned a bachelor's degree from a college or
20 university accredited by a regional association of colleges
21 and schools recognized by the Department of Education which
22 includes at least 24 semester hours of coursework as approved
23 by the board at an institution accredited by an accrediting
24 agency recognized by the Council for Higher Education
25 ~~Commission on Recognition of Postsecondary Accreditation~~.

26 (2) The department shall issue a certificate as an
27 audiology assistant to each applicant who the board certifies
28 has:

29 (b) Completed at least 24 semester hours of coursework
30 as approved by the board at an institution accredited by an
31 accrediting agency recognized by the Council for Higher

1 ~~Education Commission on Recognition of Postsecondary~~
2 Accreditation.

3 Section 116. Subsection (3) of section 480.033,
4 Florida Statutes, is amended to read:

5 480.033 Definitions.--As used in this act:

6 (3) "Massage" means the manipulation of the soft
7 ~~superficial~~ tissues of the human body with the hand, foot,
8 arm, or elbow, whether or not such manipulation is aided by
9 hydrotherapy, including colonic irrigation, or thermal
10 therapy; any electrical or mechanical device; or the
11 application to the human body of a chemical or herbal
12 preparation.

13 Section 117. Subsection (3) of section 484.002,
14 Florida Statutes, is amended, and subsection (8) is added to
15 that section, to read:

16 484.002 Definitions.--As used in this part:

17 (3) "Opticianry" means the preparation and dispensing
18 of lenses, spectacles, eyeglasses, contact lenses, and other
19 optical devices to the intended user or agent thereof, upon
20 the written prescription of a licensed allopathic or
21 osteopathic physician ~~medical doctor~~ or optometrist who is
22 duly licensed to practice or upon presentation of a duplicate
23 prescription. The selection of frame designs, the actual
24 sales transaction, and the transfer of physical possession of
25 lenses, spectacles, eyeglasses, contact lenses, and other
26 optical devices subsequent to performance of all services of
27 the optician shall not be considered the practice of
28 opticianry; however, such physical possession shall not be
29 transferred until the optician has completed the fitting of
30 the optical device upon the customer. The practice of
31 opticianry also includes the duplication of lenses accurately

1 as to power, without prescription. A board-certified optician
2 qualified and operating under rules established by the board
3 may fill, fit, adapt, or dispense any soft contact lens
4 prescription. Such optician may fill, fit, adapt, or dispense
5 any extended wear or hard contact lens prescription to the
6 extent authorized to do so by the prescribing allopathic or
7 osteopathic physician ~~medical doctor~~ or optometrist.

8 (8) "Contact lenses" means a prescribed medical device
9 intended to be worn directly against the cornea of the eye to
10 correct vision conditions, act as a therapeutic device, or
11 provide a cosmetic effect.

12 (9) "Optical Dispensing" means interpreting but not
13 altering a prescription of a licensed physician or optometrist
14 and designing, adapting, fitting, or replacing the prescribed
15 optical aids, pursuant to such prescription, to or for the
16 intended wearer, duplicating lenses, accurately as to power
17 without a prescription and duplicating nonprescription eyewear
18 and parts of eyewear. "Optical Dispensing" does not include
19 selecting frames, transferring an optical aid to the wearer
20 after an optician has completed fitting it, or providing
21 instruction in the general care and use of an optical aid,
22 including placement, removal, hygiene, or cleaning.

23 Section 118. Subsection (2) of section 484.006,
24 Florida Statutes, is amended to read:

25 484.006 Certain rules prohibited.--

26 (2) No rule or policy of the board shall prohibit any
27 optician from practicing jointly with optometrists or
28 allopathic or osteopathic physicians ~~medical doctors~~ licensed
29 in this state.

30 Section 119. Subsections (1) and (2) of section
31 484.012, Florida Statutes, are amended to read:

1 484.012 Prescriptions; filing; duplication of
2 prescriptions; duplication of lenses.--

3 (1) Any prescription written by a duly licensed
4 allopathic or osteopathic physician ~~medical doctor~~ or
5 optometrist for any lenses, spectacles, eyeglasses, contact
6 lenses, or other optical devices shall be kept on file for a
7 period of 2 years with the optical establishment that fills
8 such prescription. However, the licensed optician may
9 maintain a copy of the prescription.

10 (2) Upon request by the intended user of the
11 prescribed lenses, spectacles, eyeglasses, contact lenses, or
12 other optical devices, or by an agent of the intended user,
13 the optician who fills the original prescription shall
14 duplicate, on a form prescribed by rule of the board, the
15 original prescription. However, for medical reasons only, the
16 prescribing allopathic or osteopathic physician ~~medical doctor~~
17 or optometrist may, upon the original prescription, prohibit
18 its duplication. Any duplication shall be considered a valid
19 prescription to be filled for a period of 5 years from the
20 date of the original prescription, except that a contact lens
21 prescription shall be considered a valid prescription to be
22 filled for a period of 2 years from the date of the original
23 prescription.

24 Section 120. Section 484.013, Florida Statutes, is
25 amended to read:

26 484.013 Violations and penalties.--

27 (1) It is unlawful for any person:

28 (a) To make a false or fraudulent statement, either
29 for herself or himself or for another person, in any
30 application, affidavit, or statement presented to the board or
31 in any proceeding before the board.

1 (b) To prepare or dispense lenses, spectacles,
2 eyeglasses, contact lenses, or other optical devices when such
3 person is not licensed as an optician in this state.

4 (c) To prepare or dispense lenses, spectacles,
5 eyeglasses, contact lenses, or other optical devices without
6 first being furnished with a prescription as provided for in
7 s. 484.012.

8 (2) It is unlawful for any person other than an
9 optician licensed under this part to use the title "optician"
10 or otherwise lead the public to believe that she or he is
11 engaged in the practice of opticianry.

12 (3) It is unlawful for any optician to engage in the
13 diagnosis of the human eyes, attempt to determine the
14 refractive powers of the human eyes, or, in any manner,
15 attempt to prescribe for or treat diseases or ailments of
16 human beings.

17 (4) It is unlawful for any person to open or operate,
18 either alone or with any other person or persons, an optical
19 establishment which does not have the permit required by this
20 part.

21 (5)(a) Except as otherwise provided in paragraph (b),
22 a ~~Any~~ person who violates any ~~a~~ provision of this section
23 commits a misdemeanor of the second degree, punishable as
24 provided in s. 775.082 or s. 775.083.

25 (b) A person who knowingly violates paragraph (1)(c)
26 commits a felony of the third degree, punishable as provided
27 in s. 775.082, s. 775.083, or s. 775.084.

28 Section 121. Paragraph (g) of subsection (3) of
29 section 921.0022, Florida Statutes, is amended to read:

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

1	(3) OFFENSE SEVERITY RANKING CHART		
2			
3	Florida	Felony	
4	Statute	Degree	Description
5			
6			
7			(g) LEVEL 7
8	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
9			
10	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
11			
12	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
13			
14			
15			
16			
17	409.920(2)	3rd	Medicaid provider fraud.
18	456.065(2)	3rd	Practicing a health care profession without a license.
19			
20	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
21			
22			
23			
24	458.327(1)	3rd	Practicing medicine without a license.
25			
26	459.013(1)	3rd	Practicing osteopathic medicine without a license.
27			
28	460.411(1)	3rd	Practicing chiropractic medicine without a license.
29			
30	461.012(1)	3rd	Practicing podiatric medicine without a license.
31			

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2001 Legislature

CS for SB 1558, 2nd Engrossed

1	462.17	3rd	Practicing naturopathy without a
2			license.
3	463.015(1)	3rd	Practicing optometry without a
4			license.
5	464.016(1)	3rd	Practicing nursing without a
6			license.
7	465.015(2)	3rd	Practicing pharmacy without a
8			license.
9	466.026(1)	3rd	Practicing dentistry or dental
10			hygiene without a license.
11	467.201	3rd	Practicing midwifery without a
12			license.
13	468.366	3rd	Delivering respiratory care
14			services without a license.
15	483.828(1)	3rd	Practicing as clinical laboratory
16			personnel without a license.
17	483.901(9)	3rd	Practicing medical physics
18			without a license.
19	<u>484.013(1)(c)</u>	<u>3rd</u>	<u>Preparing or dispensing optical</u>
20			<u>devices without a prescription.</u>
21	484.053	3rd	Dispensing hearing aids without a
22			license.
23	494.0018(2)	1st	Conviction of any violation of
24			ss. 494.001-494.0077 in which the
25			total money and property
26			unlawfully obtained exceeded
27			\$50,000 and there were five or
28			more victims.
29			
30			
31			

1	560.123(8)(b)1.	3rd	Failure to report currency or
2			payment instruments exceeding
3			\$300 but less than \$20,000 by
4			money transmitter.
5	560.125(5)(a)	3rd	Money transmitter business by
6			unauthorized person, currency or
7			payment instruments exceeding
8			\$300 but less than \$20,000.
9	655.50(10)(b)1.	3rd	Failure to report financial
10			transactions exceeding \$300 but
11			less than \$20,000 by financial
12			institution.
13	782.051(3)	2nd	Attempted felony murder of a
14			person by a person other than the
15			perpetrator or the perpetrator of
16			an attempted felony.
17	782.07(1)	2nd	Killing of a human being by the
18			act, procurement, or culpable
19			negligence of another
20			(manslaughter).
21	782.071	2nd	Killing of human being or viable
22			fetus by the operation of a motor
23			vehicle in a reckless manner
24			(vehicular homicide).
25	782.072	2nd	Killing of a human being by the
26			operation of a vessel in a
27			reckless manner (vessel
28			homicide).
29	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
30			causing great bodily harm or
31			disfigurement.

1	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
2			weapon.
3	784.045(1)(b)	2nd	Aggravated battery; perpetrator
4			aware victim pregnant.
5	784.048(4)	3rd	Aggravated stalking; violation of
6			injunction or court order.
7	784.07(2)(d)	1st	Aggravated battery on law
8			enforcement officer.
9	784.08(2)(a)	1st	Aggravated battery on a person 65
10			years of age or older.
11	784.081(1)	1st	Aggravated battery on specified
12			official or employee.
13	784.082(1)	1st	Aggravated battery by detained
14			person on visitor or other
15			detainee.
16	784.083(1)	1st	Aggravated battery on code
17			inspector.
18	790.07(4)	1st	Specified weapons violation
19			subsequent to previous conviction
20			of s. 790.07(1) or (2).
21	790.16(1)	1st	Discharge of a machine gun under
22			specified circumstances.
23	790.166(3)	2nd	Possessing, selling, using, or
24			attempting to use a hoax weapon
25			of mass destruction.
26	796.03	2nd	Procuring any person under 16
27			years for prostitution.
28	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
29			victim less than 12 years of age;
30			offender less than 18 years.
31			

1	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
2			victim 12 years of age or older
3			but less than 16 years; offender
4			18 years or older.
5	806.01(2)	2nd	Maliciously damage structure by
6			fire or explosive.
7	810.02(3)(a)	2nd	Burglary of occupied dwelling;
8			unarmed; no assault or battery.
9	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
10			unarmed; no assault or battery.
11	810.02(3)(d)	2nd	Burglary of occupied conveyance;
12			unarmed; no assault or battery.
13	812.014(2)(a)	1st	Property stolen, valued at
14			\$100,000 or more; property stolen
15			while causing other property
16			damage; 1st degree grand theft.
17	812.019(2)	1st	Stolen property; initiates,
18			organizes, plans, etc., the theft
19			of property and traffics in
20			stolen property.
21	812.131(2)(a)	2nd	Robbery by sudden snatching.
22	812.133(2)(b)	1st	Carjacking; no firearm, deadly
23			weapon, or other weapon.
24	825.102(3)(b)	2nd	Neglecting an elderly person or
25			disabled adult causing great
26			bodily harm, disability, or
27			disfigurement.
28	825.1025(2)	2nd	Lewd or lascivious battery upon
29			an elderly person or disabled
30			adult.
31			

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

1	893.13(4)(a)	1st	Deliver to minor cocaine (or
2			other s. 893.03(1)(a), (1)(b),
3			(1)(d), (2)(a), (2)(b), or
4			(2)(c)4. drugs).
5	893.135(1)(a)1.	1st	Trafficking in cannabis, more
6			than 50 lbs., less than 2,000
7			lbs.
8	893.135		
9	(1)(b)1.a.	1st	Trafficking in cocaine, more than
10			28 grams, less than 200 grams.
11	893.135		
12	(1)(c)1.a.	1st	Trafficking in illegal drugs,
13			more than 4 grams, less than 14
14			grams.
15	893.135		
16	(1)(d)1.	1st	Trafficking in phencyclidine,
17			more than 28 grams, less than 200
18			grams.
19	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
20			than 200 grams, less than 5
21			kilograms.
22	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
23			than 14 grams, less than 28
24			grams.
25	893.135		
26	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
27			grams or more, less than 14
28			grams.
29			
30			
31			

1 893.135
2 (1)(h)1.a. 1st Trafficking in
3 gamma-hydroxybutyric acid (GHB),
4 1 kilogram or more, less than 5
5 kilograms.
6 893.135
7 (1)(i)1.a. 1st Trafficking in 1,4-Butanediol, 1
8 kilogram or more, less than 5
9 kilograms.
10 893.135
11 (1)(j)2.a. 1st Trafficking in Phenethylamines,
12 10 grams or more, less than 200
13 grams.
14 896.101(5)(a) 3rd Money laundering, financial
15 transactions exceeding \$300 but
16 less than \$20,000.
17 896.104(4)(a)1. 3rd Structuring transactions to evade
18 reporting or registration
19 requirements, financial
20 transactions exceeding \$300 but
21 less than \$20,000.

22 Section 122. Section 484.015, Florida Statutes, is
23 amended to read:

24 484.015 Authority to inspect.--Duly authorized agents
25 and employees of the department shall have the power to
26 inspect in a lawful manner at all reasonable hours an any
27 establishment of any kind in the state in which lenses,
28 spectacles, eyeglasses, contact lenses, and any other optical
29 devices are prepared or ~~and~~ dispensed, for the purposes of:

30 (1) Determining if any provision of this part, or any
31 rule promulgated under its authority, is being violated;

1 (2) Securing samples or specimens of any lenses,
2 spectacles, eyeglasses, contact lenses, or other optical
3 devices, after paying or offering to pay for such sample or
4 specimen; or

5 (3) Securing such other evidence as may be needed for
6 prosecution under this part.

7 Section 123. Subsection (1) of section 484.0445,
8 Florida Statutes, is amended to read:

9 484.0445 Training program.--

10 (1) The board shall establish by rule a training
11 program for a minimum ~~not to exceed~~ 6 months in length, which
12 may include a board-approved home study course. ~~Upon~~
13 ~~submitting to the department the registration fee, the~~
14 ~~applicant may register and enter the training program. Upon~~
15 ~~completion of the training program, the trainee shall take the~~
16 ~~first available written and practical examinations offered by~~
17 ~~the department. The department shall administer the written~~
18 ~~and practical examinations as prescribed by board rule. If~~
19 ~~the trainee fails either the written or the practical~~
20 ~~examination, she or he may repeat the training program one~~
21 ~~time and retake the failed examination, provided she or he~~
22 ~~takes the next available examination. No person may remain in~~
23 ~~trainee status or further perform any services authorized for~~
24 ~~a trainee if she or he fails either the written or the~~
25 ~~practical examination twice; but, a trainee may continue to~~
26 ~~function as a trainee until she or he has received the results~~
27 ~~of the examinations. Any applicant who has failed an~~
28 ~~examination twice and is no longer functioning as a trainee~~
29 ~~shall be eligible for reexamination as provided in s.~~
30 ~~484.045(2).~~

31

1 Section 124. Section 484.045, Florida Statutes, is
2 amended to read:

3 484.045 Licensure by examination.--

4 (1) Any person desiring to be licensed as a hearing
5 aid specialist shall apply to the department on a form
6 approved by the department ~~to take the licensure examination,~~
7 ~~which shall include a clinical practical component.~~

8 (2) The department shall license ~~examine~~ each
9 applicant who the board certifies:

10 (a) Has completed the application form and remitted
11 the required fees ~~applicable fee to the board and has paid the~~
12 ~~examination fee;~~

13 (b) Is of good moral character;

14 (c) Is 18 years of age or older;

15 (d) Is a graduate of an accredited high school or its
16 equivalent; ~~and~~

17 (e)1. Has met the requirements of the training program
18 ~~set forth in s. 484.0445;~~ or

19 2.a. Has a valid, current license as a hearing aid
20 specialist or its equivalent from another state and has been
21 actively practicing in such capacity for at least 12 months;
22 or

23 b. Is currently certified by the National Board for
24 Certification in Hearing Instrument Sciences and has been
25 actively practicing for at least 12 months. ~~Persons qualifying~~
26 ~~under this sub-subparagraph need not take the written or~~
27 ~~practical examination, but must take and pass a test on~~
28 ~~Florida laws and rules relating to the fitting and dispensing~~
29 ~~of hearing aids.~~

30 (f) Has passed an examination, as prescribed by board
31 rule; and

1 (g) Has demonstrated, in a manner designated by rule
2 of the board, knowledge of state laws and rules relating to
3 the fitting and dispensing of hearing aids.

4 (3) A person who fails the examination may make
5 application for reexamination to the appropriate examining
6 entity, as prescribed by board rule.

7 ~~(2) On or after October 1, 1990, every applicant who~~
8 ~~is qualified to take the examination shall be allowed to take~~
9 ~~the examination three times. If, after October 1, 1990, an~~
10 ~~applicant fails the examination three times, the applicant~~
11 ~~shall no longer be eligible to take the examination.~~

12 ~~(3) The department shall issue a license to practice~~
13 ~~dispensing hearing aids to any applicant who successfully~~
14 ~~completes the examination in accordance with this section.~~

15 Section 125. Effective January 1, 2002, subsection (1)
16 of section 490.012, Florida Statutes, is amended to read:

17 490.012 Violations; penalties; injunction.--

18 (1)(a) No person shall hold herself or himself out by
19 any professional title, name, or description incorporating the
20 word "psychologist" unless such person holds a valid, active
21 license as a psychologist under this chapter.

22 (b) No person shall hold herself or himself out by any
23 professional title, name, or description incorporating the
24 words "school psychologist" unless such person holds a valid,
25 active license as a school psychologist under this chapter or
26 is certified as a school psychologist by the Department of
27 Education.

28 ~~(c)(1)(a) No person shall hold herself or himself out~~
29 ~~by any title or description incorporating the words, or~~
30 ~~permutations of them, "psychologist," "psychology,"~~
31 ~~"psychological," "psychodiagnostic," or "school psychologist,"~~

1 or describe any test or report as psychological, unless such
2 person holds a valid, active license under this chapter or is
3 exempt from the provisions of this chapter.

4 (d)~~(b)~~ No person shall hold herself or himself out by
5 any title or description incorporating the word, or a
6 permutation of the word, "psychotherapy" unless such person
7 holds a valid, active license under chapter 458, chapter 459,
8 chapter 490, or chapter 491, or such person is certified as an
9 advanced registered nurse practitioner, pursuant to s.
10 464.012, who has been determined by the Board of Nursing as a
11 specialist in psychiatric mental health.

12 (e)~~(c)~~ No person licensed or provisionally licensed
13 pursuant to this chapter shall hold herself or himself out by
14 any title or description which indicates licensure other than
15 that which has been granted to her or him.

16 Section 126. Effective January 1, 2002, Florida
17 Statutes, is amended to read:

18 490.014 Exemptions.--

19 (1)(a) No provision of this chapter shall be construed
20 to limit the practice of physicians licensed pursuant to
21 chapter 458 or chapter 459 so long as they do not hold
22 themselves out to the public as psychologists or use a
23 professional title protected by this chapter.

24 (b) No provision of this chapter shall be construed to
25 limit the practice of nursing, clinical social work, marriage
26 and family therapy, mental health counseling, or other
27 recognized businesses or professions, or to prevent qualified
28 members of other professions from doing work of a nature
29 consistent with their training, so long as they do not hold
30 themselves out to the public as psychologists or use a title
31 or description protected by this chapter. Nothing in this

1 subsection shall be construed to exempt any person from the
2 provisions of s. 490.012.

3 (2) No person shall be required to be licensed or
4 provisionally licensed under this chapter who:

5 (a) Is a salaried employee of a government agency;
6 developmental services program, mental health, alcohol, or
7 drug abuse facility operating pursuant to chapter 393, chapter
8 394, or chapter 397; subsidized child care program, subsidized
9 child care case management program, or child care resource and
10 referral program operating pursuant to chapter 402;
11 child-placing or child-caring agency licensed pursuant to
12 chapter 409; domestic violence center certified pursuant to
13 chapter 39; accredited academic institution; or research
14 institution, if such employee is performing duties for which
15 he or she was trained and hired solely within the confines of
16 such agency, facility, or institution, so long as the employee
17 is not held out to the public as a psychologist pursuant to s.
18 490.012(1)(a).

19 (b) Is a salaried employee of a private, nonprofit
20 organization providing counseling services to children, youth,
21 and families, if such services are provided for no charge, if
22 such employee is performing duties for which he or she was
23 trained and hired, so long as the employee is not held out to
24 the public as a psychologist pursuant to s. 490.012(1)(a).

25 (c) Is a student who is pursuing a course of study
26 which leads to a degree in medicine or a profession regulated
27 by this chapter who is providing services in a training
28 setting, provided such activities or services constitute part
29 of a supervised course of study, or is a graduate accumulating
30 the experience required for any licensure under this chapter,
31 provided such graduate or student is designated by a title

1 such as "intern" or "trainee" which clearly indicates the
2 in-training status of the student.

3 (d) Is certified in school psychology by the
4 Department of Education and is performing psychological
5 services as an employee of a public or private educational
6 institution. Such exemption shall not be construed to
7 authorize any unlicensed practice which is not performed as a
8 direct employee of an educational institution.

9 (e) Is not a resident of the state but offers services
10 in this state, provided:

11 1. Such services are performed for no more than 5 days
12 in any month and no more than 15 days in any calendar year;
13 and

14 2. Such nonresident is licensed or certified by a
15 state or territory of the United States, or by a foreign
16 country or province, the standards of which were, at the date
17 of his or her licensure or certification, equivalent to or
18 higher than the requirements of this chapter in the opinion of
19 the department or, in the case of psychologists, in the
20 opinion of the board.

21 (f) Is a rabbi, priest, minister, or member of the
22 clergy of any religious denomination or sect when engaging in
23 activities which are within the scope of the performance of
24 his or her regular or specialized ministerial duties and for
25 which no separate charge is made, or when such activities are
26 performed, with or without charge, for or under the auspices
27 or sponsorship, individually or in conjunction with others, of
28 an established and legally cognizable church, denomination, or
29 sect, and when the person rendering service remains
30 accountable to the established authority thereof.

31

1 (3) No provision of this chapter shall be construed to
2 limit the practice of any individual who solely engages in
3 behavior analysis so long as he or she does not hold himself
4 or herself out to the public as possessing a license issued
5 pursuant to this chapter or use a title or description
6 protected by this chapter.

7 (4) Nothing in this section shall exempt any person
8 from the provisions ~~provision~~ of s. 490.012(1)(a)-(b)~~(a)-(b)~~.

9 (5) Except as stipulated by the board, the exemptions
10 contained in this section do not apply to any person licensed
11 under this chapter whose license has been suspended or revoked
12 by the board or another jurisdiction.

13 Section 127. Effective January 1, 2002, paragraphs
14 (i), (j), and (k) of subsection (1) of section 491.012,
15 Florida Statutes, are amended to read:

16 491.012 Violations; penalty; injunction.--

17 (1) It is unlawful and a violation of this chapter for
18 any person to:

19 (i) Practice clinical social work in this state, ~~as~~
20 ~~the practice is defined in s. 491.003(7),~~ for compensation,
21 unless the person holds a valid, active license to practice
22 clinical social work issued pursuant to this chapter or is an
23 intern registered pursuant to s. 491.0045.

24 (j) Practice marriage and family therapy in this
25 state, ~~as the practice is defined in s. 491.003(8),~~ for
26 compensation, unless the person holds a valid, active license
27 to practice marriage and family therapy issued pursuant to
28 this chapter or is an intern registered pursuant to s.
29 491.0045.

30 (k) Practice mental health counseling in this state,
31 ~~as the practice is defined in s. 491.003(9),~~ for compensation,

1 unless the person holds a valid, active license to practice
2 mental health counseling issued pursuant to this chapter or is
3 an intern registered pursuant to s. 491.0045.

4 Section 128. Effective January 1, 2002, paragraphs (a)
5 and (b) of subsection (4) of section 491.014, Florida
6 Statutes, are amended to read:

7 491.014 Exemptions.--

8 (4) No person shall be required to be licensed,
9 provisionally licensed, registered, or certified under this
10 chapter who:

11 (a) Is a salaried employee of a government agency;
12 developmental services program, mental health, alcohol, or
13 drug abuse facility operating pursuant to chapter 393, chapter
14 394, or chapter 397; subsidized child care program, subsidized
15 child care case management program, or child care resource and
16 referral program operating pursuant to chapter 402;
17 child-placing or child-caring agency licensed pursuant to
18 chapter 409; domestic violence center certified pursuant to
19 chapter 39; accredited academic institution; or research
20 institution, if such employee is performing duties for which
21 he or she was trained and hired solely within the confines of
22 such agency, facility, or institution, so long as the employee
23 is not held out to the public as a clinical social worker,
24 mental health counselor, or marriage and family therapist.

25 (b) Is a salaried employee of a private, nonprofit
26 organization providing counseling services to children, youth,
27 and families, if such services are provided for no charge, if
28 such employee is performing duties for which he or she was
29 trained and hired, so long as the employee is not held out to
30 the public as a clinical social worker, mental health
31 counselor, or marriage and family therapist.

1 Section 129. Subsection (4) of section 458.319,
2 Florida Statutes, is amended to read:

3 458.319 Renewal of license.--

4 (4) Notwithstanding the provisions of s. 456.033, a
5 physician may complete continuing education on end-of-life
6 care and palliative ~~health~~ care in lieu of continuing
7 education in AIDS/HIV, if that physician has completed the
8 AIDS/HIV continuing education in the immediately preceding
9 biennium.

10 Section 130. Subsection (5) of section 459.008,
11 Florida Statutes, is amended to read:

12 459.008 Renewal of licenses and certificates.--

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

19 Section 131. Subsection (4) of section 765.101,
20 Florida Statutes, is amended to read:

21 765.101 Definitions.--As used in this chapter:

22 (4) "End-stage condition" means an irreversible ~~a~~
23 condition that is caused by injury, disease, or illness which
24 has resulted in progressively severe and permanent
25 deterioration, ~~indicated by incapacity and complete physical~~
26 ~~dependency~~ and for which, to a reasonable degree of medical
27 probability ~~certainty~~, treatment of the ~~irreversible~~ condition
28 would be ~~medically~~ ineffective.

29 Section 132. Subsection (4) of section 765.102,
30 Florida Statutes, is amended to read:

31 765.102 Legislative findings and intent.--

1 (4) The Legislature recognizes the need for all health
2 care professionals to rapidly increase their understanding of
3 end-of-life and palliative ~~health~~ care. Therefore, the
4 Legislature encourages the professional regulatory boards to
5 adopt appropriate standards and guidelines regarding
6 end-of-life care and pain management and encourages
7 educational institutions established to train health care
8 professionals and allied health professionals to implement
9 curricula to train such professionals to provide end-of-life
10 care, including pain management and palliative care.

11 Section 133. Section 765.1025, Florida Statutes, is
12 created to read:

13 765.1025 Palliative care.--For purposes of this
14 chapter:

15 (1) Palliative care is the comprehensive management of
16 the physical, psychological, social, spiritual, and
17 existential needs of patients. Palliative care is especially
18 suited to the care of persons who have incurable, progressive
19 illness.

20 (2) Palliative care must include:

21 (a) An opportunity to discuss and plan for end-of-life
22 care.

23 (b) Assurance that physical and mental suffering will
24 be carefully attended to.

25 (c) Assurance that preferences for withholding and
26 withdrawing life-sustaining interventions will be honored.

27 (d) Assurance that the personal goals of the dying
28 person will be addressed.

29 (e) Assurance that the dignity of the dying person
30 will be a priority.

31

1 (f) Assurance that health care providers will not
2 abandon the dying person.

3 (g) Assurance that the burden to family and others
4 will be addressed.

5 (h) Assurance that advance directives for care will be
6 respected regardless of the location of care.

7 (i) Assurance that organizational mechanisms are in
8 place to evaluate the availability and quality of end-of-life,
9 palliative, and hospice care services, including the
10 evaluation of administrative and regulatory barriers.

11 (j) Assurance that necessary health care services will
12 be provided and that relevant reimbursement policies are
13 available.

14 (k) Assurance that the goals expressed in paragraphs
15 (a)-(j) will be accomplished in a culturally appropriate
16 manner.

17 Section 134. Subsection (2) of section 765.1103,
18 Florida Statutes, is amended to read:

19 765.1103 Pain management and palliative care.--

20 (2) Health care providers and practitioners regulated
21 under chapter 458, chapter 459, or chapter 464 must, as
22 appropriate, comply with a request for pain management or
23 palliative care from a patient under their care or, for an
24 incapacitated patient under their care, from a surrogate,
25 proxy, guardian, or other representative permitted to make
26 health care decisions for the incapacitated patient.

27 Facilities regulated under chapter 400 or chapter 395 must
28 comply with the pain management or palliative care measures
29 ordered by the patient's physician.~~When the patient is~~
30 ~~receiving care as an admitted patient of a facility or a~~
31 ~~provider or is a subscriber of a health care facility, health~~

1 ~~care provider, or health care practitioner regulated under~~
2 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~
3 ~~464, or chapter 641, such facility, provider, or practitioner~~
4 ~~must, when appropriate, comply with a request for pain~~
5 ~~management or palliative care from a capacitated patient or an~~
6 ~~incapacitated patient's health care surrogate or proxy,~~
7 ~~court-appointed guardian as provided in chapter 744, or~~
8 ~~attorney in fact as provided in chapter 709. The~~
9 ~~court-appointed guardian or attorney in fact must have been~~
10 ~~delegated authority to make health care decisions on behalf of~~
11 ~~the patient.~~

12 Section 135. Paragraph (b) of subsection (1) of
13 section 765.205, Florida Statutes, is amended to read:

14 765.205 Responsibility of the surrogate.--

15 (1) The surrogate, in accordance with the principal's
16 instructions, unless such authority has been expressly limited
17 by the principal, shall:

18 (b) Consult expeditiously with appropriate health care
19 providers to provide informed consent, and make only health
20 care decisions for the principal which he or she believes the
21 principal would have made under the circumstances if the
22 principal were capable of making such decisions. If there is
23 no indication of what the principal would have chosen, the
24 surrogate may consider the patient's best interest in deciding
25 that proposed treatments are to be withheld or that treatments
26 currently in effect are to be withdrawn.

27 Section 136. Subsections (2) and (3) of section
28 765.401, Florida Statutes, are amended to read:

29 765.401 The proxy.--

30 (2) Any health care decision made under this part must
31 be based on the proxy's informed consent and on the decision

1 the proxy reasonably believes the patient would have made
2 under the circumstances. If there is no indication of what the
3 patient would have chosen, the proxy may consider the
4 patient's best interest in deciding that proposed treatments
5 are to be withheld or that treatments currently in effect are
6 to be withdrawn.

7 (3) Before exercising the incapacitated patient's
8 rights to select or decline health care, the proxy must comply
9 with the provisions of ss. 765.205 and 765.305, except that a
10 proxy's decision to withhold or withdraw life-prolonging
11 procedures must be supported by clear and convincing evidence
12 that the decision would have been the one the patient would
13 have chosen had the patient been competent or, if there is no
14 indication of what the patient would have chosen, that the
15 decision is in the patient's best interest.

16 Section 137. The Legislature finds that the area of
17 specialty training is of great importance to the citizens of
18 this state and that specialty training and certification
19 creates a higher level of proficiency for the practitioner and
20 improves the delivery of health care to Floridians. Because
21 much confusion exists among the patient population and
22 practitioners as to the requirements for board certification,
23 the Legislature directs the Department of Health to conduct a
24 study of the area of specialty certification relating to the
25 Board of Medicine, the Board of Osteopathic Medicine, and the
26 Board of Dentistry. The study should review current statutes
27 and rules to determine if any barriers exist in board
28 recognition of certifying organizations and if restrictions
29 placed on a licensee's speech both target an identifiable harm
30 and mitigate against such harm in a direct and effective
31 manner. A final report shall be provided no later than January

1 1, 2002, to the President of the Senate and the Speaker of the
2 House of Representatives for distribution to the chairs of the
3 health-care-related committees.

4 Section 138. Paragraph (d) of subsection (2) of
5 section 499.012, Florida Statutes, is amended to read:

6 499.012 Wholesale distribution; definitions; permits;
7 general requirements.--

8 (2) The following types of wholesaler permits are
9 established:

10 (d) A retail pharmacy wholesaler's permit. A retail
11 pharmacy wholesaler is a retail pharmacy engaged in wholesale
12 distribution of prescription drugs within this state under the
13 following conditions:

14 1. The pharmacy must obtain a retail pharmacy
15 wholesaler's permit pursuant to ss. 499.001-499.081 and the
16 rules adopted under those sections.

17 2. The wholesale distribution activity does not exceed
18 30 percent of the total annual purchases of prescription
19 drugs. If the wholesale distribution activity exceeds the
20 30-percent maximum, the pharmacy must obtain a prescription
21 drug wholesaler's permit.

22 3. The transfer of prescription drugs that appear in
23 any schedule contained in chapter 893 is subject to chapter
24 893 and the federal Comprehensive Drug Abuse Prevention and
25 Control Act of 1970.

26 4. The transfer is between a retail pharmacy and
27 another retail pharmacy, a Modified Class II institutional
28 pharmacy, or a health care practitioner licensed in this state
29 and authorized by law to dispense or prescribe prescription
30 drugs.

31

1 5. All records of sales of prescription drugs subject
2 to this section must be maintained separate and distinct from
3 other records and comply with the recordkeeping requirements
4 of ss. 499.001-499.081.

5 Section 139. The Legislature finds that personal
6 identifying information, name, age, diagnosis, address, bank
7 account numbers, and debit and credit card numbers contained
8 in the records relating to an individual's personal health or
9 eligibility for health-related services made or received by
10 the individual's physician and public or private health
11 facility should be held confidential. Furthermore, the
12 Legislature finds that every person has an expectation of and
13 a right to privacy in all matters concerning her or his
14 personal health when medical services are provided. Matters of
15 personal health are traditionally private and confidential
16 concerns between the patient and the health care provider. The
17 private and confidential nature of personal health matters
18 pervades both the public and private sectors. For these
19 reasons, it is the express intent of the Legislature to
20 protect confidential information and the individual's
21 expectations of the right to privacy in all matters regarding
22 her or his personal health and not to have such information
23 exploited for purposes of solicitation or marketing the sale
24 of goods and services.

25 Section 140. Subsection (5) of section 456.057,
26 Florida Statutes, is amended to read:

27 456.057 Ownership and control of patient records;
28 report or copies of records to be furnished.--

29 (5)(a) Except as otherwise provided in this section
30 and in s. 440.13(4)(c), such records may not be furnished to,
31 and the medical condition of a patient may not be discussed

1 with, any person other than the patient or the patient's legal
2 representative or other health care practitioners and
3 providers involved in the care or treatment of the patient,
4 except upon written authorization of the patient. However,
5 such records may be furnished without written authorization
6 under the following circumstances:

7 ~~1.(a)~~ To any person, firm, or corporation that has
8 procured or furnished such examination or treatment with the
9 patient's consent.

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

14 ~~3.(c)~~ In any civil or criminal action, unless
15 otherwise prohibited by law, upon the issuance of a subpoena
16 from a court of competent jurisdiction and proper notice to
17 the patient or the patient's legal representative by the party
18 seeking such records.

19 ~~4.(d)~~ For statistical and scientific research,
20 provided the information is abstracted in such a way as to
21 protect the identity of the patient or provided written
22 permission is received from the patient or the patient's legal
23 representative.

24 (b) Absent a specific written release or authorization
25 permitting utilization of patient information for solicitation
26 or marketing the sale of goods or services, any use of that
27 information for those purposes is prohibited.

28 Section 141. Subsection (7) of section 395.3025,
29 Florida Statutes is amended to read:

30 395.3025 Patient and personnel records; copies;
31 examination.--

1 (7)(a) If the content of any record of patient
2 treatment is provided under this section, the recipient, if
3 other than the patient or the patient's representative, may
4 use such information only for the purpose provided and may not
5 further disclose any information to any other person or
6 entity, unless expressly permitted by the written consent of
7 the patient. A general authorization for the release of
8 medical information is not sufficient for this purpose. The
9 content of such patient treatment record is confidential and
10 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
11 I of the State Constitution.

12 (b) Absent a specific written release or authorization
13 permitting utilization of patient information for solicitation
14 or marketing the sale of goods or services, any use of that
15 information for those purposes is prohibited.

16 Section 142. Subsection (1) of section 400.1415,
17 Florida Statutes, is amended to read:

18 400.1415 Patient records; penalties for alteration.--

19 (1) Any person who fraudulently alters, defaces, or
20 falsifies any medical record or releases medical records for
21 the purposes of solicitation or marketing the sale of goods or
22 services absent a specific written release or authorization
23 permitting utilization of patient information, or other
24 nursing home record, or causes or procures any of these
25 offenses to be committed, commits a misdemeanor of the second
26 degree, punishable as provided in s. 775.082 or s. 775.083.

27 Section 143. Section 626.9651, Florida Statutes, is
28 created to read:

29 626.9651 Privacy.--The department shall adopt rules
30 consistent with other provisions of the Florida Insurance Code
31 to govern the use of a consumer's nonpublic personal financial

1 and health information. These rules must be based on,
2 consistent with, and not more restrictive than the Privacy of
3 Consumer Financial and Health Information Regulation, adopted
4 September 26, 2000, by the National Association of Insurance
5 Commissioners; however, the rules must permit the use and
6 disclosure of nonpublic personal health information for
7 scientific, medical, or public policy research, in accordance
8 with federal law. In addition, these rules must be consistent
9 with, and not more restrictive than, the standards contained
10 in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No.
11 106-102. If the department determines that a health insurer or
12 health maintenance organization is in compliance with, or is
13 actively undertaking compliance with, the consumer privacy
14 protection rules adopted by the United States Department of
15 Health and Human Services, in conformance with the Health
16 Insurance Portability and Affordability Act, that health
17 insurer or health maintenance organization is in compliance
18 with this section.

19 Section 144. Effective upon becoming law, subsections
20 (14), (15), and (16) are added to section 400.141, Florida
21 Statutes, to read:

22 400.141 Administration and management of nursing home
23 facilities.--Every licensed facility shall comply with all
24 applicable standards and rules of the agency and shall:

25 (14) Before November 30 of each year, subject to the
26 availability of an adequate supply of the necessary vaccine,
27 provide for immunizations against influenza viruses to all its
28 consenting residents in accordance with the recommendations of
29 the U.S. Centers for Disease Control and Prevention, subject
30 to exemptions for medical contraindications and religious or
31 personal beliefs. Subject to these exemptions, any consenting

1 person who becomes a resident of the facility after November
2 30 but before March 31 of the following year must be immunized
3 within 5 working days after becoming a resident. Immunization
4 shall not be provided to any resident who provides
5 documentation that he or she has been immunized as required by
6 this subsection. This subsection does not prohibit a resident
7 from receiving the immunization from his or her personal
8 physician if he or she so chooses. A resident who chooses to
9 receive the immunization from his or her personal physician
10 shall provide proof of immunization to the facility. The
11 agency may adopt and enforce any rules necessary to comply
12 with or implement this subsection.

13 (15) Assess all residents for eligibility for
14 pneumococcal polysaccharide vaccination (PPV) and vaccinate
15 residents when indicated within 60 days after the effective
16 date of this act in accordance with the recommendations of the
17 U.S. Centers for Disease Control and Prevention, subject to
18 exemptions for medical contraindications and religious or
19 personal beliefs. Residents admitted after the effective date
20 of this act shall be assessed within 5 working days of
21 admission and, when indicated, vaccinated within 60 days in
22 accordance with the recommendations of the United States
23 Centers for Disease Control and Prevention, subject to
24 exemptions for medical contradictions and religious or
25 personal beliefs. Immunization shall not be provided to any
26 resident who provides documentation that he or she has been
27 immunized as required by this subsection. This subsection does
28 not prohibit a resident from receiving the immunization from
29 his or her personal physician if he or she so chooses. A
30 resident who chooses to receive the immunization from his or
31 her personal physician shall provide proof of immunization to

1 the facility. The agency may adopt and enforce any rules
2 necessary to comply with or implement this subsection.

3 (16) Annually encourage and promote to its employees
4 the benefits associated with immunizations against influenza
5 viruses in accordance with the recommendations of the U.S.
6 Centers for Disease Control and Prevention. The agency may
7 adopt and enforce any rules necessary to comply with or
8 implement this subsection.

9
10 Facilities that have been awarded a Gold Seal under the
11 program established in s. 400.235 may develop a plan to
12 provide certified nursing assistant training as prescribed by
13 federal regulations and state rules and may apply to the
14 agency for approval of its program.

15 Section 145. There is established the Office of
16 Community Partners within the Department of Health for the
17 purpose of receiving, coordinating, and dispensing federal
18 funds set aside to expand the delivery of social services
19 through eligible private community organizations and programs.
20 The office shall provide policy direction and promote civic
21 initiatives which seek to preserve and strengthen families and
22 communities. The Department of Health, the Department of
23 Children and Family Services, the Department of Juvenile
24 Justice, and the Department of Corrections may request
25 transfer of general revenue funds between agencies, as
26 approved by the Legislative Budget Commission, as necessary to
27 match federal funds received by the Office of Community
28 Partners for these initiatives.

29 Section 146. Section 458.3147, Florida Statutes, is
30 created to read:

31

1 458.3147 Medical school eligibility of military
2 academy students or graduates.--Any Florida resident who is a
3 student at or a graduate of any of the United States military
4 academies who has command approval to apply to medical school
5 prior to assignment to the medical corps of the United States
6 military shall be admitted to any medical school in the State
7 University System. Each medical school in the State University
8 System shall admit two such applicants each academic year.

9 Section 147. Section 409.91188, Florida Statutes, is
10 amended to read:

11 409.91188 Specialty prepaid health plans for Medicaid
12 recipients with HIV or AIDS.--The Agency for Health Care
13 Administration is authorized to contract with specialty
14 prepaid health plans and pay them on a prepaid capitated basis
15 to provide Medicaid benefits to Medicaid-eligible recipients
16 who have human immunodeficiency syndrome (HIV) or acquired
17 immunodeficiency syndrome (AIDS). The agency shall apply for
18 and is authorized to implement federal waivers or other
19 necessary federal authorization to implement the prepaid
20 health plans authorized by this section. The agency shall
21 procure the specialty prepaid health plans through a
22 competitive procurement. In awarding a contract to a managed
23 care plan, the agency shall take into account price, quality,
24 accessibility, linkages to community-based organizations, and
25 the comprehensiveness of the benefit package offered by the
26 plan. The agency may bid the HIV/AIDS specialty plans on a
27 county, regional, or statewide basis. Qualified plans must be
28 licensed under chapter 641. The agency shall monitor and
29 evaluate the implementation of this waiver program if it is
30 approved by the Federal Government and shall report on its
31 status to the President of the Senate and the Speaker of the

1 House of Representatives by February 1, 2001. To improve
2 coordination of medical care delivery and to increase
3 cost-efficiency for the Medicaid program in treating HIV
4 disease, the Agency for Healthcare Administration shall seek
5 all necessary federal waivers to allow participation in the
6 Medipass HIV disease management program for Medicare
7 beneficiaries who test positive for HIV infection and who also
8 qualify for Medicaid benefits such as prescription medications
9 not covered by Medicare.

10 Section 148. Effective June 1, 2001, subsection (1) of
11 section 71 of chapter 98-171, Laws of Florida, is repealed.

12 Section 149. Effective July 1, 2001, and applicable to
13 births occurring on or after that date, subsection (2) of
14 section 766.302, Florida Statutes, is amended to read:

15 766.302 Definitions; ss. 766.301-766.316.--As used in
16 ss. 766.301-766.316, the term:

17 (2) "Birth-related neurological injury" means injury
18 to the brain or spinal cord of a live infant weighing at least
19 2,500 grams for a single gestation or, in the case of a
20 multiple gestation, a live infant weighing at least 2,000
21 grams at birth caused by oxygen deprivation or mechanical
22 injury occurring in the course of labor, delivery, or
23 resuscitation in the immediate postdelivery period in a
24 hospital, which renders the infant permanently and
25 substantially mentally and physically impaired. This
26 definition shall apply to live births only and shall not
27 include disability or death caused by genetic or congenital
28 abnormality.

29 Section 150. Effective July 1, 2001, and applicable to
30 births occurring on or after that date, paragraph (b) of
31

1 subsection (1) of section 766.31, Florida Statutes, is amended
2 to read:

3 766.31 Administrative law judge awards for
4 birth-related neurological injuries; notice of award.--

5 (1) Upon determining that an infant has sustained a
6 birth-related neurological injury and that obstetrical
7 services were delivered by a participating physician at the
8 birth, the administrative law judge shall make an award
9 providing compensation for the following items relative to
10 such injury:

11 (b)1. Periodic payments of an award to the parents or
12 legal guardians of the infant found to have sustained a
13 birth-related neurological injury, which award shall not
14 exceed \$100,000. However, at the discretion of the
15 administrative law judge, such award may be made in a lump
16 sum.

17 2. Payment for funeral expenses not to exceed \$1,500.

18 Section 151. Section 766.308, Florida Statutes, is
19 repealed.

20 Section 152. Section 468.805, Florida Statutes, is
21 amended to read:

22 468.805 Grandfathering.--

23 (1)(a) A person who has practiced orthotics,
24 prosthetics, or pedorthics in this state for the required
25 period between ~~since~~ July 1, 1990, and March 1, 1998, who,
26 before March 1, 1998, applied ~~applies~~ to the department for a
27 license to practice orthotics, prosthetics, or pedorthics, and
28 who received certification in orthotics, prosthetics, or
29 pedorthics from a national certifying body and had his or her
30 application fully approved by the board before October 1,
31 2000, may be licensed as a prosthetist, an orthotist, a

1 prosthetist-orthotist, an orthotic fitter, an orthotic fitter
2 assistant, or a pedorthist, as applicable ~~determined from the~~
3 ~~person's experience, certification, and educational~~
4 ~~preparation, without meeting the educational requirements set~~
5 ~~forth in s. 468.803, upon receipt of the application fee and~~
6 ~~licensing fee and after the board has completed an~~
7 ~~investigation into the applicant's background and experience.~~
8 ~~The board shall require an application fee not to exceed \$500,~~
9 ~~which shall be nonrefundable. The board shall complete its~~
10 ~~investigation within 6 months after receipt of the completed~~
11 ~~application.~~

12 (b) The period of experience required for licensure
13 under this subsection ~~section~~ is 5 years for a prosthetist or
14 an orthotist and ~~2~~ years for an orthotic fitter, an orthotic
15 fitter assistant, or a pedorthist. Each applicant shall
16 document experience in the ~~and 5 years for an orthotist whose~~
17 scope of practice for the profession applied for as is defined
18 under s. 468.80~~(7)~~.

19 (2)(a) An applicant for licensure as an orthotist, a
20 prosthetist, or a prosthetist-orthotist who cannot demonstrate
21 5 years of experience as required by subsection (1), but who
22 has practiced as an orthotist, a prosthetist, or a
23 prosthetist-orthotist in this state for at least 2 years
24 between July 1, 1990, and March 1, 1998, and ~~A person who has~~
25 ~~received certification as an orthotist, a prosthetist, or a~~
26 ~~prosthetist-orthotist from a national certifying body before~~
27 July 1, 1998, and who has practiced orthotics or prosthetics
28 ~~in this state for at least 2 years but less than 5 years is~~
29 eligible for a provisional license.

30 (b) ~~An applicant for provisional licensure shall~~
31 ~~submit proof that he or she has been actively practicing as a~~

1 ~~nationally certified orthotist, prosthetist, or~~
2 ~~prosthetist-orthotist, an application fee, and a provisional~~
3 ~~license fee.~~

4 (b)(c) A provisional licensee is required to practice
5 under supervision of a fully licensed orthotist, prosthetist,
6 or prosthetist-orthotist for up to 3 years in order to meet
7 the 5-year experience requirement of subsection (1) to be
8 licensed as an orthotist, a prosthetist, or a
9 prosthetist-orthotist. The provisional licensee must
10 demonstrate that the supervised practice includes experience
11 in the scope of practice of the profession as defined under s.
12 468.80.

13 ~~(d) After appropriate investigation, the board shall~~
14 ~~license as an orthotist, prosthetist, or prosthetist-orthotist~~
15 ~~the provisional licensee who has successfully completed the~~
16 ~~period of experience required and otherwise meets the~~
17 ~~requirements of subsection (1).~~

18 ~~(e) The board shall require an application fee, not to~~
19 ~~exceed \$500, which is nonrefundable, and a provisional~~
20 ~~licensure fee, not to exceed \$500.~~

21 (3) Upon receipt of the nonrefundable application fee
22 and the appropriate licensing fee, the board shall complete an
23 investigation into the applicant's background and experience.
24 The board shall complete its investigation within 6 months
25 after receipt of the completed application. The 90-day period
26 for approval or denial of a license required under s. 120.60
27 does not apply to applications for licensure or provisional
28 licensure under this section.

29 (4) The board by rule shall establish the following
30 fees not to exceed \$500 each:

31

- 1 (a) Application fee for licensure under subsection
2 (1).
- 3 (b) Application fee for provisional licensure under
4 subsection (2).
- 5 (c) Application fee for licensure following
6 provisional licensure under subsection (2).
- 7 (d) Initial licensure fee.
- 8 (e) Provisional licensure fee.
- 9 ~~(5)(3)~~ An applicant who has received certification as
10 an orthotist, a prosthetist, a prosthetist-orthotist, or a
11 pedorthist from a national certifying body which requires the
12 successful completion of an examination, may be licensed under
13 this section without taking an additional examination. An
14 applicant who has not received certification from a national
15 certifying body which requires the successful completion of an
16 examination shall be required to take an examination as
17 determined by the board. This examination shall be designed to
18 determine if the applicant has the minimum qualifications
19 needed to be licensed under this section. The board may charge
20 an examination fee and the actual per applicant cost to the
21 department for purchase or development of the examination.
- 22 ~~(6)(4)~~ An applicant who successfully completed prior
23 to March 1, 1998, at least one-half of the examination
24 required for national certification and successfully completed
25 the remaining portion of the examination and became certified
26 prior to October 1, 2000 ~~July 1, 1998~~, shall be considered as
27 nationally certified by March 1, 1998, for purposes of this
28 section.
- 29 ~~(7)(5)~~ This section is repealed July 1, 2002.
- 30 Section 153. Section 1 of chapter 99-158, Laws of
31 Florida, is repealed.

1 Section 154. Except as otherwise provided herein, this
2 act shall take effect July 1, 2001.
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