

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

The Council for Healthy Communities offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

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

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

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

5 Section 3. The Office of Program Policy Analysis and  
6 Government Accountability shall study the feasibility of  
7 maintaining the entire Medical Quality Assurance function,  
8 including enforcement, within a single department. The study  
9 shall be completed and a report issued to the President of the  
10 Senate and the Speaker of the House of Representatives no  
11 later than November 30, 2001.

12 Section 4. Subsection (1) of section 456.004, Florida  
13 Statutes, is amended, and subsection (10) is added to that  
14 section, to read:

15 456.004 Department; powers and duties.--The  
16 department, for the professions under its jurisdiction, shall:

17 (1) Adopt rules establishing a procedure for the  
18 biennial renewal of licenses; however, the department may  
19 issue up to a 4-year license to selected licensees  
20 notwithstanding any other provisions of law to the contrary.  
21 The rules shall specify the expiration dates of licenses and  
22 the process for tracking compliance with continuing education  
23 requirements, financial responsibility requirements, and any  
24 other conditions of renewal set forth in statute or rule.Fees  
25 for such renewal shall not exceed the fee caps for individual  
26 professions on an annualized basis as authorized by law.

27 (10) Set an examination fee that includes all costs to  
28 develop, purchase, validate, administer, and defend the  
29 examination and is an amount certain to cover all  
30 administrative costs plus the actual per-applicant cost of the  
31 examination.

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1           Section 5. Section 456.025, Florida Statutes, is  
2 amended to read:

3           456.025 Fees; receipts; disposition.--

4           (1) It is the intent of the Legislature that all costs  
5 of regulating health care professions and practitioners shall  
6 be borne solely by licensees and licensure applicants. It is  
7 also the intent of the Legislature that fees should be  
8 reasonable and not serve as a barrier to licensure. Moreover,  
9 it is the intent of the Legislature that the department  
10 operate as efficiently as possible and regularly report to the  
11 Legislature additional methods to streamline operational  
12 costs. Therefore, the boards in consultation with the  
13 department, or the department if there is no board, shall, by  
14 rule, set renewal fees which:

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

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

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

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

24           (e) Shall be similar to fees imposed on similar  
25 licensure types;

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

28           (g) Shall not be more than 10% greater than the actual  
29 cost to regulate that profession for the previous biennium;  
30 and

31           (h) Shall be subject to challenge pursuant to chapter

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1 120.

2 (2) The chairpersons of the boards and councils listed  
3 in s. 20.43(3)(g), shall meet annually at division  
4 headquarters to review the long-range policy plan required by  
5 s. 456.005 and current and proposed fee schedules. The  
6 chairpersons shall make recommendations for any necessary  
7 statutory changes relating to fees and fee caps. Such  
8 recommendations shall be compiled by the Department of Health  
9 and be included in the annual report to the Legislature  
10 required by s. 456.026 as well as be included in the  
11 long-range policy plan required by s. 456.005.

12 (2)(1) Each board within the jurisdiction of the  
13 department, or the department when there is no board, shall  
14 determine by rule the amount of license fees for the  
15 profession it regulates, based upon long-range estimates  
16 prepared by the department of the revenue required to  
17 implement laws relating to the regulation of professions by  
18 the department and the board. Each board, or the department  
19 if there is no board, shall ensure that license fees are  
20 adequate to cover all anticipated costs and to maintain a  
21 reasonable cash balance, as determined by rule of the agency,  
22 with advice of the applicable board. If sufficient action is  
23 not taken by a board within 1 year after notification by the  
24 department that license fees are projected to be inadequate,  
25 the department shall set license fees on behalf of the  
26 applicable board to cover anticipated costs and to maintain  
27 the required cash balance. The department shall include  
28 recommended fee cap increases in its annual report to the  
29 Legislature. Further, it is the legislative intent that no  
30 regulated profession operate with a negative cash balance. The  
31 department may provide by rule for advancing sufficient funds

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1 to any profession operating with a negative cash balance. The  
2 advancement may be for a period not to exceed 2 consecutive  
3 years, and the regulated profession must pay interest.  
4 Interest shall be calculated at the current rate earned on  
5 investments of a trust fund used by the department to  
6 implement this chapter. Interest earned shall be allocated to  
7 the various funds in accordance with the allocation of  
8 investment earnings during the period of the advance.

9 (3)~~(2)~~ Each board, or the department if there is no  
10 board, may charge a fee not to exceed \$25, as determined by  
11 rule, for the issuance of a wall certificate pursuant to s.  
12 456.013(2) requested by a licensee who was licensed prior to  
13 July 1, 1998, or for the issuance of a duplicate wall  
14 certificate requested by any licensee.

15 (4)~~(3)~~ Each board, or the department if there is no  
16 board, may, by rule, assess and collect a one-time fee from  
17 each active status licensee and each inactive status licensee  
18 in an amount necessary to eliminate a cash deficit or, if  
19 there is not a cash deficit, in an amount sufficient to  
20 maintain the financial integrity of the professions as  
21 required in this section. Not more than one such assessment  
22 may be made in any 4-year period without specific legislative  
23 authorization.

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

29 (6)~~(4)~~ Each board ~~authorized to approve continuing~~  
30 ~~education providers~~, or the department if there is no board,  
31 shall may establish, by rule, a fee not to exceed \$250 for

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1 anyone seeking approval to provide continuing education  
2 courses or programs and shall ~~may~~ establish by rule a biennial  
3 renewal fee not to exceed \$250 for the renewal of providership  
4 of such courses. The fees collected from continuing education  
5 providers shall be used for the purposes of reviewing course  
6 provider applications, monitoring the integrity of the courses  
7 provided, covering legal expenses incurred as a result of not  
8 granting or renewing a providership, and developing and  
9 maintaining an electronic continuing education tracking  
10 system. The department shall implement an electronic  
11 continuing education tracking system for each new biennial  
12 renewal cycle for which electronic renewals are implemented  
13 after the effective date of this act and shall integrate such  
14 system into the licensure and renewal system. All approved  
15 continuing education providers shall provide information on  
16 course attendance to the department necessary to implement the  
17 electronic tracking system. The department shall, by rule,  
18 specify the form and procedures by which the information is to  
19 be submitted.~~This subsection does not apply to continuing~~  
20 ~~education courses or providers approved by the board under~~  
21 ~~chapter 465.~~

22 (7)(5) All moneys collected by the department from  
23 fees or fines or from costs awarded to the agency by a court  
24 shall be paid into a trust fund used by the department to  
25 implement this chapter. The Legislature shall appropriate  
26 funds from this trust fund sufficient to carry out this  
27 chapter and the provisions of law with respect to professions  
28 regulated by the Division of Medical Quality Assurance within  
29 the department and the boards. The department may contract  
30 with public and private entities to receive and deposit  
31 revenue pursuant to this section. The department shall

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1 maintain separate accounts in the trust fund used by the  
2 department to implement this chapter for every profession  
3 within the department. To the maximum extent possible, the  
4 department shall directly charge all expenses to the account  
5 of each regulated profession. For the purpose of this  
6 subsection, direct charge expenses include, but are not  
7 limited to, costs for investigations, examinations, and legal  
8 services. For expenses that cannot be charged directly, the  
9 department shall provide for the proportionate allocation  
10 among the accounts of expenses incurred by the department in  
11 the performance of its duties with respect to each regulated  
12 profession. The regulation by the department of professions,  
13 as defined in this chapter, shall be financed solely from  
14 revenue collected by it from fees and other charges and  
15 deposited in the Medical Quality Assurance Trust Fund, and all  
16 such revenue is hereby appropriated to the department.  
17 However, it is legislative intent that each profession shall  
18 operate within its anticipated fees. The department may not  
19 expend funds from the account of a profession to pay for the  
20 expenses incurred on behalf of another profession, except that  
21 the Board of Nursing must pay for any costs incurred in the  
22 regulation of certified nursing assistants. The department  
23 shall maintain adequate records to support its allocation of  
24 agency expenses. The department shall provide any board with  
25 reasonable access to these records upon request. On or before  
26 October 1 of each year, the department shall provide each  
27 board an annual report of revenue and direct and allocated  
28 expenses related to the operation of that profession. The  
29 board shall use these reports and the department's adopted  
30 long-range plan to determine the amount of license fees. A  
31 condensed version of this information, with the department's

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1 recommendations, shall be included in the annual report to the  
2 Legislature prepared under s. 456.026.

3 ~~(8)(6)~~ The department shall provide a condensed  
4 management report of budgets, finances, performance  
5 statistics, and recommendations to each board at least once a  
6 quarter. The department shall identify and include in such  
7 presentations any changes, or projected changes, made to the  
8 board's budget since the last presentation.

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

13 ~~(10)(8)~~ The department or the appropriate board shall  
14 charge a fee not to exceed \$25 for the certification of a  
15 public record. The fee shall be determined by rule of the  
16 department. The department or the appropriate board shall  
17 assess a fee for duplicating a public record as provided in s.  
18 119.07(1)(a) and (b).

19 Section 6. Subsections (1) of section 457.107, Florida  
20 Statutes, is amended to read:

21 457.107 Renewal of licenses; continuing education.--

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

25 Section 7. Section 458.31151, Florida Statutes, is  
26 repealed.

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

29 483.807 Fees; establishment; disposition.--

30 (1) The board, by rule, shall establish fees to be  
31 paid for application, examination, reexamination, licensing



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1 and renewal, registration, laboratory training program  
2 application, reinstatement, and recordmaking and  
3 recordkeeping. The board may also establish, by rule, a  
4 delinquency fee. The board shall establish fees that are  
5 adequate to ensure the continued operation of the board and to  
6 fund the proportionate expenses incurred by the department in  
7 carrying out its licensure and other related responsibilities  
8 under this part. Fees shall be based on departmental estimates  
9 of the revenue required to implement this part and the  
10 provisions of law with respect to the regulation of clinical  
11 laboratory personnel.

12 Section 9. Subsections (1), (3), and (4) of section  
13 456.011, Florida Statutes, are amended to read:

14 456.011 Boards; organization; meetings; compensation  
15 and travel expenses.--

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

18 (3) The board shall meet at least once annually and  
19 may meet as often as is necessary. Meetings shall be conducted  
20 through teleconferencing or other technological means, unless  
21 disciplinary hearings involving standard of care, sexual  
22 misconduct, fraud, impairment, or felony convictions;  
23 licensure denial hearings; or controversial rule hearings are  
24 being conducted; or unless otherwise approved in advance of  
25 the meeting by the director of the Division of Medical Quality  
26 Assurance.The chairperson or a quorum of the board shall have  
27 the authority to call ~~other~~ meetings, except as provided above  
28 relating to in-person meetings. A quorum shall be necessary  
29 for the conduct of official business by the board or any  
30 committee thereof. Unless otherwise provided by law, 51  
31 percent or more of the appointed members of the board or any

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1 committee, when applicable, shall constitute a quorum. The  
2 membership of committees of the board, except as otherwise  
3 authorized pursuant to this chapter or the applicable practice  
4 act, shall be composed of currently appointed members of the  
5 board. The vote of a majority of the members of the quorum  
6 shall be necessary for any official action by the board or  
7 committee. Three consecutive unexcused absences or absences  
8 constituting 50 percent or more of the board's meetings within  
9 any 12-month period shall cause the board membership of the  
10 member in question to become void, and the position shall be  
11 considered vacant. The board, or the department when there is  
12 no board, shall, by rule, define unexcused absences.

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

24 Section 10. Subsection (2) of section 456.013, Florida  
25 Statutes, is amended to read:

26 456.013 Department; general licensing provisions.--

27 (2) Before the issuance of any license, the department  
28 shall ~~may~~ charge an initial license fee as determined by ~~rule~~  
29 ~~of~~ the applicable board or, if no such board exists, by rule  
30 of the department. Upon receipt of the appropriate license  
31 fee, the department shall issue a license to any person

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1 certified by the appropriate board, or its designee, as having  
2 met the licensure requirements imposed by law or rule. The  
3 license shall consist of a wallet-size identification card and  
4 a wall card measuring 6 1/2 inches by 5 inches. In addition  
5 to the two-part license, the department, at the time of  
6 initial licensure, shall issue a wall certificate suitable for  
7 conspicuous display, which shall be no smaller than 8 1/2  
8 inches by 14 inches. The licensee shall surrender to the  
9 department the wallet-size identification card, the wall card,  
10 and the wall certificate, if one has been issued by the  
11 department, if the licensee's license is revoked.

12 Section 11. Section 456.017, Florida Statutes, is  
13 amended to read:

14 456.017 Department of Health; examinations.--

15 (1)(a) The department shall provide, contract, or  
16 approve services for the development, preparation,  
17 administration, scoring, score reporting, and evaluation of  
18 all examinations, in consultation with the appropriate board.  
19 The department shall certify that examinations developed and  
20 approved by the department adequately and reliably measure an  
21 applicant's ability to practice the profession regulated by  
22 the department. After an examination developed or approved by  
23 the department has been administered, the board, or the  
24 department when there is no board, may reject any question  
25 which does not reliably measure the general areas of  
26 competency specified in the rules of the board. The department  
27 may contract for the preparation, administration, scoring,  
28 score reporting, and evaluation of examinations, when such  
29 services are available and approved by the board.

30 (b) For each examination developed by the department  
31 or contracted vendor, to the extent not otherwise specified by

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1 statute, the board, or the department when there is no board,  
2 shall by rule specify the general areas of competency to be  
3 covered by each examination, the relative weight to be  
4 assigned in grading each area tested, and the score necessary  
5 to achieve a passing grade. The department shall assess, and  
6 fees, where applicable, to cover the actual cost for any  
7 purchase, development, validation, and administration, and  
8 defense of required examinations. This subsection does not  
9 apply to national examinations approved and administered  
10 pursuant to paragraph (c). If a practical examination is  
11 deemed to be necessary, the rules shall specify the criteria  
12 by which examiners are to be selected, the grading criteria to  
13 be used by the examiner, the relative weight to be assigned in  
14 grading each criterion, and the score necessary to achieve a  
15 passing grade. When a mandatory standardization exercise for a  
16 practical examination is required by law, the board, or the  
17 department when there is no board, may conduct such exercise.  
18 Therefore, board members, or employees of the department when  
19 there is no board, may serve as examiners at a practical  
20 examination with the consent of the board or department, as  
21 appropriate.

22 (c)1. The board, or the department when there is no  
23 board, shall may approve by rule the use of one or more any  
24 national examinations examination which the department has  
25 certified as meeting requirements of national examinations and  
26 generally accepted testing standards pursuant to department  
27 rules. Providers of examinations seeking certification by the  
28 department shall pay the actual costs incurred by the  
29 department in making a determination regarding the  
30 certification. The name and number of a candidate may be  
31 provided to a national contractor for the limited purpose of

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1 preparing the grade tape and information to be returned to the  
2 board or department; or, to the extent otherwise specified by  
3 rule, the candidate may apply directly to the vendor of the  
4 national examination and supply test score information to the  
5 department. The department may delegate to the board the duty  
6 to provide and administer the examination. Any national  
7 examination approved by a board, or the department when there  
8 is no board, prior to October 1, 1997, is deemed certified  
9 under this paragraph.

10 2. The board, or the department when there is no  
11 board, shall approve and begin administering a national  
12 examination no later than December 31, 2001. Neither the board  
13 nor the department may administer a state-developed written  
14 examination after December 31, 2001, notwithstanding any other  
15 provision of law. The examination may be administered  
16 electronically if adequate security measures are used, as  
17 determined by rule of the department.

18 3. The board, or the department when there is no  
19 board, may administer a state-developed practical or clinical  
20 examination, as required by the applicable practice act, if  
21 all costs of development, purchase, validation,  
22 administration, review, and defense are paid by the  
23 examination candidate prior to the administration of the  
24 examination. If a national practical or clinical examination  
25 is available and certified by the department pursuant to this  
26 section, the board, or the department when there is no board,  
27 may administer the national examination.

28 4. It is the intent of the Legislature to reduce the  
29 costs associated with state examinations and to encourage the  
30 use of national examinations whenever possible.

31 (d) Each board, or the department when there is no

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1 board, shall adopt rules regarding the security and monitoring  
2 of examinations. The department shall implement those rules  
3 adopted by the respective boards. In order to maintain the  
4 security of examinations, the department may employ the  
5 procedures set forth in s. 456.065 to seek fines and  
6 injunctive relief against an examinee who violates the  
7 provisions of s. 456.018 or the rules adopted pursuant to this  
8 paragraph. The department, or any agent thereof, may, for the  
9 purposes of investigation, confiscate any written,  
10 photographic, or recording material or device in the  
11 possession of the examinee at the examination site which the  
12 department deems necessary to enforce such provisions or  
13 rules. The scores of candidates who have taken state-developed  
14 examinations shall be provided to the candidates  
15 electronically using a candidate identification number, and  
16 the department shall post the aggregate scores on the  
17 department's website without identifying the names of the  
18 candidates.

19 (e) If the professional board with jurisdiction over  
20 an examination concurs, the department may, for a fee, share  
21 with any other state's licensing authority or a national  
22 testing entity an examination or examination item bank  
23 developed by or for the department unless prohibited by a  
24 contract entered into by the department for development or  
25 purchase of the examination. The department, with the  
26 concurrence of the appropriate board, shall establish  
27 guidelines that ensure security of a shared exam and shall  
28 require that any other state's licensing authority comply with  
29 those guidelines. Those guidelines shall be approved by the  
30 appropriate professional board. All fees paid by the user  
31 shall be applied to the department's examination and

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1 development program for professions regulated by this chapter.

2 (f) The department may adopt rules necessary to  
3 administer this subsection.

4 (2) For each examination developed by the department  
5 or a contracted vendor, the board, or the department when  
6 there is no board, shall adopt rules providing for  
7 reexamination of any applicants who failed an examination  
8 developed by the department or a contracted vendor. If both a  
9 written and a practical examination are given, an applicant  
10 shall be required to retake only the portion of the  
11 examination on which the applicant failed to achieve a passing  
12 grade, if the applicant successfully passes that portion  
13 within a reasonable time, as determined by rule of the board,  
14 or the department when there is no board, of passing the other  
15 portion. Except for national examinations approved and  
16 administered pursuant to this section, the department shall  
17 provide procedures for applicants who fail an examination  
18 developed by the department or a contracted vendor to review  
19 their examination questions, answers, papers, grades, and  
20 grading key for the questions the candidate answered  
21 incorrectly or, if not feasible, the parts of the examination  
22 failed. Applicants shall bear the actual cost for the  
23 department to provide examination review pursuant to this  
24 subsection. An applicant may waive in writing the  
25 confidentiality of the applicant's examination grades.

26 Notwithstanding any other provisions, only candidates who fail  
27 an examination by less than ten percent shall be entitled to  
28 challenge the validity of the examination at hearing.

29 (3) For each examination developed or administered by  
30 the department or a contracted vendor, an accurate record of  
31 each applicant's examination questions, answers, papers,

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1 grades, and grading key shall be kept for a period of not less  
2 than 2 years immediately following the examination, and such  
3 record shall thereafter be maintained or destroyed as provided  
4 in chapters 119 and 257. This subsection does not apply to  
5 national examinations approved and administered pursuant to  
6 this section.

7 (4) Meetings of any member of the department or of any  
8 board within the department held for the exclusive purpose of  
9 creating or reviewing licensure examination questions or  
10 proposed examination questions are exempt from the provisions  
11 of s. 286.011 and s. 24(b), Art. I of the State Constitution.  
12 Any public records, such as tape recordings, minutes, or  
13 notes, generated during or as a result of such meetings are  
14 confidential and exempt from the provisions of s. 119.07(1)  
15 and s. 24(a), Art. I of the State Constitution. However, these  
16 exemptions shall not affect the right of any person to review  
17 an examination as provided in subsection (2).

18 (5) For examinations developed by the department or a  
19 contracted vendor, each board, or the department when there is  
20 no board, may provide licensure examinations in an applicant's  
21 native language. Notwithstanding any other provision of law,  
22 applicants for examination or reexamination pursuant to this  
23 subsection shall bear the full cost for the department's  
24 development, preparation, validation, administration, grading,  
25 and evaluation of any examination in a language other than  
26 English prior to the examination being administered. Requests  
27 for translated examinations must be on file in the board  
28 office at least 6 months prior to the scheduled examination.  
29 When determining whether it is in the public interest to allow  
30 the examination to be translated into a language other than  
31 English, the board shall consider the percentage of the



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1 population who speak the applicant's native language.  
2 Applicants must apply for translation to the applicable board  
3 at least 6 months prior to the scheduled examination.

4 (6) In addition to meeting any other requirements for  
5 licensure by examination or by endorsement, and  
6 notwithstanding the provisions in paragraph (1)(c), an  
7 applicant may be required by a board, or the department when  
8 there is no board, to certify competency in state laws and  
9 rules relating to the applicable practice act. Beginning  
10 October 1, 2001, all laws and rules examinations shall be  
11 administered electronically unless the laws and rules  
12 examination is administered concurrently with another written  
13 examination for that profession.

14 Section 12. Subsection (1) of section 456.035, Florida  
15 Statutes, is amended to read:

16 456.035 Address of record.--

17 (1) Each licensee of the department is solely  
18 responsible for notifying the department in writing of the  
19 licensee's current mailing address and place of practice, as  
20 defined by rule of the board or the department if there is no  
21 board. Electronic notification shall be allowed by the  
22 department; however, it shall be the responsibility of the  
23 licensee to ensure that the electronic notification was  
24 received by the department.A licensee's failure to notify the  
25 department of a change of address constitutes a violation of  
26 this section, and the licensee may be disciplined by the board  
27 or the department if there is no board.

28 Section 13. Subsections (2), (4), and (10) of section  
29 456.073, Florida Statutes, are amended to read:

30 456.073 Disciplinary proceedings.--Disciplinary  
31 proceedings for each board shall be within the jurisdiction of

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1 the department.

2 (2) The department shall allocate sufficient and  
3 adequately trained staff to expeditiously and thoroughly  
4 determine legal sufficiency and investigate all legally  
5 sufficient complaints. For purposes of this section, it is the  
6 intent of the Legislature that the term "expeditiously" means  
7 that the department complete the report of its initial  
8 investigative findings and recommendations concerning the  
9 existence of probable cause within 6 months after its receipt  
10 of the complaint. The failure of the department, for  
11 disciplinary cases under its jurisdiction, to comply with the  
12 time limits of this section while investigating a complaint  
13 against a licensee constitutes harmless error in any  
14 subsequent disciplinary action unless a court finds that  
15 either the fairness of the proceeding or the correctness of  
16 the action may have been impaired by a material error in  
17 procedure or a failure to follow prescribed procedure. When  
18 its investigation is complete and legally sufficient, the  
19 department shall prepare and submit to the probable cause  
20 panel of the appropriate regulatory board the investigative  
21 report of the department. The report shall contain the  
22 investigative findings and the recommendations of the  
23 department concerning the existence of probable cause. The  
24 department shall not recommend a letter of guidance in lieu of  
25 finding probable cause if the subject has already been issued  
26 a letter of guidance for a related offense.At any time after  
27 legal sufficiency is found, the department may dismiss any  
28 case, or any part thereof, if the department determines that  
29 there is insufficient evidence to support the prosecution of  
30 allegations contained therein. The department shall provide a  
31 detailed report to the appropriate probable cause panel prior

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

11 (4) The determination as to whether probable cause  
12 exists shall be made by majority vote of a probable cause  
13 panel of the board, or by the department, as appropriate. Each  
14 regulatory board shall provide by rule that the determination  
15 of probable cause shall be made by a panel of its members or  
16 by the department. Each board may provide by rule for multiple  
17 probable cause panels composed of at least two members. Each  
18 board may provide by rule that one or more members of the  
19 panel or panels may be a former board member. The length of  
20 term or repetition of service of any such former board member  
21 on a probable cause panel may vary according to the direction  
22 of the board when authorized by board rule. Any probable cause  
23 panel must include one of the board's former or present  
24 consumer members, if one is available, is willing to serve,  
25 and is authorized to do so by the board chair. Any probable  
26 cause panel must include a present board member. Any probable  
27 cause panel must include a former or present professional  
28 board member. However, any former professional board member  
29 serving on the probable cause panel must hold an active valid  
30 license for that profession. All proceedings of the panel are  
31 exempt from s. 286.011 until 10 days after probable cause has

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1 | been found to exist by the panel or until the subject of the  
2 | investigation waives his or her privilege of confidentiality.  
3 | The probable cause panel may make a reasonable request, and  
4 | upon such request the department shall provide such additional  
5 | investigative information as is necessary to the determination  
6 | of probable cause. A request for additional investigative  
7 | information shall be made within 15 days from the date of  
8 | receipt by the probable cause panel of the investigative  
9 | report of the department or the agency. The probable cause  
10 | panel or the department, as may be appropriate, shall make its  
11 | determination of probable cause within 30 days after receipt  
12 | by it of the final investigative report of the department. The  
13 | secretary may grant extensions of the 15-day and the 30-day  
14 | time limits. In lieu of a finding of probable cause, the  
15 | probable cause panel, or the department if there is no board,  
16 | may issue a letter of guidance to the subject. If, within the  
17 | 30-day time limit, as may be extended, the probable cause  
18 | panel does not make a determination regarding the existence of  
19 | probable cause or does not issue a letter of guidance in lieu  
20 | of a finding of probable cause, the department must make a  
21 | determination regarding the existence of probable cause within  
22 | 10 days after the expiration of the time limit. If the  
23 | probable cause panel finds that probable cause exists, it  
24 | shall direct the department to file a formal complaint against  
25 | the licensee. The department shall follow the directions of  
26 | the probable cause panel regarding the filing of a formal  
27 | complaint. If directed to do so, the department shall file a  
28 | formal complaint against the subject of the investigation and  
29 | prosecute that complaint pursuant to chapter 120. However, the  
30 | department may decide not to prosecute the complaint if it  
31 | finds that probable cause has been improvidently found by the

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1 panel. In such cases, the department shall refer the matter to  
2 the board. The board may then file a formal complaint and  
3 prosecute the complaint pursuant to chapter 120. The  
4 department shall also refer to the board any investigation or  
5 disciplinary proceeding not before the Division of  
6 Administrative Hearings pursuant to chapter 120 or otherwise  
7 completed by the department within 1 year after the filing of  
8 a complaint. The department, for disciplinary cases under its  
9 jurisdiction, must establish a uniform reporting system to  
10 quarterly refer to each board the status of any investigation  
11 or disciplinary proceeding that is not before the Division of  
12 Administrative Hearings or otherwise completed by the  
13 department within 1 year after the filing of the complaint.  
14 Annually, the department, in consultation with the applicable  
15 probable cause panel, if there is no board, or each board must  
16 establish a plan to expedite ~~reduce~~ or otherwise close any  
17 investigation or disciplinary proceeding that is not before  
18 the Division of Administrative Hearings or otherwise completed  
19 by the department within 1 year after the filing of the  
20 complaint. A probable cause panel or a board may retain  
21 independent legal counsel, employ investigators, and continue  
22 the investigation as it deems necessary; all costs thereof  
23 shall be paid from a trust fund used by the department to  
24 implement this chapter. All proceedings of the probable cause  
25 panel are exempt from s. 120.525.

26 (10) The complaint and all information obtained  
27 pursuant to the investigation by the department are  
28 confidential and exempt from s. 119.07(1) until 10 days after  
29 probable cause has been found to exist by the probable cause  
30 panel or by the department, or until the regulated  
31 professional or subject of the investigation waives his or her

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

21 Section 14. Section 456.081, Florida Statutes, is  
22 amended to read:

23 456.081 Publication of information.--The department  
24 and the boards shall have the authority to advise licensees  
25 periodically, through the publication of a newsletter on the  
26 department's website, about information that the department or  
27 the board determines is of interest to the industry. Unless  
28 otherwise prohibited by law, the department and the boards  
29 shall publish a summary of final orders resulting in  
30 disciplinary action ~~finances, suspensions, or revocations,~~ and  
31 any other information the department or the board determines

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1 is of interest to the public.

2 Section 15. Subsections (1), (2), and (4) of section  
3 456.072, Florida Statutes, are amended to read:

4 456.072 Grounds for discipline; penalties;  
5 enforcement.--

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

9 (a) Making misleading, deceptive, or fraudulent  
10 representations in or related to the practice of the  
11 licensee's profession.

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

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

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

22 (e) Failing to comply with the educational course  
23 requirements for human immunodeficiency virus and acquired  
24 immune deficiency syndrome.

25 (f) Having a license or the authority to practice any  
26 regulated profession 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, for a violation that would constitute a  
30 violation under Florida law. The licensing authority's  
31 acceptance of a relinquishment of licensure, stipulation,

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1 consent order, or other settlement, offered in response to or  
2 in anticipation of the filing of charges against the license,  
3 shall be construed as action against the license.

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

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

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

15 (j) Aiding, assisting, procuring, employing, or  
16 advising any unlicensed person or entity to practice a  
17 profession contrary to this chapter, the chapter regulating  
18 the profession, or the rules of the department or the board.

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

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

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

31 (n) Exercising influence on the patient or client for



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1 the purpose of financial gain of the licensee or a third  
2 party.

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

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

13 (q) ~~Violating any provision of this chapter, the~~  
14 ~~applicable professional practice act, a rule of the department~~  
15 ~~or the board, or a lawful order of the department or the~~  
16 board, or failing to comply with a lawfully issued subpoena of  
17 the department.

18 (r) Improperly interfering with an investigation or  
19 inspection authorized by statute, or with any disciplinary  
20 proceeding.

21 (s) Failing to comply with the educational course  
22 requirements for domestic violence.

23 (t) 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 (u) Engaging or attempting to engage in sexual  
28 misconduct as defined and prohibited in s. 456.063(1).

29 (v) Failing to comply with the requirements for  
30 profiling and credentialing, including, but not limited to,  
31 failing to provide initial information, failing to timely

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1 provide updated information, or making misleading, untrue,  
2 deceptive, or fraudulent representations on a profile,  
3 credentialing, or initial or renewal licensure application.

4 (w) Failing to report to the board, or the department  
5 if there is no board, in writing within 30 days after the  
6 licensee has been convicted or found guilty of, or entered a  
7 plea of nolo contendere to, regardless of adjudication, a  
8 crime in any jurisdiction. Convictions, findings,  
9 adjudications, and pleas entered into prior to the enactment  
10 of this paragraph must be reported in writing to the board, or  
11 department if there is no board, on or before October 1, 1999.

12 (x) Using information about people involved in motor  
13 vehicle accidents which has been derived from accident reports  
14 made by law enforcement officers or persons involved in  
15 accidents pursuant to s. 316.066, or using information  
16 published in a newspaper or other news publication or through  
17 a radio or television broadcast that has used information  
18 gained from such reports, for the purposes of commercial or  
19 any other solicitation whatsoever of the people involved in  
20 such accidents.

21 (y) Being unable to practice with reasonable skill and  
22 safety to patients 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 a finding of  
26 the secretary or the secretary's designee that probable cause  
27 exists to believe that the licensee is unable to practice  
28 because of the reasons stated in this paragraph, the authority  
29 to issue an order to compel a licensee to submit to a mental  
30 or physical examination by physicians designated by the  
31 department. If the licensee refuses to comply with such order,

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

10 (z) Testing positive for any drug, as defined in s.  
11 112.0455, on any confirmed preemployment or employer-ordered  
12 drug screening when the practitioner does not have a lawful  
13 prescription and legitimate medical reason for using such  
14 drug.

15 (aa) Violating any provision of this chapter, the  
16 applicable practice act, or any rules adopted pursuant  
17 thereto.

18 (2) When the board, or the department when there is no  
19 board, finds any person guilty of the grounds set forth in  
20 subsection (1) or of any grounds set forth in the applicable  
21 practice act, including conduct constituting a substantial  
22 violation of subsection (1) or a violation of the applicable  
23 practice act which occurred prior to obtaining a license, it  
24 may enter an order imposing one or more of the following  
25 penalties:

26 (a) Refusal to certify, or to certify with  
27 restrictions, an application for a license.

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

29 (c) Restriction of practice or license, including, but  
30 not limited to, restricting the licensee from practicing in  
31 certain settings, restricting the licensee to work only under

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1 designated conditions or in certain settings, restricting the  
2 licensee from performing or providing designated clinical and  
3 administrative services, restricting the licensee from  
4 practicing more than a designated number of hours, or any  
5 other restriction found to be necessary for the protection of  
6 the public health, safety, and welfare.

7 (d) Imposition of an administrative fine not to exceed  
8 \$10,000 for each count or separate offense. If the violation  
9 is for fraud or making a false or fraudulent representation,  
10 the board, or department if there is no board, shall impose a  
11 fine of \$10,000 per count or offense.

12 (e) Issuance of a reprimand or letter of concern.

13 (f) Placement of the licensee on probation for a  
14 period of time and subject to such conditions as the board, or  
15 the department when there is no board, may specify. Those  
16 conditions may include, but are not limited to, requiring the  
17 licensee to undergo treatment, attend continuing education  
18 courses, submit to be reexamined, work under the supervision  
19 of another licensee, or satisfy any terms which are reasonably  
20 tailored to the violations found.

21 (g) Corrective action.

22 (h) Imposition of an administrative fine in accordance  
23 with s. 381.0261 for violations regarding patient rights.

24 (i) Refund of fees billed and collected from the  
25 patient or a third party on behalf of the patient.

26 (j) Requirement that the practitioner undergo remedial  
27 education.

28  
29 In determining what action is appropriate, the board, or  
30 department when there is no board, must first consider what  
31 sanctions are necessary to protect the public or to compensate

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1 the patient. Only after those sanctions have been imposed may  
2 the disciplining authority consider and include in the order  
3 requirements designed to rehabilitate the practitioner. All  
4 costs associated with compliance with orders issued under this  
5 subsection are the obligation of the practitioner.

6 (4) In addition to any other discipline imposed  
7 pursuant to this section or discipline imposed for a violation  
8 of any practice act, the board, or the department when there  
9 is no board, shall ~~may~~ assess costs related to the  
10 investigation and prosecution of the case. In any case where  
11 the board or the department imposes a fine or assessment and  
12 the fine or assessment is not paid within a reasonable time,  
13 such reasonable time to be prescribed in the rules of the  
14 board, or the department when there is no board, or in the  
15 order assessing such fines or costs, the department or the  
16 Department of Legal Affairs may contract for the collection  
17 of, or bring a civil action to recover, the fine or  
18 assessment.

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

21 456.079 Disciplinary guidelines.--

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

30 Section 17. Subsections (1) and (2) of section  
31 457.109, Florida Statutes, are amended to read:

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1           457.109 Disciplinary actions; grounds; action by the  
2 board.--

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) Attempting to obtain, obtaining, or renewing a  
8 license to practice acupuncture by bribery, by fraudulent  
9 misrepresentations, or through an error of the department.

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

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

19           (d) False, deceptive, or misleading advertising or  
20 advertising which claims that acupuncture is useful in curing  
21 any disease.

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

24           (f) Failing to report to the department any person who  
25 the licensee knows is in violation of this chapter or of the  
26 rules of the department.

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

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

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1           (i) 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 acupuncturist.

7           (j) Exercising influence within a  
8 patient-acupuncturist relationship for purposes of engaging a  
9 patient in sexual activity. A patient shall be presumed to be  
10 incapable of giving free, full, and informed consent to sexual  
11 activity with his or her acupuncturist.

12           (k) Making deceptive, untrue, or fraudulent  
13 representations in the practice of acupuncture or employing a  
14 trick or scheme in the practice of acupuncture when such  
15 scheme or trick fails to conform to the generally prevailing  
16 standards of treatment in the community.

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

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

24           (n) Exercising influence on the patient to exploit the  
25 patient for the financial gain of the licensee or of a third  
26 party.

27           (o) Being unable to practice acupuncture with  
28 reasonable skill and safety to patients by reason of illness  
29 or use of alcohol, drugs, narcotics, chemicals, or any other  
30 type of material or as a result of any mental or physical  
31 condition. In enforcing this paragraph, upon a finding of the

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

23 (p) Gross or repeated malpractice or the failure to  
24 practice acupuncture with that level of care, skill, and  
25 treatment which is recognized by a reasonably prudent similar  
26 acupuncturist as being acceptable under similar conditions and  
27 circumstances.

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



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1 (r) 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 (s) ~~Violating any provision of this chapter, a rule of~~  
6 ~~the department, or~~ a lawful order of the board department  
7 previously entered in a disciplinary hearing or failing to  
8 comply with a lawfully issued subpoena of the department.

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

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

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

18 (w) Failing to comply with any rule of the board  
19 relating to health and safety, including, but not limited to,  
20 the sterilization of needles and equipment and the disposal of  
21 potentially infectious materials.

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

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

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

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

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

5           ~~(d) Imposition of an administrative fine not to exceed~~  
6 ~~\$1,000 for each count or separate offense.~~

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

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

11           Section 18. Subsection (6) of section 458.320, Florida  
12 Statutes, is amended to read:

13           458.320 Financial responsibility.--

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

20           Section 19. Subsections (1) and (2) of section  
21 458.331, Florida Statutes, are amended to read:

22           458.331 Grounds for disciplinary action; action by the  
23 board and department.--

24           (1) The following acts ~~shall~~ constitute grounds for  
25 denial of a license or disciplinary action, as specified in s.  
26 456.072(2)~~which the disciplinary actions specified in~~  
27 ~~subsection (2) may be taken:~~

28           (a) Attempting to obtain, obtaining, or renewing a  
29 license to practice medicine by bribery, by fraudulent  
30 misrepresentations, or through an error of the department or  
31 the board.

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

11           (c) Being convicted or found guilty of, or entering a  
12 plea of nolo contendere to, regardless of adjudication, a  
13 crime in any jurisdiction which directly relates to the  
14 practice of medicine or to the ability to practice medicine.

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

16           (e) 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 or the board. A treatment provider  
19 approved pursuant to s. 456.076 shall provide the department  
20 or consultant with information in accordance with the  
21 requirements of s. 456.076(3), (4), (5), and (6).

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

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

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

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

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

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

17 (k) Making deceptive, untrue, or fraudulent  
18 representations in or related to the practice of medicine or  
19 employing a trick or scheme in the practice of medicine.

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

25 (m) Failing to keep legible, as defined by department  
26 rule in consultation with the board, medical records that  
27 identify the licensed physician or the physician extender and  
28 supervising physician by name and professional title who is or  
29 are responsible for rendering, ordering, supervising, or  
30 billing for each diagnostic or treatment procedure and that  
31 justify the course of treatment of the patient, including, but

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1 not limited to, patient histories; examination results; test  
2 results; records of drugs prescribed, dispensed, or  
3 administered; and reports of consultations and  
4 hospitalizations.

5 (n) 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  
8 shall include, but not be limited to, the promoting or selling  
9 of services, goods, appliances, or drugs.

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

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

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

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

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1 another practitioner authorized to prescribe, dispense, or  
2 administer medicinal drugs.

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

27 (t) Gross or repeated malpractice or the failure to  
28 practice medicine with that level of care, skill, and  
29 treatment which is recognized by a reasonably prudent similar  
30 physician as being acceptable under similar conditions and  
31 circumstances. The board shall give great weight to the

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

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

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

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1 procedures, informed consent, and policy and procedure  
2 manuals.

3 (w) 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 qualified  
6 by training, experience, or licensure to perform them.

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

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

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

18 (aa) Presigning blank prescription forms.

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

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

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

31 2. The differential diagnostic psychiatric evaluation



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1 of depression or the treatment of depression shown to be  
2 refractory to other therapeutic modalities; or

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

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

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

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

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

27 (hh) Improperly interfering with an investigation or  
28 with any disciplinary proceeding.

29 (ii) Failing to report to the department any licensee  
30 under this chapter or under chapter 459 who the physician or  
31 physician assistant knows has violated the grounds for

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

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

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

16 (ll) Advertising or holding oneself out as a  
17 board-certified specialist, if not qualified under s.  
18 458.3312, in violation of this chapter.

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

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

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

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1 ~~that would constitute a substantial violation of subsection~~  
2 ~~(1) which occurred prior to licensure, it may enter an order~~  
3 ~~imposing one or more of the following penalties:~~  
4       ~~(a) Refusal to certify, or certification with~~  
5 ~~restrictions, to the department an application for licensure,~~  
6 ~~certification, or registration.~~  
7       ~~(b) Revocation or suspension of a license.~~  
8       ~~(c) Restriction of practice.~~  
9       ~~(d) Imposition of an administrative fine not to exceed~~  
10 ~~\$10,000 for each count or separate offense.~~  
11       ~~(e) Issuance of a reprimand.~~  
12       ~~(f) Placement of the physician on probation for a~~  
13 ~~period of time and subject to such conditions as the board may~~  
14 ~~specify, including, but not limited to, requiring the~~  
15 ~~physician to submit to treatment, to attend continuing~~  
16 ~~education courses, to submit to reexamination, or to work~~  
17 ~~under the supervision of another physician.~~  
18       ~~(g) Issuance of a letter of concern.~~  
19       ~~(h) Corrective action.~~  
20       ~~(i) Refund of fees billed to and collected from the~~  
21 ~~patient.~~  
22       ~~(j) Imposition of an administrative fine in accordance~~  
23 ~~with s. 381.0261 for violations regarding patient rights.~~

24  
25 In determining what action is appropriate, the board must  
26 first consider what sanctions are necessary to protect the  
27 public or to compensate the patient. Only after those  
28 sanctions have been imposed may the disciplining authority  
29 consider and include in the order requirements designed to  
30 rehabilitate the physician. All costs associated with  
31 compliance with orders issued under this subsection are the

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1 obligation of the physician.

2 Section 20. Subsection (2) of section 458.345, Florida  
3 Statutes, is amended to read:

4 458.345 Registration of resident physicians, interns,  
5 and fellows; list of hospital employees; prescribing of  
6 medicinal drugs; penalty.--

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

14 Section 21. Subsection (7) of section 458.347, Florida  
15 Statutes, is amended to read:

16 458.347 Physician assistants.--

17 (7) PHYSICIAN ASSISTANT LICENSURE.--

18 (g) The Board of Medicine may impose any of the  
19 penalties authorized under ~~specified in~~ ss. 456.072 and  
20 458.331(2) upon a physician assistant if the physician  
21 assistant or the supervising physician has been found guilty  
22 of or is being investigated for any act that constitutes a  
23 violation of this chapter or chapter 456.

24 Section 22. Subsection (6) of section 459.0085,  
25 Florida Statutes, is amended to read:

26 459.0085 Financial responsibility.--

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

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1 disciplinary action under ~~as specified in~~ s. 459.015.

2 Section 23. Subsections (1) and (2) of section  
3 459.015, Florida Statutes, are amended to read:

4 459.015 Grounds for disciplinary action; action by the  
5 board and department.--

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

10 (a) Attempting to obtain, obtaining, or renewing a  
11 license to practice osteopathic medicine or a certificate  
12 issued under this chapter by bribery, by fraudulent  
13 misrepresentations, or through an error of the department or  
14 the board.

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

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

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

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1 (e) Failing to report to the department or the  
2 department's impaired professional consultant any person who  
3 the licensee or certificateholder knows is in violation of  
4 this chapter or of the rules of the department or the board.  
5 A treatment provider, approved pursuant to s. 456.076, shall  
6 provide the department or consultant with information in  
7 accordance with the requirements of s. 456.076(3), (4), (5),  
8 and (6).

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

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

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

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

24 (j) Paying or receiving any commission, bonus,  
25 kickback, or rebate, or engaging in any split-fee arrangement  
26 in any form whatsoever with a physician, organization, agency,  
27 person, partnership, firm, corporation, or other business  
28 entity, for patients referred to providers of health care  
29 goods and services, including, but not limited to, hospitals,  
30 nursing homes, clinical laboratories, ambulatory surgical  
31 centers, or pharmacies. The provisions of this paragraph

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1 shall not be construed to prevent an osteopathic physician  
2 from receiving a fee for professional consultation services.

3 (k) Refusing to provide health care based on a  
4 patient's participation in pending or past litigation or  
5 participation in any disciplinary action conducted pursuant to  
6 this chapter, unless such litigation or disciplinary action  
7 directly involves the osteopathic physician requested to  
8 provide services.

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

14 (m) Making deceptive, untrue, or fraudulent  
15 representations in or related to the practice of osteopathic  
16 medicine or employing a trick or scheme in the practice of  
17 osteopathic medicine.

18 (n) Soliciting patients, either personally or through  
19 an agent, through the use of fraud, intimidation, undue  
20 influence, or forms of overreaching or vexatious conduct. A  
21 solicitation is any communication which directly or implicitly  
22 requests an immediate oral response from the recipient.

23 (o) Failing to keep legible, as defined by department  
24 rule in consultation with the board, medical records that  
25 identify the licensed osteopathic physician or the osteopathic  
26 physician extender and supervising osteopathic physician by  
27 name and professional title who is or are responsible for  
28 rendering, ordering, supervising, or billing for each  
29 diagnostic or treatment procedure and that justify the course  
30 of treatment of the patient, including, but not limited to,  
31 patient histories; examination results; test results; records

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1 of drugs prescribed, dispensed, or administered; and reports  
2 of consultations and hospitalizations.

3 (p) Fraudulently altering or destroying records  
4 relating to patient care or treatment, including, but not  
5 limited to, patient histories, examination results, and test  
6 results.

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

12 (r) Promoting or advertising on any prescription form  
13 of a community pharmacy, unless the form shall also state  
14 "This prescription may be filled at any pharmacy of your  
15 choice."

16 (s) Performing professional services which have not  
17 been duly authorized by the patient or client or his or her  
18 legal representative except as provided in s. 743.064, s.  
19 766.103, or s. 768.13.

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



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1           (u) Prescribing or dispensing any medicinal drug  
2 appearing on any schedule set forth in chapter 893 by the  
3 osteopathic physician for himself or herself or administering  
4 any such drug by the osteopathic physician to himself or  
5 herself unless such drug is prescribed for the osteopathic  
6 physician by another practitioner authorized to prescribe  
7 medicinal drugs.

8           (v) Prescribing, ordering, dispensing, administering,  
9 supplying, selling, or giving amygdalin (laetrile) to any  
10 person.

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

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1 opportunity to demonstrate that he or she can resume the  
2 competent practice of medicine with reasonable skill and  
3 safety to patients.

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

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1 circumstances," or any combination thereof, and any  
2 publication by the board shall so specify.

3 (y) Performing any procedure or prescribing any  
4 therapy which, by the prevailing standards of medical practice  
5 in the community, would constitute experimentation on human  
6 subjects, without first obtaining full, informed, and written  
7 consent.

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

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

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

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

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1 from lawfully advertising his or her services.

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

4 (ee) Presigning blank prescription forms.

5 (ff) Prescribing any medicinal drug appearing on  
6 Schedule II in chapter 893 by the osteopathic physician for  
7 office use.

8 (gg) Prescribing, ordering, dispensing, administering,  
9 supplying, selling, or giving any drug which is a Schedule II  
10 amphetamine or Schedule II sympathomimetic amine drug or any  
11 compound thereof, pursuant to chapter 893, to or for any  
12 person except for:

13 1. The treatment of narcolepsy; hyperkinesis;  
14 behavioral syndrome characterized by the developmentally  
15 inappropriate symptoms of moderate to severe distractability,  
16 short attention span, hyperactivity, emotional lability, and  
17 impulsivity; or drug-induced brain dysfunction;

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

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

25 (hh) Failing to supervise adequately the activities of  
26 those physician assistants, paramedics, emergency medical  
27 technicians, advanced registered nurse practitioners, or other  
28 persons acting under the supervision of the osteopathic  
29 physician.

30 (ii) Prescribing, ordering, dispensing, administering,  
31 supplying, selling, or giving growth hormones, testosterone or

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

9 (jj) Misrepresenting or concealing a material fact at  
10 any time during any phase of a licensing or disciplinary  
11 process or procedure.

12 (kk) Improperly interfering with an investigation or  
13 with any disciplinary proceeding.

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

23 (mm) Being found by any court in this state to have  
24 provided corroborating written medical expert opinion attached  
25 to any statutorily required notice of claim or intent or to  
26 any statutorily required response rejecting a claim, without  
27 reasonable investigation.

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

30 (oo) Failing to comply with the requirements of ss.  
31 381.026 and 381.0261 to provide patients with information

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1 about their patient rights and how to file a patient  
2 complaint.

3 (pp) 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, or certify with restrictions,~~  
14 ~~to the department an application for certification, licensure,~~  
15 ~~renewal, or reactivation.~~

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

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

19 ~~(d) Imposition of an administrative fine not to exceed~~  
20 ~~\$10,000 for each count or separate offense.~~

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

22 ~~(f) Issuance of a letter of concern.~~

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

30 ~~(h) Corrective action.~~

31 ~~(i) Refund of fees billed to and collected from the~~

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1 ~~patient.~~

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

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

13 Section 24. Paragraph (f) of subsection (7) of section  
14 459.022, Florida Statutes, is amended to read:

15 459.022 Physician assistants.--

16 (7) PHYSICIAN ASSISTANT LICENSURE.--

17 (f) The Board of Osteopathic Medicine may impose any  
18 of the penalties authorized under ~~specified in~~ ss. 456.072 and  
19 459.015(2) upon a physician assistant if the physician  
20 assistant or the supervising physician has been found guilty  
21 of or is being investigated for any act that constitutes a  
22 violation of this chapter or chapter 456.

23 Section 25. Subsections (1) and (2) of section  
24 460.413, Florida Statutes, are amended to read:

25 460.413 Grounds for disciplinary action; action by  
26 board or department.--

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

31 (a) Attempting to obtain, obtaining, or renewing a

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1 license to practice chiropractic medicine by bribery, by  
2 fraudulent misrepresentations, or through an error of the  
3 department or the board.

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

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

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

15 (e) Causing to be advertised, by any means whatsoever,  
16 any advertisement which does not contain an assertion or  
17 statement which would identify herself or himself as a  
18 chiropractic physician or identify such chiropractic clinic or  
19 related institution in which she or he practices or in which  
20 she or he is owner, in whole or in part, as a chiropractic  
21 institution.

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

24 (g) Failing to report to the department any person who  
25 the licensee knows is in violation of this chapter or of the  
26 rules of the department or the board.

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

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



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1           (j) 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 of a licensed chiropractic  
7 physician.

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

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

17           (m) Failing to keep legibly written chiropractic  
18 medical records that identify clearly by name and credentials  
19 the licensed chiropractic physician rendering, ordering,  
20 supervising, or billing for each examination or treatment  
21 procedure and that justify the course of treatment of the  
22 patient, including, but not limited to, patient histories,  
23 examination results, test results, X rays, and diagnosis of a  
24 disease, condition, or injury. X rays need not be retained  
25 for more than 4 years.

26           (n) Exercising influence on the patient or client in  
27 such a manner as to exploit the patient or client for  
28 financial gain of the licensee or of a third party which shall  
29 include, but not be limited to, the promotion or sale of  
30 services, goods or appliances, or drugs.

31           (o) Performing professional services which have not

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1 been duly authorized by the patient or client or her or his  
2 legal representative except as provided in ss. 743.064,  
3 766.103, and 768.13.

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

7 (q) Being unable to practice chiropractic medicine  
8 with reasonable skill and safety to patients by reason of  
9 illness or use of alcohol, drugs, narcotics, chemicals, or any  
10 other type of material or as a result of any mental or  
11 physical condition. In enforcing this paragraph, upon a  
12 finding by the secretary of the department, or his or her  
13 designee, or the probable cause panel of the board that  
14 probable cause exists to believe that the licensee is unable  
15 to practice the profession because of reasons stated in this  
16 paragraph, the department shall have the authority to compel a  
17 licensee to submit to a mental or physical examination by a  
18 physician designated by the department. If the licensee  
19 refuses to comply with the department's order, the department  
20 may file a petition for enforcement in the circuit court of  
21 the circuit in which the licensee resides or does business.  
22 The department shall be entitled to the summary procedure  
23 provided in s. 51.011. The record of proceedings to obtain a  
24 compelled mental or physical examination shall not be used  
25 against a licensee in any other proceedings. A chiropractic  
26 physician affected under this paragraph shall at reasonable  
27 intervals be afforded an opportunity to demonstrate that she  
28 or he can resume the competent practice of chiropractic  
29 medicine with reasonable skill and safety to patients.

30 (r) Gross or repeated malpractice or the failure to  
31 practice chiropractic medicine at a level of care, skill, and

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1 treatment which is recognized by a reasonably prudent  
2 chiropractic physician as being acceptable under similar  
3 conditions and circumstances. The board shall give great  
4 weight to the standards for malpractice in s. 766.102 in  
5 interpreting this provision. A recommended order by an  
6 administrative law judge, or a final order of the board  
7 finding a violation under this section shall specify whether  
8 the licensee was found to have committed "gross malpractice,"  
9 "repeated malpractice," or "failure to practice chiropractic  
10 medicine with that level of care, skill, and treatment which  
11 is recognized as being acceptable under similar conditions and  
12 circumstances" or any combination thereof, and any publication  
13 by the board shall so specify.

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

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

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

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

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1           (w) Conspiring with another licensee or with any other  
2 person to commit an act, or committing an act, which would  
3 tend to coerce, intimidate, or preclude another licensee from  
4 lawfully advertising her or his services.

5           (x) Submitting to any third-party payor a claim for a  
6 service or treatment which was not actually provided to a  
7 patient.

8           (y) Failing to preserve identity of funds and property  
9 of a patient. As provided by rule of the board, money or other  
10 property entrusted to a chiropractic physician for a specific  
11 purpose, including advances for costs and expenses of  
12 examination or treatment, is to be held in trust and must be  
13 applied only to that purpose. Money and other property of  
14 patients coming into the hands of a chiropractic physician are  
15 not subject to counterclaim or setoff for chiropractic  
16 physician's fees, and a refusal to account for and deliver  
17 over such money and property upon demand shall be deemed a  
18 conversion. This is not to preclude the retention of money or  
19 other property upon which the chiropractic physician has a  
20 valid lien for services or to preclude the payment of agreed  
21 fees from the proceeds of transactions for examinations or  
22 treatments. Controversies as to the amount of the fees are  
23 not grounds for disciplinary proceedings unless the amount  
24 demanded is clearly excessive or extortionate, or the demand  
25 is fraudulent. All funds of patients paid to a chiropractic  
26 physician, other than advances for costs and expenses, shall  
27 be deposited in one or more identifiable bank accounts  
28 maintained in the state in which the chiropractic physician's  
29 office is situated, and no funds belonging to the chiropractic  
30 physician shall be deposited therein except as follows:

31           1. Funds reasonably sufficient to pay bank charges may

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1 be deposited therein.

2           2. Funds belonging in part to a patient and in part  
3 presently or potentially to the physician must be deposited  
4 therein, but the portion belonging to the physician may be  
5 withdrawn when due unless the right of the physician to  
6 receive it is disputed by the patient, in which event the  
7 disputed portion shall not be withdrawn until the dispute is  
8 finally resolved.

9  
10 Every chiropractic physician shall maintain complete records  
11 of all funds, securities, and other properties of a patient  
12 coming into the possession of the physician and render  
13 appropriate accounts to the patient regarding them. In  
14 addition, every chiropractic physician shall promptly pay or  
15 deliver to the patient, as requested by the patient, the  
16 funds, securities, or other properties in the possession of  
17 the physician which the patient is entitled to receive.

18           (z) Offering to accept or accepting payment for  
19 services rendered by assignment from any third-party payor  
20 after offering to accept or accepting whatever the third-party  
21 payor covers as payment in full, if the effect of the offering  
22 or acceptance is to eliminate or give the impression of  
23 eliminating the need for payment by an insured of any required  
24 deductions applicable in the policy of the insured.

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

28           (bb) Advertising a fee or charge for a service or  
29 treatment which is different from the fee or charge the  
30 licensee submits to third-party payors for that service or  
31 treatment.

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1           (cc) Advertising any reduced or discounted fees for  
2 services or treatments, or advertising any free services or  
3 treatments, without prominently stating in the advertisement  
4 the usual fee of the licensee for the service or treatment  
5 which is the subject of the discount, rebate, or free  
6 offering.

7           (dd) Using acupuncture without being certified  
8 pursuant to s. 460.403(9)(f).

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

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

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

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

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

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

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- 1           ~~(d) Imposition of an administrative fine not to exceed~~  
2 ~~\$10,000 for each count or separate offense.~~
- 3           ~~(e) Issuance of a reprimand.~~
- 4           ~~(f) Placement of the chiropractic physician on~~  
5 ~~probation for a period of time and subject to such conditions~~  
6 ~~as the board may specify, including requiring the chiropractic~~  
7 ~~physician to submit to treatment, to attend continuing~~  
8 ~~education courses, to submit to reexamination, or to work~~  
9 ~~under the supervision of another chiropractic physician.~~
- 10           ~~(g) Imposition of costs of the investigation and~~  
11 ~~prosecution.~~
- 12           ~~(h) Requirement that the chiropractic physician~~  
13 ~~undergo remedial education.~~
- 14           ~~(i) Issuance of a letter of concern.~~
- 15           ~~(j) Corrective action.~~
- 16           ~~(k) Refund of fees billed to and collected from the~~  
17 ~~patient or a third party.~~

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 chiropractic physician. All costs associated  
25 with compliance with orders issued under this subsection are  
26 the obligation of the chiropractic physician.

27           Section 26. Subsections (1) and (2) of section  
28 461.013, Florida Statutes, are amended to read:

29           461.013 Grounds for disciplinary action; action by the  
30 board; investigations by department.--

31           (1) The following acts ~~shall~~ constitute grounds for

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1 denial of a license or disciplinary action, as specified in s.  
2 456.072(2) which the disciplinary actions specified in  
3 subsection (2) may be taken:  
4       (a) Attempting to obtain, obtaining, or renewing a  
5 license to practice podiatric medicine by bribery, by  
6 fraudulent misrepresentations, or through an error of the  
7 department or the board.  
8       (b) Having a license to practice podiatric medicine  
9 revoked, suspended, or otherwise acted against, including the  
10 denial of licensure, by the licensing authority of another  
11 state, territory, or country.  
12       (c) Being convicted or found guilty, regardless of  
13 adjudication, of a crime in any jurisdiction which directly  
14 relates to the practice of podiatric medicine or to the  
15 ability to practice podiatric medicine. Any plea of nolo  
16 contendere shall be considered a conviction for purposes of  
17 this chapter.  
18       (d) False, deceptive, or misleading advertising.  
19       (e) Advertising, practicing, or attempting to practice  
20 under a name other than one's own.  
21       (f) Failing to report to the department any person who  
22 the licensee knows is in violation of this chapter or of the  
23 rules of the department or the board.  
24       (g) Aiding, assisting, procuring, permitting, or  
25 advising any unlicensed person to practice podiatric medicine  
26 contrary to this chapter or to rule of the department or the  
27 board.  
28       (h) Failing to perform any statutory or legal  
29 obligation placed upon a licensed podiatric physician.  
30       (i) Making or filing a report which the licensee knows  
31 to be false, intentionally or negligently failing to file a



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1 report or record required by state or federal law, willfully  
2 impeding or obstructing such filing or inducing another person  
3 to do so. Such report or records shall include only those  
4 which are signed in the capacity of a licensed podiatric  
5 physician.

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

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

15 (l) Failing to keep written medical records justifying  
16 the course of treatment of the patient, including, but not  
17 limited to, patient histories, examination results, and test  
18 results.

19 (m) Exercising influence on the patient or client in  
20 such a manner as to exploit the patient or client for  
21 financial gain of the licensee or of a third party which shall  
22 include, but not be limited to, the promotion or sale of  
23 services, goods, appliances, or drugs and the promoting or  
24 advertising on any prescription form of a community pharmacy  
25 unless the form shall also state "This prescription may be  
26 filled at any pharmacy of your choice."

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

31 (o) Prescribing, dispensing, administering, mixing, or

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

11 (p) Prescribing, dispensing, or administering any  
12 medicinal drug appearing on any schedule set forth in chapter  
13 893 by the podiatric physician to herself or himself except  
14 those prescribed, dispensed, or administered to the podiatric  
15 physician by another practitioner authorized to prescribe,  
16 dispense, or administer them.

17 (q) Prescribing, ordering, dispensing, administering,  
18 supplying, selling, or giving any amphetamine or  
19 sympathomimetic amine drug or compound designated as a  
20 Schedule II controlled substance pursuant to chapter 893.

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

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1 circumstances beyond her or his control, consequent upon which  
2 a default and final order may be entered without the taking of  
3 testimony or presentation of evidence. A podiatric physician  
4 affected under this paragraph shall at reasonable intervals be  
5 afforded an opportunity to demonstrate that she or he can  
6 resume the competent practice of podiatric medicine with  
7 reasonable skill and safety to patients.

8 (s) Gross or repeated malpractice or the failure to  
9 practice podiatric medicine at a level of care, skill, and  
10 treatment which is recognized by a reasonably prudent  
11 podiatric physician as being acceptable under similar  
12 conditions and circumstances. The board shall give great  
13 weight to the standards for malpractice in s. 766.102 in  
14 interpreting this section. As used in this paragraph,  
15 "repeated malpractice" includes, but is not limited to, three  
16 or more claims for medical malpractice within the previous  
17 5-year period resulting in indemnities being paid in excess of  
18 \$10,000 each to the claimant in a judgment or settlement and  
19 which incidents involved negligent conduct by the podiatric  
20 physicians. As used in this paragraph, "gross malpractice" or  
21 "the failure to practice podiatric medicine with the level of  
22 care, skill, and treatment which is recognized by a reasonably  
23 prudent similar podiatric physician as being acceptable under  
24 similar conditions and circumstances" shall not be construed  
25 so as to require more than one instance, event, or act.

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

31 (u) Practicing or offering to practice beyond the

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

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

8 (w) ~~Violating any provision of this chapter or chapter~~  
9 ~~456, any rule of the board or department, or a lawful order of~~  
10 ~~the board or department previously entered in a disciplinary~~  
11 ~~hearing or failing to comply with a lawfully issued subpoena~~  
12 ~~of the board or department.~~

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

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

27 (z) Fraud, deceit, or misconduct in the practice of  
28 podiatric medicine.

29 (aa) Failing to report to the department any licensee  
30 under chapter 458 or chapter 459 who the podiatric physician  
31 knows has violated the grounds for disciplinary action set out

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

6 (bb) Failing to comply with the requirements of ss.  
7 381.026 and 381.0261 to provide patients with information  
8 about their patient rights and how to file a patient  
9 complaint.

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

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

20 ~~(a) Refusal to certify to the department an~~  
21 ~~application for licensure.~~

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

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

24 ~~(d) Imposition of an administrative fine not to exceed~~  
25 ~~\$10,000 for each count or separate offense.~~

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

27 ~~(f) Placing the podiatric physician on probation for a~~  
28 ~~period of time and subject to such conditions as the board may~~  
29 ~~specify, including requiring the podiatric physician to submit~~  
30 ~~to treatment, to attend continuing education courses, to~~  
31 ~~submit to reexamination, and to work under the supervision of~~

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1 ~~another podiatric physician.~~

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

4 Section 27. Subsections (1) and (2) of section 462.14,  
5 Florida Statutes, are amended to read:

6 462.14 Grounds for disciplinary action; action by the  
7 department.--

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

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

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

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

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

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

29 (f) Failing to report to the department any person who  
30 the licensee knows is in violation of this chapter or of the  
31 rules of the department.

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1           (g) Aiding, assisting, procuring, or advising any  
2 unlicensed person to practice naturopathic medicine contrary  
3 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 naturopathic physician.

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 naturopathic  
12 physician.

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

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

28           (l) Making deceptive, untrue, or fraudulent  
29 representations in the practice of naturopathic medicine or  
30 employing a trick or scheme in the practice of naturopathic  
31 medicine when such scheme or trick fails to conform to the

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1 generally prevailing standards of treatment in the medical  
2 community.

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

9 (n) Failing to keep written medical records justifying  
10 the course of treatment of the patient, including, but not  
11 limited to, patient histories, examination results, test  
12 results, X rays, and records of the prescribing, dispensing  
13 and administering of drugs.

14 (o) Exercising influence on the patient or client in  
15 such a manner as to exploit the patient or client for the  
16 financial gain of the licensee or of a third party, which  
17 shall include, but not be limited to, the promoting or selling  
18 of services, goods, appliances, or drugs and the promoting or  
19 advertising on any prescription form of a community pharmacy  
20 unless the form also states "This prescription may be filled  
21 at any pharmacy of your choice."

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

26 (q) Prescribing, dispensing, administering, mixing, or  
27 otherwise preparing a legend drug, including any controlled  
28 substance, other than in the course of the naturopathic  
29 physician's professional practice. For the purposes of this  
30 paragraph, it shall be legally presumed that prescribing,  
31 dispensing, administering, mixing, or otherwise preparing



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1 legend drugs, including all controlled substances,  
2 inappropriately or in excessive or inappropriate quantities is  
3 not in the best interest of the patient and is not in the  
4 course of the naturopathic physician's professional practice,  
5 without regard to her or his intent.

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

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

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1 entered by the department may be used against a naturopathic  
2 physician in any other proceeding.

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

9 (u) Performing any procedure or prescribing any  
10 therapy which, by the prevailing standards of medical practice  
11 in the community, constitutes experimentation on a human  
12 subject, without first obtaining full, informed, and written  
13 consent.

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

18 (w) 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 qualified  
21 by training, experience, or licensure to perform them.

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

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

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

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- 1           (aa) Presigning blank prescription forms.
- 2           (bb) Prescribing by the naturopathic physician for  
3 office use any medicinal drug appearing on Schedule II in  
4 chapter 893.
- 5           (cc) Prescribing, ordering, dispensing, administering,  
6 supplying, selling, or giving any drug which is an amphetamine  
7 or sympathomimetic amine drug, or a compound designated  
8 pursuant to chapter 893 as a Schedule II controlled substance  
9 to or for any person except for:
- 10           1. The treatment of narcolepsy; hyperkinesis;  
11 behavioral syndrome in children characterized by the  
12 developmentally inappropriate symptoms of moderate to severe  
13 distractability, short attention span, hyperactivity,  
14 emotional lability, and impulsivity; or drug-induced brain  
15 dysfunction.
- 16           2. The differential diagnostic psychiatric evaluation  
17 of depression or the treatment of depression shown to be  
18 refractory to other therapeutic modalities.
- 19           3. The clinical investigation of the effects of such  
20 drugs or compounds when an investigative protocol therefor is  
21 submitted to, reviewed, and approved by the department before  
22 such investigation is begun.
- 23           (dd) Prescribing, ordering, dispensing, administering,  
24 supplying, selling, or giving growth hormones, testosterone or  
25 its analogs, human chorionic gonadotropin (HCG), or other  
26 hormones for the purpose of muscle building or to enhance  
27 athletic performance. For the purposes of this subsection, the  
28 term "muscle building" does not include the treatment of  
29 injured muscle. A prescription written for the drug products  
30 listed above may be dispensed by the pharmacist with the  
31 presumption that the prescription is for legitimate medical

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1 use.

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

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

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

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

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

16 ~~(d) Imposition of an administrative fine not to exceed~~  
17 ~~\$1,000 for each count or separate offense.~~

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

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

26 Section 28. Subsections (1) and (2) of section  
27 463.016, Florida Statutes, are amended to read:

28 463.016 Grounds for disciplinary action; action by the  
29 board.--

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

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

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

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

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

13 (d) Being convicted or found guilty, regardless of  
14 adjudication, of a crime in any jurisdiction which directly  
15 relates to the practice of optometry or to the ability to  
16 practice optometry. Any plea of nolo contendere shall be  
17 considered a conviction for the purposes of this chapter.

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 do so. Such reports or records  
23 shall include only those which are signed by the licensee in  
24 her or his capacity as a licensed practitioner.

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

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

30 (h) A violation or repeated violations of provisions  
31 of this chapter, or of chapter 456, and any rules promulgated

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1 pursuant thereto.

2 (i) Conspiring with another licensee or with any  
3 person to commit an act, or committing an act, which would  
4 coerce, intimidate, or preclude another licensee from lawfully  
5 advertising her or his services.

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

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

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

13 (m) Gross or repeated malpractice.

14 (n) Practicing with a revoked, suspended, inactive, or  
15 delinquent license.

16 (o) Being unable to practice optometry with reasonable  
17 skill and safety to patients by reason of illness or use of  
18 alcohol, drugs, narcotics, chemicals, or any other type of  
19 material or as a result of any mental or physical condition.  
20 A licensed practitioner affected under this paragraph shall at  
21 reasonable intervals be afforded an opportunity to demonstrate  
22 that she or he can resume the competent practice of optometry  
23 with reasonable skill and safety to patients.

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

27 (q) Violating any provision of s. 463.014 or s.  
28 463.015.

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

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1 or department.

2 (s) Practicing or offering to practice beyond the  
3 scope permitted by law or accepting and performing  
4 professional responsibilities which the licensed practitioner  
5 knows or has reason to know she or he is not competent to  
6 perform.

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

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

16 ~~(a) Refusal to certify to the department an~~  
17 ~~application for licensure.~~

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

19 ~~(c) Imposition of an administrative fine not to exceed~~  
20 ~~\$5,000 for each count or separate offense.~~

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

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

28 Section 29. Subsections (1) and (2) of section  
29 464.018, Florida Statutes, are amended to read:

30 464.018 Disciplinary actions.--

31 (1) The following acts constitute ~~shall be~~ grounds for

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- 1 denial of a license or disciplinary action, as specified in s.  
2 456.072(2)disciplinary action set forth in this section:
- 3       (a) Procuring, attempting to procure, or renewing a  
4 license to practice nursing by bribery, by knowing  
5 misrepresentations, or through an error of the department or  
6 the board.
- 7       (b) Having a license to practice nursing revoked,  
8 suspended, or otherwise acted against, including the denial of  
9 licensure, by the licensing authority of another state,  
10 territory, or country.
- 11       (c) Being convicted or found guilty of, or entering a  
12 plea of nolo contendere to, regardless of adjudication, a  
13 crime in any jurisdiction which directly relates to the  
14 practice of nursing or to the ability to practice nursing.
- 15       (d) Being found guilty, regardless of adjudication, of  
16 any of the following offenses:
- 17           1. A forcible felony as defined in chapter 776.  
18           2. A violation of chapter 812, relating to theft,  
19 robbery, and related crimes.
- 20           3. A violation of chapter 817, relating to fraudulent  
21 practices.
- 22           4. A violation of chapter 800, relating to lewdness  
23 and indecent exposure.
- 24           5. A violation of chapter 784, relating to assault,  
25 battery, and culpable negligence.
- 26           6. A violation of chapter 827, relating to child  
27 abuse.
- 28           7. A violation of chapter 415, relating to protection  
29 from abuse, neglect, and exploitation.
- 30           8. A violation of chapter 39, relating to child abuse,  
31 abandonment, and neglect.



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1           (e) Having been found guilty of, regardless of  
2 adjudication, or entered a plea of nolo contendere or guilty  
3 to, any offense prohibited under s. 435.03 or under any  
4 similar statute of another jurisdiction; or having committed  
5 an act which constitutes domestic violence as defined in s.  
6 741.28.

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

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

15           (h) Unprofessional conduct, which shall include, but  
16 not be limited to, any departure from, or the failure to  
17 conform to, the minimal standards of acceptable and prevailing  
18 nursing practice, in which case actual injury need not be  
19 established.

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

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

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

16 (k) Failing to report to the department any person who  
17 the licensee knows is in violation of this part or of the  
18 rules of the department or the board; however, if the licensee  
19 verifies that such person is actively participating in a  
20 board-approved program for the treatment of a physical or  
21 mental condition, the licensee is required to report such  
22 person only to an impaired professionals consultant.

23 (l) Knowingly violating any provision of this part, a  
24 rule of the board or the department, or a lawful order of the  
25 board or department previously entered in a disciplinary  
26 proceeding or failing to comply with a lawfully issued  
27 subpoena of the department.

28 (m) Failing to report to the department any licensee  
29 under chapter 458 or under chapter 459 who the nurse knows has  
30 violated the grounds for disciplinary action set out in the  
31 law under which that person is licensed and who provides

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1 health care services in a facility licensed under chapter 395,  
2 or a health maintenance organization certificated under part I  
3 of chapter 641, in which the nurse also provides services.

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

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

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

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

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

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

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

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

23 ~~(g) Placement of the nurse on probation for a period~~  
24 ~~of time and subject to such conditions as the board may~~  
25 ~~specify, including requiring the nurse to submit to treatment,~~  
26 ~~to attend continuing education courses, to take an~~  
27 ~~examination, or to work under the supervision of another~~  
28 ~~nurse.~~

29 Section 30. Subsection (3) of section 465.008, Florida  
30 Statutes, is amended to read:

31 465.008 Renewal of license.--

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

4           Section 31. Subsections (1) and (2) of section  
5 465.016, Florida Statutes, are amended to read:

6           465.016 Disciplinary actions.--

7           (1) The following acts constitute ~~shall be~~ grounds for  
8 denial of a license or disciplinary action, as specified in s.  
9 456.072(2)disciplinary action set forth in this section:

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

12           (b) Procuring or attempting to procure a license for  
13 any other person by making or causing to be made any false  
14 representation.

15           (c) Permitting any person not licensed as a pharmacist  
16 in this state or not registered as an intern in this state, or  
17 permitting a registered intern who is not acting under the  
18 direct and immediate personal supervision of a licensed  
19 pharmacist, to fill, compound, or dispense any prescriptions  
20 in a pharmacy owned and operated by such pharmacist or in a  
21 pharmacy where such pharmacist is employed or on duty.

22           (d) Being unfit or incompetent to practice pharmacy by  
23 reason of:

24           1. Habitual intoxication.

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

27           3. Any abnormal physical or mental condition which  
28 threatens the safety of persons to whom she or he might sell  
29 or dispense prescriptions, drugs, or medical supplies or for  
30 whom she or he might manufacture, prepare, or package, or  
31 supervise the manufacturing, preparation, or packaging of,

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1 prescriptions, drugs, or medical supplies.

2 (e) ~~Violating any of the requirements of this chapter,~~  
3 ~~or if licensed as a practitioner in this or any other state,~~  
4 ~~violating any of the requirements of their respective practice~~  
5 ~~act or violating chapter 499; 21 U.S.C. ss. 301-392, known as~~  
6 ~~the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et~~  
7 ~~seq., known as the Comprehensive Drug Abuse Prevention and~~  
8 ~~Control Act; or chapter 893.~~

9 (f) Having been convicted or found guilty, regardless  
10 of adjudication, in a court of this state or other  
11 jurisdiction, of a crime which directly relates to the ability  
12 to practice pharmacy or to the practice of pharmacy. A plea  
13 of nolo contendere constitutes a conviction for purposes of  
14 this provision.

15 (g) Using in the compounding of a prescription, or  
16 furnishing upon prescription, an ingredient or article  
17 different in any manner from the ingredient or article  
18 prescribed, except as authorized in s. 465.019(6) or s.  
19 465.025.

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

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

31 (j) Making or filing a report or record which the

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1 licensee knows to be false, intentionally or negligently  
2 failing to file a report or record required by federal or  
3 state law, willfully impeding or obstructing such filing, or  
4 inducing another person to do so. Such reports or records  
5 include only those which the licensee is required to make or  
6 file in her or his capacity as a licensed pharmacist.

7 (k) Failing to make prescription fee or price  
8 information readily available by failing to provide such  
9 information upon request and upon the presentation of a  
10 prescription for pricing or dispensing. Nothing in this  
11 section shall be construed to prohibit the quotation of price  
12 information on a prescription drug to a potential consumer by  
13 telephone.

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

26 (m) Being unable to practice pharmacy with reasonable  
27 skill and safety by reason of illness, use of drugs,  
28 narcotics, chemicals, or any other type of material or as a  
29 result of any mental or physical condition. A pharmacist  
30 affected under this paragraph shall at reasonable intervals be  
31 afforded an opportunity to demonstrate that she or he can

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1 resume the competent practice of pharmacy with reasonable  
2 skill and safety to her or his customers.

3 (n) Violating a rule of the board or department or  
4 violating an order of the board or department previously  
5 entered in a disciplinary hearing.

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

14 (p) Failing to notify the Board of Pharmacy in writing  
15 within 20 days of the commencement or cessation of the  
16 practice of the profession of pharmacy in Florida when such  
17 commencement or cessation of the practice of the profession of  
18 pharmacy in Florida was a result of a pending or completed  
19 disciplinary action or investigation in another jurisdiction.

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

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

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

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

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

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

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

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

13           Section 32. Subsections (1) and (2) of section  
14 466.028, Florida Statutes, are amended to read:

15           466.028 Grounds for disciplinary action; action by the  
16 board.--

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

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

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

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



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1 dentistry or dental hygiene. A plea of nolo contendere shall  
2 create a rebuttable presumption of guilt to the underlying  
3 criminal charges.

4 (d) Advertising goods or services in a manner which is  
5 fraudulent, false, deceptive, or misleading in form or content  
6 contrary to s. 466.019 or rules of the board adopted pursuant  
7 thereto.

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

10 (f) Failing to report to the department any person who  
11 the licensee knows, or has reason to believe, is clearly in  
12 violation of this chapter or of the rules of the department or  
13 the board.

14 (g) Aiding, assisting, procuring, or advising any  
15 unlicensed person to practice dentistry or dental hygiene  
16 contrary to this chapter or to a rule of the department or the  
17 board.

18 (h) Being employed by any corporation, organization,  
19 group, or person other than a dentist or a professional  
20 corporation or limited liability company composed of dentists  
21 to practice dentistry.

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

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

30 (k) Committing any act which would constitute sexual  
31 battery, as defined in chapter 794, upon a patient or

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1 intentionally touching the sexual organ of a patient.

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

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

8 (n) Failing to make available to a patient or client,  
9 or to her or his legal representative or to the department if  
10 authorized in writing by the patient, copies of documents in  
11 the possession or under control of the licensee which relate  
12 to the patient or client.

13 (o) 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. 766.103 and  
16 768.13.

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

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

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1 dentist by another practitioner authorized to prescribe them.

2 (r) Prescribing, procuring, ordering, dispensing,  
3 administering, supplying, selling, or giving any drug which is  
4 a Schedule II amphetamine or a Schedule II sympathomimetic  
5 amine drug or a compound thereof, pursuant to chapter 893, to  
6 or for any person except for the clinical investigation of the  
7 effects of such drugs or compounds when an investigative  
8 protocol therefor is submitted to, and reviewed and approved  
9 by, the board before such investigation is begun.

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

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1 competent practice of her or his profession with reasonable  
2 skill and safety to patients.

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

5 (u) Failure to provide and maintain reasonable  
6 sanitary facilities and conditions.

7 (v) Failure to provide adequate radiation safeguards.

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

13 (x) Being guilty of incompetence or negligence by  
14 failing to meet the minimum standards of performance in  
15 diagnosis and treatment when measured against generally  
16 prevailing peer performance, including, but not limited to,  
17 the undertaking of diagnosis and treatment for which the  
18 dentist is not qualified by training or experience or being  
19 guilty of dental malpractice. For purposes of this paragraph,  
20 it shall be legally presumed that a dentist is not guilty of  
21 incompetence or negligence by declining to treat an individual  
22 if, in the dentist's professional judgment, the dentist or a  
23 member of her or his clinical staff is not qualified by  
24 training and experience, or the dentist's treatment facility  
25 is not clinically satisfactory or properly equipped to treat  
26 the unique characteristics and health status of the dental  
27 patient, provided the dentist refers the patient to a  
28 qualified dentist or facility for appropriate treatment. As  
29 used in this paragraph, "dental malpractice" includes, but is  
30 not limited to, three or more claims within the previous  
31 5-year period which resulted in indemnity being paid, or any

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1 single indemnity paid in excess of \$5,000 in a judgment or  
2 settlement, as a result of negligent conduct on the part of  
3 the dentist.

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

8 (z) Delegating professional responsibilities to a  
9 person who is not qualified by training, experience, or  
10 licensure to perform them.

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

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

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

24 (dd) Presigning blank prescription or laboratory work  
25 order forms.

26 (ee) Prescribing, ordering, dispensing, administering,  
27 supplying, selling, or giving growth hormones, testosterone or  
28 its analogs, human chorionic gonadotropin (HCG), or other  
29 hormones for the purpose of muscle building or to enhance  
30 athletic performance. For the purposes of this subsection, the  
31 term "muscle building" does not include the treatment of

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1 injured muscle. A prescription written for the drug products  
2 listed above may be dispensed by the pharmacist with the  
3 presumption that the prescription is for legitimate medical  
4 use.

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

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

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

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

25 (jj) Advertising specialty services in violation of  
26 this chapter.

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

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1 To direct, control, or interfere with a dentist's clinical  
2 judgment may not be interpreted to mean dental services  
3 contractually excluded, the application of alternative  
4 benefits that may be appropriate given the dentist's  
5 prescribed course of treatment, or the application of  
6 contractual provisions and scope of coverage determinations in  
7 comparison with a dentist's prescribed treatment on behalf of  
8 a covered person by an insurer, health maintenance  
9 organization, or a prepaid limited health service  
10 organization.

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

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

18 ~~456.072(1).When the board finds any applicant or licensee~~  
19 ~~guilty of any of the grounds set forth in subsection (1), it~~  
20 ~~may enter an order imposing one or more of the following~~  
21 ~~penalties:~~

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

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

24 ~~(c) Imposition of an administrative fine not to exceed~~  
25 ~~\$3,000 for each count or separate offense.~~

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

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

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1 ~~another licensee.~~

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

3 Section 33. Section 466.037, Florida Statutes, is  
4 amended to read:

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

12 Section 34. Subsections (1) and (2) of section  
13 467.203, Florida Statutes, are amended to read:

14 467.203 Disciplinary actions; penalties.--

15 (1) The following acts constitute ~~shall be~~ grounds for  
16 denial of a license or disciplinary action, as specified in s.  
17 456.072(2)disciplinary action as set forth in this section:

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

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

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

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



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

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

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

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

20 (h) 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.

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

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

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

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

19       Section 35. Subsections (1) and (2) of section  
20 468.1295, Florida Statutes, are amended to read:

21       468.1295 Disciplinary proceedings.--

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

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

30       (b) Having a license revoked, suspended, or otherwise  
31 acted against, including denial of licensure, by the licensing

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1 authority of another state, territory, or country.

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

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

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

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

20 (g) Violating a lawful order of the board or  
21 department previously entered in a disciplinary hearing, or  
22 failing to comply with a lawfully issued subpoena of the board  
23 or department.

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

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

31 (j) Showing or demonstrating or, in the event of sale,

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1 delivery of a product unusable or impractical for the purpose  
2 represented or implied by such action.

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

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

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

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

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

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

30 (p)~~(q)~~ Stating or implying that the use of any hearing  
31 aid will improve or preserve hearing or prevent or retard the

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1 progression of a hearing impairment or that it will have any  
2 similar or opposite effect.

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

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

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

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

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

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

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

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

30 (y)~~(z)~~ Delegating or contracting for the performance  
31 of professional responsibilities by a person when the licensee

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1 delegating or contracting for performance of such  
2 responsibilities knows, or has reason to know, such person is  
3 not qualified by training, experience, and authorization to  
4 perform them.

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

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

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1 competent practice for which he or she is licensed or  
2 certified with reasonable skill and safety to patients.

3 (bb) 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 acts set forth in subsection (1), it may issue an order~~  
12 ~~imposing one or more of the following penalties:~~

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

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

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

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

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

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

28 ~~(g) Corrective action.~~

29 Section 36. Subsections (1) and (2) of section  
30 468.1755, Florida Statutes, are amended to read:

31 468.1755 Disciplinary proceedings.--

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

5           (a) Violation of any provision of s. 456.072(1) or s.  
6 468.1745(1).

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

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

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

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

28           (f) Authorizing the discharge or transfer of a  
29 resident for a reason other than those provided in ss. 400.022  
30 and 400.0255.

31           (g) Advertising goods or services in a manner which is



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1 fraudulent, false, deceptive, or misleading in form or  
2 content.

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

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

7 (i)~~(j)~~ Violation of a lawful order of the board or  
8 department previously entered in a disciplinary hearing or  
9 failing to comply with a lawfully issued subpoena of the board  
10 or department.

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

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

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

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1 The licensee against whom the petition is filed shall not be  
2 named or identified by initials in any public court records or  
3 documents, and the proceedings shall be closed to the public.  
4 The department shall be entitled to the summary procedure  
5 provided in s. 51.011. A licensee affected under this  
6 paragraph shall have the opportunity, at reasonable intervals,  
7 to demonstrate that he or she can resume the competent  
8 practice of nursing home administration with reasonable skill  
9 and safety to patients.

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

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

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

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

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

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

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1 ~~administrator guilty of any of the grounds set forth in~~  
2 ~~subsection (1), it may enter an order imposing one or more of~~  
3 ~~the following penalties:~~  
4 ~~(a) Denial of an application for licensure.~~  
5 ~~(b) Revocation or suspension of a license.~~  
6 ~~(c) Imposition of an administrative fine not to exceed~~  
7 ~~\$1,000 for each count or separate offense.~~  
8 ~~(d) Issuance of a reprimand.~~  
9 ~~(e) Placement of the licensee on probation for a~~  
10 ~~period of time and subject to such conditions as the board may~~  
11 ~~specify, including requiring the licensee to attend continuing~~  
12 ~~education courses or to work under the supervision of another~~  
13 ~~licensee.~~  
14 ~~(f) Restriction of the authorized scope of practice.~~

15 Section 37. Section 468.217, Florida Statutes, is  
16 amended to read:

17 468.217 Denial of or refusal to renew license;  
18 suspension and revocation of license and other disciplinary  
19 measures.--

20 (1) The following acts constitute grounds for denial  
21 of a license or disciplinary action, as specified in s.  
22 456.072(2)~~The board may deny or refuse to renew a license,~~  
23 ~~suspend or revoke a license, issue a reprimand, impose a fine,~~  
24 ~~or impose probationary conditions upon a licensee, when the~~  
25 ~~licensee or applicant for license has been guilty of~~  
26 ~~unprofessional conduct which has endangered, or is likely to~~  
27 ~~endanger, the health, welfare, or safety of the public. Such~~  
28 ~~unprofessional conduct includes:~~

29 (a) Attempting to obtain, obtaining, or renewing a  
30 license to practice occupational therapy by bribery, by  
31 fraudulent misrepresentation, or through an error of the

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1 department or the board.

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

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

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

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

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

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

21 (h) Failing to perform any statutory or legal  
22 obligation placed upon a licensed occupational therapist or  
23 occupational therapy assistant.

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 include only those which  
29 are signed in the capacity as a licensed occupational  
30 therapist or occupational therapy assistant.

31 (j) Paying or receiving any commission, bonus,

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

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

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

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

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

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

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

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

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

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

23           (t) Being unable to practice occupational therapy 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 have, upon probable cause, authority to compel an occupational  
29 therapist or occupational therapy assistant to submit to a  
30 mental or physical examination by physicians designated by the  
31 department. The failure of an occupational therapist or

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

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

20 (v) ~~Violating any provision of this part, 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 (w) Conspiring with another licensee or with any other  
26 person to commit an act, or committing an act, which would  
27 tend to coerce, intimidate, or preclude another licensee from  
28 lawfully advertising his or her services.

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

31 (2) The board may enter an order denying licensure or

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1 imposing any of the penalties in s. 456.072(2) against any  
2 applicant for licensure or licensee who is found guilty of  
3 violating any provision of subsection (1) of this section or  
4 who is found guilty of violating any provision of s.  
5 456.072(1).

6 ~~(3)(2)~~ The board may not reinstate the license of an  
7 occupational therapist or occupational therapy assistant, or  
8 cause a license to be issued to a person it has deemed  
9 unqualified, until such time as the board is satisfied that  
10 such person has complied with all the terms and conditions set  
11 forth in the final order and is capable of safely engaging in  
12 the practice of occupational therapy.

13 Section 38. Subsections (1) and (2) of section  
14 468.365, Florida Statutes, are amended to read:

15 468.365 Disciplinary grounds and actions.--

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

20 (a) Procuring, attempting to procure, or renewing a  
21 license as provided by this part by bribery, by fraudulent  
22 misrepresentation, or through an error of the department or  
23 the board.

24 (b) Having licensure, certification, registration, or  
25 other authority, by whatever name known, to deliver  
26 respiratory care services revoked, suspended, or otherwise  
27 acted against, including the denial of licensure,  
28 certification, registration, or other authority to deliver  
29 respiratory care services by the licensing authority of  
30 another state, territory, or country.

31 (c) Being convicted or found guilty of, or entering a



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1 plea of nolo contendere to, regardless of adjudication, a  
2 crime in any jurisdiction which directly relates to  
3 respiratory care services or to the ability to deliver such  
4 services.

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

12 (e) Circulating false, misleading, or deceptive  
13 advertising.

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

19 (g) Engaging or attempting to engage in the  
20 possession, sale, or distribution of controlled substances, as  
21 set forth by law, for any purpose other than a legitimate  
22 purpose.

23 (h) Willfully failing to report any violation of this  
24 part.

25 ~~(i) Willfully or repeatedly Violating a rule of the~~  
26 ~~board or the department or a lawful order of the board or~~  
27 ~~department previously entered in a disciplinary hearing.~~

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

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

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1           (k)~~(l)~~ Permitting, aiding, assisting, procuring, or  
2 advising any person who is not licensed pursuant to this part,  
3 contrary to this part or to any rule of the department or the  
4 board.

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

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

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

16           (o)~~(p)~~ Gross or repeated malpractice or the failure to  
17 deliver respiratory care services with that level of care,  
18 skill, and treatment which is recognized by a reasonably  
19 prudent respiratory care practitioner or respiratory therapist  
20 with similar professional training as being acceptable under  
21 similar conditions and circumstances.

22           (p)~~(q)~~ Paying or receiving any commission, bonus,  
23 kickback, or rebate to or from, or engaging in any split-fee  
24 arrangement in any form whatsoever with, a person,  
25 organization, or agency, either directly or indirectly, for  
26 goods or services rendered to patients referred by or to  
27 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 paragraph shall not be construed to prevent  
31 the licensee from receiving a fee for professional

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1 consultation services.

2 (g)~~(r)~~ Exercising influence within a respiratory care  
3 relationship for the purpose of engaging a patient in sexual  
4 activity. A patient is presumed to be incapable of giving  
5 free, full, and informed consent to sexual activity with the  
6 patient's respiratory care practitioner or respiratory  
7 therapist.

8 (r)~~(s)~~ Making deceptive, untrue, or fraudulent  
9 representations in the delivery of respiratory care services  
10 or employing a trick or scheme in the delivery of respiratory  
11 care services if such a scheme or trick fails to conform to  
12 the generally prevailing standards of other licensees within  
13 the community.

14 (s)~~(t)~~ Soliciting patients, either personally or  
15 through an agent, through the use of fraud, deception, or  
16 otherwise misleading statements or through the exercise of  
17 intimidation or undue influence.

18 (t)~~(u)~~ Failing to keep written respiratory care  
19 records justifying the reason for the action taken by the  
20 licensee.

21 (u)~~(v)~~ Exercising influence on the patient in such a  
22 manner as to exploit the patient for the financial gain of the  
23 licensee or a third party, which includes, but is not limited  
24 to, the promoting or selling of services, goods, appliances,  
25 or drugs.

26 (v)~~(w)~~ Performing professional services which have not  
27 been duly ordered by a physician licensed pursuant to chapter  
28 458 or chapter 459 and which are not in accordance with  
29 protocols established by the hospital, other health care  
30 provider, or the board, except as provided in ss. 743.064,  
31 766.103, and 768.13.

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

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

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

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1 who is found guilty of violating any provision of s.  
2 ~~456.072(1). If the board finds any person guilty of any of the~~  
3 ~~grounds set forth in subsection (1), it may enter an order~~  
4 ~~imposing one or more of the following penalties:~~  
5       ~~(a) Denial of an application for licensure.~~  
6       ~~(b) Revocation or suspension of licensure.~~  
7       ~~(c) Imposition of an administrative fine not to exceed~~  
8 ~~\$1,000 for each count or separate offense.~~  
9       ~~(d) Placement of the respiratory care practitioner or~~  
10 ~~respiratory therapist on probation for such period of time and~~  
11 ~~subject to such conditions as the board may specify,~~  
12 ~~including, but not limited to, requiring the respiratory care~~  
13 ~~practitioner or respiratory therapist to submit to treatment,~~  
14 ~~to attend continuing education courses, or to work under the~~  
15 ~~supervision of another respiratory care practitioner or~~  
16 ~~respiratory therapist.~~  
17       ~~(e) Issuance of a reprimand.~~

18       Section 39. Subsections (1) and (2) of section  
19 468.518, Florida Statutes, are amended to read:

20       468.518 Grounds for disciplinary action.--

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

25       (a) Violating any provision of this part, any board or  
26 agency rule adopted pursuant thereto, or any lawful order of  
27 the board or agency previously entered in a disciplinary  
28 hearing held pursuant to this part, or failing to comply with  
29 a lawfully issued subpoena of the agency. The provisions of  
30 this paragraph also apply to any order or subpoena previously  
31 issued by the Department of Health during its period of

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1 regulatory control over this part.

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

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

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

15 (c) Attempting to procure or procuring a license to  
16 practice dietetics and nutrition or nutrition counseling by  
17 fraud or material misrepresentation of material fact.

18 (d) Having a license to practice dietetics and  
19 nutrition or nutrition counseling revoked, suspended, or  
20 otherwise acted against, including the denial of licensure by  
21 the licensing authority of another state, district, territory,  
22 or country.

23 (e) Being convicted or found guilty of, or entering a  
24 plea of nolo contendere to, regardless of adjudication, a  
25 crime in any jurisdiction which directly relates to the  
26 practice of dietetics and nutrition or nutrition counseling or  
27 the ability to practice dietetics and nutrition or nutrition  
28 counseling.

29 (f) Making or filing a report or record that the  
30 licensee knows to be false, willfully failing to file a report  
31 or record required by state or federal law, willfully impeding

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1 or obstructing such filing, or inducing another person to  
2 impede or obstruct such filing. Such reports or records  
3 include only those that are signed in the capacity of a  
4 licensed dietitian/nutritionist or licensed nutrition  
5 counselor.

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

9 (h) Committing an act of fraud or deceit, or of  
10 negligence, incompetency, or misconduct in the practice of  
11 dietetics and nutrition or nutrition counseling.

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

14 (j) Treating or undertaking to treat human ailments by  
15 means other than by dietetics and nutrition practice or  
16 nutrition counseling.

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

20 (l) Engaging directly or indirectly in the dividing,  
21 transferring, assigning, rebating, or refunding of fees  
22 received for professional services, or profiting by means of a  
23 credit or other valuable consideration, such as an unearned  
24 commission, discount, or gratuity, with any person referring a  
25 patient or with any relative or business associate of the  
26 referring person. Nothing in this part prohibits the members  
27 of any regularly and properly organized business entity that  
28 is composed of licensees under this part and recognized under  
29 the laws of this state from making any division of their total  
30 fees among themselves as they determine necessary.

31 (m) Advertising, by or on behalf of a licensee under

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1 this part, any method of assessment or treatment which is  
2 experimental or without generally accepted scientific  
3 validation.

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

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

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

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

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

16 ~~(c) Imposition of an administrative fine not to exceed~~  
17 ~~\$1,000 for each violation;~~

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

19 ~~(e) Placement of the licensee on probation for a~~  
20 ~~period of time and subject to such conditions as the board may~~  
21 ~~specify, including requiring the licensee to attend continuing~~  
22 ~~education courses or to work under the supervision of a~~  
23 ~~licensed dietitian/nutritionist or licensed nutrition~~  
24 ~~counselor; or~~

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

27 Section 40. Section 468.719, Florida Statutes, is  
28 amended to read:

29 468.719 Disciplinary actions.--

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



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1 456.072(2)disciplinary actions provided for in subsection  
2 ~~(2):~~

3 ~~(a) A violation of any law relating to the practice of~~  
4 ~~athletic training, including, but not limited to, any~~  
5 ~~violation of this part, s. 456.072, or any rule adopted~~  
6 ~~pursuant thereto.~~

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

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

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

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

18 (e)~~(f)~~ While practicing athletic training, being  
19 unable to practice athletic training with reasonable skill and  
20 safety to athletes by reason of illness or use of alcohol or  
21 drugs or as a result of any mental or physical condition.

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

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

29 ~~456.072(1).When the board finds any person guilty of any of~~  
30 ~~the acts set forth in subsection (1), the board may enter an~~  
31 ~~order imposing one or more of the penalties provided in s.~~

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1 ~~456.072.~~

2 Section 41. Section 468.811, Florida Statutes, is  
3 amended to read:

4 468.811 Disciplinary proceedings.--

5 (1) The following acts constitute ~~are~~ grounds for  
6 denial of a license or disciplinary action, as specified in s.  
7 456.072(2):disciplinary action against a licensee and the  
8 ~~issuance of cease and desist orders or other related action by~~  
9 ~~the department, pursuant to s. 456.072, against any person who~~  
10 ~~engages in or aids in a violation.~~

11 (a) Attempting to procure a license by fraudulent  
12 misrepresentation.

13 (b) Having a license to practice orthotics,  
14 prosthetics, or pedorthics revoked, suspended, or otherwise  
15 acted against, including the denial of licensure in another  
16 jurisdiction.

17 (c) Being convicted or found guilty of or pleading  
18 nolo contendere to, regardless of adjudication, in any  
19 jurisdiction, a crime that directly relates to the practice of  
20 orthotics, prosthetics, or pedorthics, including violations of  
21 federal laws or regulations regarding orthotics, prosthetics,  
22 or pedorthics.

23 (d) Filing a report or record that the licensee knows  
24 is false, intentionally or negligently failing to file a  
25 report or record required by state or federal law, willfully  
26 impeding or obstructing such filing, or inducing another  
27 person to impede or obstruct such filing. Such reports or  
28 records include only reports or records that are signed in a  
29 person's capacity as a licensee under this act.

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

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

3           (f)~~(g)~~ Violation of an order of the board, agency, or  
4 department previously entered in a disciplinary hearing or  
5 failure to comply with a subpoena issued by the board, agency,  
6 or department.

7           (g)~~(h)~~ Practicing with a revoked, suspended, or  
8 inactive license.

9           (h)~~(i)~~ Gross or repeated malpractice or the failure to  
10 deliver orthotic, prosthetic, or pedorthic services with that  
11 level of care and skill which is recognized by a reasonably  
12 prudent licensed practitioner with similar professional  
13 training as being acceptable under similar conditions and  
14 circumstances.

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

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

20           (2) The board may enter an order denying licensure or  
21 imposing any of the penalties in s. 456.072(2) against any  
22 applicant for licensure or licensee who is found guilty of  
23 violating any provision of subsection (1) of this section or  
24 who is found guilty of violating any provision of s.  
25 456.072(1).~~The board may enter an order imposing one or more~~  
26 ~~of the penalties in s. 456.072(2) against any person who~~  
27 ~~violates any provision of subsection (1).~~

28           Section 42. Subsections (1) and (2) of section 478.52,  
29 Florida Statutes, are amended to read:

30           478.52 Disciplinary proceedings.--

31           (1) The following acts constitute ~~are~~ grounds for

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1 denial of a license or disciplinary action, as specified in s.  
2 456.072(2) which the disciplinary actions in subsection (2)  
3 may be taken:  
4           (a) Obtaining or attempting to obtain a license by  
5 bribery, fraud, or knowing misrepresentation.  
6           (b) Having a license or other authority to deliver  
7 electrolysis services revoked, suspended, or otherwise acted  
8 against, including denial of licensure, in another  
9 jurisdiction.  
10           (c) Being convicted or found guilty of, or entering a  
11 plea of nolo contendere to, regardless of adjudication, a  
12 crime, in any jurisdiction, which directly relates to the  
13 practice of electrology.  
14           (d) Willfully making or filing a false report or  
15 record, willfully failing to file a report or record required  
16 for electrologists, or willfully impeding or obstructing the  
17 filing of a report or record required by this act or inducing  
18 another person to do so.  
19           (e) Circulating false, misleading, or deceptive  
20 advertising.  
21           (f) Unprofessional conduct, including any departure  
22 from, or failure to conform to, acceptable standards related  
23 to the delivery of electrolysis services.  
24           (g) Engaging or attempting to engage in the illegal  
25 possession, sale, or distribution of any illegal or controlled  
26 substance.  
27           (h) Willfully failing to report any known violation of  
28 this chapter.  
29           (i) Willfully or repeatedly violating a rule adopted  
30 under this chapter, or an order of the board or department  
31 previously entered in a disciplinary hearing.

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- 1           (j) Engaging in the delivery of electrolysis services  
2 without an active license.
- 3           (k) Employing an unlicensed person to practice  
4 electrology.
- 5           (l) Failing to perform any statutory or legal  
6 obligation placed upon an electrologist.
- 7           (m) Accepting and performing professional  
8 responsibilities which the licensee knows, or has reason to  
9 know, she or he is not competent to perform.
- 10          (n) Delegating professional responsibilities to a  
11 person the licensee knows, or has reason to know, is  
12 unqualified by training, experience, or licensure to perform.
- 13          (o) Gross or repeated malpractice or the inability to  
14 practice electrology with reasonable skill and safety.
- 15          (p) Judicially determined mental incompetency.
- 16          (q) Practicing or attempting to practice electrology  
17 under a name other than her or his own.
- 18          (r) Being unable to practice electrology with  
19 reasonable skill and safety because of a mental or physical  
20 condition or illness, or the use of alcohol, controlled  
21 substances, or any other substance which impairs one's ability  
22 to practice.
- 23          1. The department may, upon probable cause, compel a  
24 licensee to submit to a mental or physical examination by  
25 physicians designated by the department. The cost of an  
26 examination shall be borne by the licensee, and her or his  
27 failure to submit to such an examination constitutes an  
28 admission of the allegations against her or him, consequent  
29 upon which a default and a final order may be entered without  
30 the taking of testimony or presentation of evidence, unless  
31 the failure was due to circumstances beyond her or his

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1 control.

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

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

9 (s) Disclosing the identity of or information about a  
10 patient without written permission, except for information  
11 which does not identify a patient and which is used for  
12 training purposes in an approved electrolysis training  
13 program.

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

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

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

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

25 ~~456.072(1).When the board finds any person guilty of any of~~  
26 ~~the grounds set forth in subsection (1), including conduct~~  
27 ~~that would constitute a substantial violation of subsection~~  
28 ~~(1) which occurred prior to licensure, it may enter an order~~  
29 ~~imposing one or more of the following penalties:~~

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

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

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

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

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

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

10           Section 43. Subsections (1) and (2) of section  
11 480.046, Florida Statutes, are amended to read:

12           480.046 Grounds for disciplinary action by the  
13 board.--

14           (1) The following acts shall constitute grounds for  
15 denial of a license or disciplinary action, as specified in s.  
16 456.072(2)~~which disciplinary actions specified in subsection~~  
17 ~~(2) may be taken against a massage therapist or massage~~  
18 ~~establishment licensed under this act:~~

19           (a) Attempting to procure a license to practice  
20 massage by bribery or fraudulent misrepresentation.

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

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

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

31           (e) Aiding, assisting, procuring, or advising any

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1 unlicensed person to practice massage contrary to the  
2 provisions of this chapter or to a rule of the department or  
3 the board.

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

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

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

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



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1 (j) 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.

5 (k) ~~Violating any provision of this chapter, a rule of~~  
6 ~~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  
9 department.

10 (l) Refusing to permit the department to inspect the  
11 business premises of the licensee during regular business  
12 hours.

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

15 (n) Practicing massage at a site, location, or place  
16 which is not duly licensed as a massage establishment, except  
17 that a massage therapist, as provided by rules adopted by the  
18 board, may provide massage services, excluding colonic  
19 irrigation, at the residence of a client, at the office of the  
20 client, at a sports event, at a convention, or at a trade  
21 show.

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

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

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- 1           ~~(a) Refusal to license an applicant.~~  
2           ~~(b) Revocation or suspension of a license.~~  
3           ~~(c) Issuance of a reprimand or censure.~~  
4           ~~(d) Imposition of an administrative fine not to exceed~~  
5 ~~\$1,000 for each count or separate offense.~~

6           Section 44. Section 483.825, Florida Statutes, is  
7 amended to read:

8           483.825 Grounds for disciplinary action.--

9           (1) The following acts constitute grounds for denial  
10 of a license or disciplinary action, as specified in s.  
11 ~~456.072(2) which disciplinary actions specified in s. 483.827~~  
12 ~~may be taken against applicants, registrants, and licensees~~  
13 ~~under this part:~~

14           ~~(a)(1)~~ Attempting to obtain, obtaining, or renewing a  
15 license or registration under this part by bribery, by  
16 fraudulent misrepresentation, or through an error of the  
17 department or the board.

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

22           ~~(c)(3)~~ Demonstrating incompetence or making consistent  
23 errors in the performance of clinical laboratory examinations  
24 or procedures or erroneous reporting.

25           ~~(d)(4)~~ Performing a test and rendering a report  
26 thereon to a person not authorized by law to receive such  
27 services.

28           ~~(e)(5)~~ Has been convicted or found guilty of, or  
29 entered a plea of nolo contendere to, regardless of  
30 adjudication, a crime in any jurisdiction which directly  
31 relates to the activities of clinical laboratory personnel or

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1 involves moral turpitude or fraudulent or dishonest dealing.  
2 The record of a conviction certified or authenticated in such  
3 form as to be admissible in evidence under the laws of the  
4 state shall be admissible as prima facie evidence of such  
5 guilt.

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

8 (g)~~(7)~~ ~~Violating or~~ Aiding and abetting in the  
9 violation of any provision of this part or the rules adopted  
10 hereunder.

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

13 (i)~~(9)~~ Knowingly advertising false services or  
14 credentials.

15 (j)~~(10)~~ Having a license revoked, suspended, or  
16 otherwise acted against, including the denial of licensure, by  
17 the licensing authority of another jurisdiction. The licensing  
18 authority's acceptance of a relinquishment of a license,  
19 stipulation, consent order, or other settlement, offered in  
20 response to or in anticipation of the filing of administrative  
21 charges against the licensee, shall be construed as action  
22 against the licensee.

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

28 (l)~~(12)~~ Being unable to perform or report clinical  
29 laboratory examinations with reasonable skill and safety to  
30 patients by reason of illness or use of alcohol, drugs,  
31 narcotics, chemicals, or any other type of material or as a

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1 result of any mental or physical condition. In enforcing this  
2 subsection, the department shall have, upon a finding of the  
3 secretary or his or her designee that probable cause exists to  
4 believe that the licensee is unable to practice because of the  
5 reasons stated in this subsection, the authority to issue an  
6 order to compel a licensee to submit to a mental or physical  
7 examination by physicians designated by the department. If  
8 the licensee refuses to comply with such order, the  
9 department's order directing such examination may be enforced  
10 by filing a petition for enforcement in the circuit court  
11 where the licensee resides or does business. The department  
12 shall be entitled to the summary procedure provided in s.  
13 51.011. A licensee affected under this subsection shall at  
14 reasonable intervals be afforded an opportunity to demonstrate  
15 that he or she can resume competent practice with reasonable  
16 skill and safety to patients.

17 (m)~~(13)~~ Delegating professional responsibilities to a  
18 person when the licensee delegating such responsibilities  
19 knows, or has reason to know, that such person is not  
20 qualified by training, experience, or licensure to perform  
21 them.

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

24 (o)~~(15)~~ Failing to report to the department a person  
25 or other licensee who the licensee knows is in violation of  
26 this chapter or the rules of the department or board adopted  
27 hereunder.

28 (p)~~(16)~~ Making or filing a report which the licensee  
29 knows to be false, intentionally or negligently failing to  
30 file a report or record required by state or federal law,  
31 willfully impeding or obstructing such filing or inducing

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1 another person to do so, including, but not limited to,  
2 impeding an agent of the state from obtaining a report or  
3 record for investigative purposes. Such reports or records  
4 shall include only those generated in the capacity as a  
5 licensed clinical laboratory personnel.

6 (q)~~(17)~~ Paying or receiving any commission, bonus,  
7 kickback, or rebate, or engaging in any split-fee arrangement  
8 in any form whatsoever with a physician, organization, agency,  
9 or person, either directly or indirectly for patients referred  
10 to providers of health care goods and services including, but  
11 not limited to, hospitals, nursing homes, clinical  
12 laboratories, ambulatory surgical centers, or pharmacies. The  
13 provisions of this subsection shall not be construed to  
14 prevent a clinical laboratory professional from receiving a  
15 fee for professional consultation services.

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

22 (s)~~(19)~~ Practicing or offering to practice beyond the  
23 scope permitted by law or rule, or accepting or performing  
24 professional services or responsibilities which the licensee  
25 knows or has reason to know that he or she is not competent to  
26 perform.

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

30 (u)~~(21)~~ Improperly interfering with an investigation  
31 or any disciplinary proceeding.

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1           ~~(v)(22)~~ Engaging in or attempting to engage in sexual  
2 misconduct, causing undue embarrassment or using disparaging  
3 language or language of a sexual nature towards a patient,  
4 exploiting superior/subordinate, professional/patient,  
5 instructor/student relationships for personal gain, sexual  
6 gratification, or advantage.

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

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

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

18           (a) The severity of the violation, including the  
19 probability that death or serious harm to the health or safety  
20 of any person will result or has resulted, the severity of the  
21 actual or potential harm, and the extent to which the  
22 provisions of this part were violated.

23           (b) Actions taken by the licensee to correct the  
24 violation or to remedy complaints.

25           (c) Any previous violation by the licensee.

26           (d) The financial benefit to the licensee of  
27 committing or continuing the violation.

28           Section 45. Section 483.827, Florida Statutes, is  
29 repealed.

30           Section 46. Subsection (6) of section 483.901, Florida  
31 Statutes, is amended to read:

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1           483.901 Medical physicists; definitions; licensure.--

2           (6) LICENSE REQUIRED.--An individual may not engage in  
3 the practice of medical physics, including the specialties of  
4 diagnostic radiological physics, therapeutic radiological  
5 physics, medical nuclear radiological physics, or medical  
6 health physics, without a license issued by the department for  
7 the appropriate specialty.

8           (a) The department shall adopt rules to administer  
9 this section which specify license application and renewal  
10 fees, continuing education requirements, and standards for  
11 practicing medical physics. The council shall recommend to  
12 the department continuing education requirements that shall be  
13 a condition of license renewal. The department shall require  
14 a minimum of 24 hours per biennium of continuing education  
15 offered by an organization recommended by the council and  
16 approved by the department. The department, upon  
17 recommendation of the council, may adopt rules to specify  
18 continuing education requirements for persons who hold a  
19 license in more than one specialty.

20           (b) In order to apply for a medical physicist license  
21 in one or more specialties, a person must file an individual  
22 application for each specialty with the department. The  
23 application must be on a form prescribed by the department and  
24 must be accompanied by a nonrefundable application fee for  
25 each specialty.

26           (c) The department may issue a license to an eligible  
27 applicant if the applicant meets all license requirements. At  
28 any time before the department issues a license, the applicant  
29 may request in writing that the application be withdrawn. To  
30 reapply, the applicant must submit a new application and an  
31 additional nonrefundable application fee and must meet all

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1 current licensure requirements.

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

4 (e) On receipt of an application and fee as specified  
5 in this section, the department may issue a license to  
6 practice medical physics in this state on or after October 1,  
7 1997, to a person who is board certified in the medical  
8 physics specialty in which the applicant applies to practice  
9 by the American Board of Radiology for diagnostic radiological  
10 physics, therapeutic radiological physics, or medical nuclear  
11 radiological physics; by the American Board of Medical Physics  
12 for diagnostic radiological physics, therapeutic radiological  
13 physics, or medical nuclear radiological physics; or by the  
14 American Board of Health Physics or an equivalent certifying  
15 body approved by the department.

16 (f) A licensee shall:

17 1. Display the license in a place accessible to the  
18 public; and

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

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

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

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

30 3. Being convicted or found guilty of, or entering a  
31 plea of nolo contendere to, regardless of adjudication, a



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1 crime in any jurisdiction which relates to the practice of, or  
2 the ability to practice, the profession of medical physics.

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

7 5. Making misleading, deceptive, or fraudulent  
8 representations in or related to the practice of medical  
9 physics.

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

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

14 ~~7.8.~~ Failing to perform any statutory or legal  
15 obligation placed upon a licensee.

16 ~~8.9.~~ Aiding, assisting, procuring, employing, or  
17 advising any unlicensed person to practice medical physics  
18 contrary to this section or any rule adopted thereunder.

19 ~~9.10.~~ Delegating or contracting for the performance of  
20 professional responsibilities by a person when the licensee  
21 delegating or contracting such responsibilities knows, or has  
22 reason to know, such person is not qualified by training,  
23 experience, and authorization to perform them.

24 ~~10.11.~~ Practicing or offering to practice beyond the  
25 scope permitted by law or accepting and performing  
26 professional responsibilities the licensee knows, or has  
27 reason to know, the licensee is not competent to perform.

28 ~~11.12.~~ Gross or repeated malpractice or the inability  
29 to practice medical physics with reasonable skill and safety.

30 ~~12.13.~~ Judicially determined mental incompetency.

31 ~~13.14.~~ Being unable to practice medical physics with

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

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

15 b. A licensee who is disciplined under this  
16 subparagraph shall, at reasonable intervals, be afforded an  
17 opportunity to demonstrate that the licensee can resume the  
18 practice of medical physics with reasonable skill and safety.

19 c. With respect to any proceeding under this  
20 subparagraph, the record of proceedings or the orders entered  
21 by the department may not be used against a licensee in any  
22 other proceeding.

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

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

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1 ~~that would constitute a substantial violation of paragraph (g)~~  
2 ~~which occurred prior to licensure, it may enter an order~~  
3 ~~imposing one or more of the following penalties:~~

4 1. ~~Deny the application for licensure.~~

5 2. ~~Revoke or suspend the license.~~

6 3. ~~Impose an administrative fine for each count or~~  
7 ~~separate offense.~~

8 4. ~~Place the licensee on probation for a specified~~  
9 ~~time and subject the licensee to such conditions as the~~  
10 ~~department determines necessary, including requiring~~  
11 ~~treatment, continuing education courses, or working under the~~  
12 ~~monitoring or supervision of another licensee.~~

13 5. ~~Restrict a licensee's practice.~~

14 6. ~~Issue a reprimand to the licensee.~~

15 (i) The department may not issue or reinstate a  
16 license to a person it has deemed unqualified until it is  
17 satisfied that such person has complied with the terms and  
18 conditions of the final order and that the licensee can safely  
19 practice medical physics.

20 (j) Upon receipt of a complete application and the fee  
21 set forth by rule, the department may issue a  
22 physicist-in-training certificate to a person qualified to  
23 practice medical physics under direct supervision. The  
24 department may establish by rule requirements for initial  
25 certification and renewal of a physicist-in-training  
26 certificate.

27 Section 47. Subsections (1) and (2) of section  
28 484.014, Florida Statutes, are amended to read:

29 484.014 Disciplinary actions.--

30 (1) The following acts constitute ~~relating to the~~  
31 ~~practice of opticianry shall be~~ grounds for denial of a

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1 license or disciplinary action, as specified in s. 456.072(2)  
2 ~~both disciplinary action against an optician as set forth in~~  
3 ~~this section and cease and desist or other related action by~~  
4 ~~the department as set forth in s. 456.065 against any person~~  
5 ~~operating an optical establishment who engages in, aids, or~~  
6 ~~abets any such violation:~~

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

10 (b) Procuring or attempting to procure a license for  
11 any other person by making or causing to be made any false  
12 representation.

13 (c) Making or filing a report or record which the  
14 licensee knows to be false, intentionally or negligently  
15 failing to file a report or record required by federal or  
16 state law, willfully impeding or obstructing such filing, or  
17 inducing another person to do so. Such reports or records  
18 shall include only those which the person is required to make  
19 or file as an optician.

20 (d) Failing to make fee or price information readily  
21 available by providing such information upon request or upon  
22 the presentation of a prescription.

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

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

28 ~~(g) Violation or repeated violation of this part or of~~  
29 ~~chapter 456 or any rules promulgated pursuant thereto.~~

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

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- 1            (h)~~(i)~~ Violation of a lawful order of the board or  
2 department previously entered in a disciplinary hearing or  
3 failing to comply with a lawfully issued subpoena of the  
4 department.
- 5            (i)~~(j)~~ Violation of any provision of s. 484.012.
- 6            (j)~~(k)~~ Conspiring with another licensee or with any  
7 person to commit an act, or committing an act, which would  
8 coerce, intimidate, or preclude another licensee from lawfully  
9 advertising her or his services.
- 10           (k)~~(l)~~ Willfully submitting to any third-party payor a  
11 claim for services which were not provided to a patient.
- 12           (l)~~(m)~~ Failing to keep written prescription files.
- 13           (m)~~(n)~~ Willfully failing to report any person who the  
14 licensee knows is in violation of this part or of rules of the  
15 department or the board.
- 16           (n)~~(o)~~ Exercising influence on a client in such a  
17 manner as to exploit the client for financial gain of the  
18 licensee or of a third party.
- 19           (o)~~(p)~~ Gross or repeated malpractice.
- 20           (p)~~(q)~~ Permitting any person not licensed as an  
21 optician in this state to fit or dispense any lenses,  
22 spectacles, eyeglasses, or other optical devices which are  
23 part of the practice of opticianry.
- 24           (q)~~(r)~~ Being convicted or found guilty of, or entering  
25 a plea of nolo contendere to, regardless of adjudication, in a  
26 court of this state or other jurisdiction, a crime which  
27 relates to the ability to practice opticianry or to the  
28 practice of opticianry.
- 29           (r)~~(s)~~ Having been disciplined by a regulatory agency  
30 in another state for any offense that would constitute a  
31 violation of Florida law or rules regulating opticianry.

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1            ~~(s)(t)~~ Being unable to practice opticianry with  
2 reasonable skill and safety by reason of illness or use of  
3 drugs, narcotics, chemicals, or any other type of material or  
4 as a result of any mental or physical condition. An optician  
5 affected under this paragraph shall at reasonable intervals be  
6 afforded an opportunity to demonstrate that she or he can  
7 resume the competent practice of opticianry with reasonable  
8 skill and safety to her or his customers.

9            (t) Violating any provision of this chapter or chapter  
10 456, 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 person guilty of any of~~  
17 ~~the grounds set forth in subsection (1), it may enter an order~~  
18 ~~imposing one or more of the following penalties:~~

19            ~~(a) Refusal to certify to the department an~~  
20 ~~application for licensure.~~

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

22            ~~(c) Imposition of an administrative fine not to exceed~~  
23 ~~\$1,000 for each count or separate offense.~~

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

25            ~~(e) Placement of the optician on probation for a~~  
26 ~~period of time and subject to such conditions as the board may~~  
27 ~~specify, including requiring the optician to submit to~~  
28 ~~treatment or to work under the supervision of another~~  
29 ~~optician.~~

30            Section 48. Subsections (1) and (2) of section  
31 484.056, Florida Statutes, are amended to read:

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1           484.056 Disciplinary proceedings.--

2           (1) The following acts constitute ~~relating to the~~  
3 ~~practice of dispensing hearing aids shall be~~ grounds for  
4 denial of a license or disciplinary action, as specified in s.  
5 456.072(2)~~both disciplinary action against a hearing aid~~  
6 ~~specialist as set forth in this section and cease and desist~~  
7 ~~or other related action by the department as set forth in s.~~  
8 ~~456.065 against any person owning or operating a hearing aid~~  
9 ~~establishment who engages in, aids, or abets any such~~  
10 ~~violation:~~

11           (a) Violation of any provision of s. 456.072(1), s.  
12 484.0512, or s. 484.053.

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

16           (c) Having a license to dispense hearing aids revoked,  
17 suspended, or otherwise acted against, including the denial of  
18 licensure, by the licensing authority of another state,  
19 territory, or country.

20           (d) Being convicted or found guilty of, or entering a  
21 plea of nolo contendere to, regardless of adjudication, a  
22 crime in any jurisdiction which directly relates to the  
23 practice of dispensing hearing aids or the ability to practice  
24 dispensing hearing aids, including violations of any federal  
25 laws or regulations regarding hearing aids.

26           (e) Making or filing a report or record which the  
27 licensee knows to be false, intentionally or negligently  
28 failing to file a report or record required by state or  
29 federal law, willfully impeding or obstructing such filing, or  
30 inducing another person to impede or obstruct such filing.

31 Such reports or records shall include only those reports or

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1 records which are signed in one's capacity as a licensed  
2 hearing aid specialist.

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

6 (g) Proof that the licensee is guilty of fraud or  
7 deceit or of negligence, incompetency, or misconduct in the  
8 practice of dispensing hearing aids.

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

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

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

17 (j)~~(k)~~ Using, or causing or promoting the use of, any  
18 advertising matter, promotional literature, testimonial,  
19 guarantee, warranty, label, brand, insignia, or other  
20 representation, however disseminated or published, which is  
21 misleading, deceiving, or untruthful.

22 (k)~~(l)~~ Showing or demonstrating, or, in the event of  
23 sale, delivery of, a product unusable or impractical for the  
24 purpose represented or implied by such action.

25 (l)~~(m)~~ Misrepresentation of professional services  
26 available in the fitting, sale, adjustment, service, or repair  
27 of a hearing aid, or use of the terms "doctor," "clinic,"  
28 "clinical," "medical audiologist," "clinical audiologist,"  
29 "research audiologist," or "audiologic" or any other term or  
30 title which might connote the availability of professional  
31 services when such use is not accurate.



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1           (m)~~(n)~~ Representation, advertisement, or implication  
2 that a hearing aid or its repair is guaranteed without  
3 providing full disclosure of the identity of the guarantor;  
4 the nature, extent, and duration of the guarantee; and the  
5 existence of conditions or limitations imposed upon the  
6 guarantee.

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

14           (o)~~(p)~~ Making any predictions or prognostications as  
15 to the future course of a hearing impairment, either in  
16 general terms or with reference to an individual person.

17           (p)~~(q)~~ Stating or implying that the use of any hearing  
18 aid will improve or preserve hearing or prevent or retard the  
19 progression of a hearing impairment or that it will have any  
20 similar or opposite effect.

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

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

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

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1            ~~(t)(u)~~ Failure to submit to the board on an annual  
2 basis, or such other basis as may be provided by rule,  
3 certification of testing and calibration of audiometric  
4 testing equipment on the form approved by the board.

5            ~~(u)(v)~~ Failing to provide all information as described  
6 in s. 484.051(1).

7            ~~(v)(w)~~ 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           (w) Violating any provision of this chapter or chapter  
11 456, or any rules adopted pursuant thereto.

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

17 456.072(1). Except as provided in paragraph (b), when the  
18 board finds any hearing aid specialist to be guilty of any of  
19 the grounds set forth in subsection (1), it may enter an order  
20 imposing one or more of the following penalties:

21           1. ~~Denial of an application for licensure.~~

22           2. ~~Revocation or suspension of a license.~~

23           3. ~~Imposition of an administrative fine not to exceed~~  
24 ~~\$1,000 for each count or separate offense.~~

25           4. ~~Issuance of a reprimand.~~

26           5. ~~Placing the hearing aid specialist on probation for~~  
27 ~~a period of time and subject to such conditions as the board~~  
28 ~~may specify, including requiring the hearing aid specialist to~~  
29 ~~attend continuing education courses or to work under the~~  
30 ~~supervision of another hearing aid specialist.~~

31           6. ~~Restricting the authorized scope of practice.~~

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1 (b) The board shall revoke the license of any hearing  
2 aid specialist found guilty of canvassing as described in this  
3 section.

4 Section 49. Subsections (1) and (2) of section  
5 486.125, Florida Statutes, are amended to read:

6 486.125 Refusal, revocation, or suspension of license;  
7 administrative fines and other disciplinary measures.--

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

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

17 1. In enforcing this paragraph, upon a finding of the  
18 secretary or the secretary's designee that probable cause  
19 exists to believe that the licensee is unable to practice  
20 physical therapy due to the reasons stated in this paragraph,  
21 the department shall have the authority to compel a physical  
22 therapist or physical therapist assistant to submit to a  
23 mental or physical examination by a physician designated by  
24 the department. If the licensee refuses to comply with such  
25 order, the department's order directing such examination may  
26 be enforced by filing a petition for enforcement in the  
27 circuit court where the licensee resides or serves as a  
28 physical therapy practitioner. The licensee against whom the  
29 petition is filed shall not be named or identified by initials  
30 in any public court records or documents, and the proceedings  
31 shall be closed to the public. The department shall be

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1 entitled to the summary procedure provided in s. 51.011.

2           2. A physical therapist or physical therapist  
3 assistant whose license is suspended or revoked pursuant to  
4 this subsection shall, at reasonable intervals, be given an  
5 opportunity to demonstrate that she or he can resume the  
6 competent practice of physical therapy with reasonable skill  
7 and safety to patients.

8           3. Neither the record of proceeding nor the orders  
9 entered by the board in any proceeding under this subsection  
10 may be used against a physical therapist or physical therapist  
11 assistant in any other proceeding.

12           (b) Having committed fraud in the practice of physical  
13 therapy or deceit in obtaining a license as a physical  
14 therapist or as a physical therapist assistant.

15           (c) Being convicted or found guilty regardless of  
16 adjudication, of a crime in any jurisdiction which directly  
17 relates to the practice of physical therapy or to the ability  
18 to practice physical therapy. The entry of any plea of nolo  
19 contendere shall be considered a conviction for purpose of  
20 this chapter.

21           (d) Having treated or undertaken to treat human  
22 ailments by means other than by physical therapy, as defined  
23 in this chapter.

24           (e) Failing to maintain acceptable standards of  
25 physical therapy practice as set forth by the board in rules  
26 adopted pursuant to this chapter.

27           (f) Engaging directly or indirectly in the dividing,  
28 transferring, assigning, rebating, or refunding of fees  
29 received for professional services, or having been found to  
30 profit by means of a credit or other valuable consideration,  
31 such as an unearned commission, discount, or gratuity, with

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1 any person referring a patient or with any relative or  
2 business associate of the referring person. Nothing in this  
3 chapter shall be construed to prohibit the members of any  
4 regularly and properly organized business entity which is  
5 comprised of physical therapists and which is recognized under  
6 the laws of this state from making any division of their total  
7 fees among themselves as they determine necessary.

8 (g) Having a license revoked or suspended; having had  
9 other disciplinary action taken against her or him; or having  
10 had her or his application for a license refused, revoked, or  
11 suspended by the licensing authority of another state,  
12 territory, or country.

13 (h) ~~Violating any provision of this chapter, a rule of~~  
14 ~~the board or department, or a lawful order of the board or~~  
15 department previously entered in a disciplinary hearing.

16 (i) Making or filing a report or record which the  
17 licensee knows to be false. Such reports or records shall  
18 include only those which are signed in the capacity of a  
19 physical therapist.

20 (j) 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 she or he is not competent to perform,  
24 including, but not limited to, specific spinal manipulation.

25 (k) 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 who is found guilty of violating any provision of s.

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

4 ~~(a) Refusal to certify to the department an~~  
5 ~~application for licensure.~~

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

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

8 ~~(d) Imposition of an administrative fine not to exceed~~  
9 ~~\$1,000 for each count or separate offense.~~

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

11 ~~(f) Placement of the physical therapist or physical~~  
12 ~~therapist assistant on probation for a period of time and~~  
13 ~~subject to such conditions as the board may specify,~~  
14 ~~including, but not limited to, requiring the physical~~  
15 ~~therapist or physical therapist assistant to submit to~~  
16 ~~treatment, to attend continuing education courses, to submit~~  
17 ~~to reexamination, or to work under the supervision of another~~  
18 ~~physical therapist.~~

19 ~~(g) Recovery of actual costs of investigation and~~  
20 ~~prosecution.~~

21 Section 50. Section 490.009, Florida Statutes, is  
22 amended to read:

23 490.009 Discipline.--

24 ~~(1) When the department or, in the case of~~  
25 ~~psychologists, the board finds that an applicant, provisional~~  
26 ~~licensee, or licensee whom it regulates under this chapter has~~  
27 ~~committed any of the acts set forth in subsection (2), it may~~  
28 ~~issue an order imposing one or more of the following~~  
29 ~~penalties:~~

30 ~~(a) Denial of an application for licensure, either~~  
31 ~~temporarily or permanently.~~

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1           ~~(b) Revocation of an application for licensure, either~~  
2 ~~temporarily or permanently.~~

3           ~~(c) Suspension for a period of up to 5 years or~~  
4 ~~revocation of a license, after hearing.~~

5           ~~(d) Immediate suspension of a license pursuant to s.~~  
6 ~~120.60(6).~~

7           ~~(e) Imposition of an administrative fine not to exceed~~  
8 ~~\$5,000 for each count or separate offense.~~

9           ~~(f) Issuance of a public reprimand.~~

10           ~~(g) Placement of an applicant or licensee on probation~~  
11 ~~for a period of time and subject to conditions specified by~~  
12 ~~the department or, in the case of psychologists, by the board,~~  
13 ~~including, but not limited to, requiring the applicant or~~  
14 ~~licensee to submit to treatment, to attend continuing~~  
15 ~~education courses, to submit to reexamination, or to work~~  
16 ~~under the supervision of a designated licensee.~~

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

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

23           (a) Attempting to obtain, obtaining, or renewing a  
24 license under this chapter by bribery or fraudulent  
25 misrepresentation or through an error of the board or  
26 department.

27           (b) Having a license to practice a comparable  
28 profession revoked, suspended, or otherwise acted against,  
29 including the denial of certification or licensure by another  
30 state, territory, or country.

31           (c) Being convicted or found guilty, regardless of

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1 adjudication, of a crime in any jurisdiction which directly  
2 relates to the practice of his or her profession or the  
3 ability to practice his or her profession. A plea of nolo  
4 contendere creates a rebuttable presumption of guilt of the  
5 underlying criminal charges. However, the board shall allow  
6 the person who is the subject of the disciplinary proceeding  
7 to present any evidence relevant to the underlying charges and  
8 circumstances surrounding the plea.

9 (d) False, deceptive, or misleading advertising or  
10 obtaining a fee or other thing of value on the representation  
11 that beneficial results from any treatment will be guaranteed.

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

14 (f) Maintaining a professional association with any  
15 person who the applicant or licensee knows, or has reason to  
16 believe, is in violation of this chapter or of a rule of the  
17 department or, in the case of psychologists, of the department  
18 or the board.

19 (g) Knowingly aiding, assisting, procuring, or  
20 advising any nonlicensed person to hold himself or herself out  
21 as licensed under this chapter.

22 (h) Failing to perform any statutory or legal  
23 obligation placed upon a person licensed under this chapter.

24 (i) Willfully making or filing a false report or  
25 record; failing to file a report or record required by state  
26 or federal law; willfully impeding or obstructing the filing  
27 of a report or record; or inducing another person to make or  
28 file a false report or record or to impede or obstruct the  
29 filing of a report or record. Such report or record includes  
30 only a report or record which requires the signature of a  
31 person licensed under this chapter.



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- 1           (j) Paying a kickback, rebate, bonus, or other  
2 remuneration for receiving a patient or client, or receiving a  
3 kickback, rebate, bonus, or other remuneration for referring a  
4 patient or client to another provider of mental health care  
5 services or to a provider of health care services or goods;  
6 referring a patient or client to oneself for services on a  
7 fee-paid basis when those services are already being paid for  
8 by some other public or private entity; or entering into a  
9 reciprocal referral agreement.
- 10           (k) Committing any act upon a patient or client which  
11 would constitute sexual battery or which would constitute  
12 sexual misconduct as defined in s. 490.0111.
- 13           (l) Making misleading, deceptive, untrue, or  
14 fraudulent representations in the practice of any profession  
15 licensed under this chapter.
- 16           (m) Soliciting patients or clients personally, or  
17 through an agent, through the use of fraud, intimidation,  
18 undue influence, or a form of overreaching or vexatious  
19 conduct.
- 20           (n) Failing to make available to a patient or client,  
21 upon written request, copies of test results, reports, or  
22 documents in the possession or under the control of the  
23 licensee which have been prepared for and paid for by the  
24 patient or client.
- 25           (o) Failing to respond within 30 days to a written  
26 communication from the department concerning any investigation  
27 by the department or to make available any relevant records  
28 with respect to any investigation about the licensee's conduct  
29 or background.
- 30           (p) Being unable to practice the profession for which  
31 he or she is licensed under this chapter with reasonable skill

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1 or competence as a result of any mental or physical condition  
2 or by reason of illness; drunkenness; or excessive use of  
3 drugs, narcotics, chemicals, or any other substance. In  
4 enforcing this paragraph, upon a finding by the secretary, the  
5 secretary's designee, or the board that probable cause exists  
6 to believe that the licensee is unable to practice the  
7 profession because of the reasons stated in this paragraph,  
8 the department shall have the authority to compel a licensee  
9 to submit to a mental or physical examination by psychologists  
10 or physicians designated by the department or board. If the  
11 licensee refuses to comply with the department's order, the  
12 department may file a petition for enforcement in the circuit  
13 court of the circuit in which the licensee resides or does  
14 business. The licensee shall not be named or identified by  
15 initials in the petition or in any other public court records  
16 or documents, and the enforcement proceedings shall be closed  
17 to the public. The department shall be entitled to the  
18 summary procedure provided in s. 51.011. A licensee affected  
19 under this paragraph shall be afforded an opportunity at  
20 reasonable intervals to demonstrate that he or she can resume  
21 the competent practice for which he or she is licensed with  
22 reasonable skill and safety to patients.

23 ~~(q) Violating provisions of this chapter, or of~~  
24 ~~chapter 456, or any rules adopted pursuant thereto.~~

25 (q)~~(r)~~ Performing any treatment or prescribing any  
26 therapy which, by the prevailing standards of the mental  
27 health professions in the community, would constitute  
28 experimentation on human subjects, without first obtaining  
29 full, informed, and written consent.

30 (r)~~(s)~~ Failing to meet the minimum standards of  
31 performance in professional activities when measured against

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1 generally prevailing peer performance, including the  
2 undertaking of activities for which the licensee is not  
3 qualified by training or experience.

4 (s)~~(t)~~ Delegating professional responsibilities to a  
5 person whom the licensee knows or has reason to know is not  
6 qualified by training or experience to perform such  
7 responsibilities.

8 (t)~~(u)~~ Violating a rule relating to the regulation of  
9 the profession or a lawful order of the department previously  
10 entered in a disciplinary hearing.

11 (u)~~(v)~~ Failing to maintain in confidence a  
12 communication made by a patient or client in the context of  
13 such services, except as provided in s. 490.0147.

14 (v)~~(w)~~ Making public statements which are derived from  
15 test data, client contacts, or behavioral research and which  
16 identify or damage research subjects or clients.

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

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

25 Section 51. Section 491.009, Florida Statutes, is  
26 amended to read:

27 491.009 Discipline.--

28 ~~(1) When the department or the board finds that an~~  
29 ~~applicant, licensee, provisional licensee, registered intern,~~  
30 ~~or certificateholder whom it regulates under this chapter has~~  
31 ~~committed any of the acts set forth in subsection (2), it may~~

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- 1 ~~issue an order imposing one or more of the following~~  
2 ~~penalties:~~
- 3       ~~(a) Denial of an application for licensure,~~  
4 ~~registration, or certification, either temporarily or~~  
5 ~~permanently.~~
- 6       ~~(b) Revocation of an application for licensure,~~  
7 ~~registration, or certification, either temporarily or~~  
8 ~~permanently.~~
- 9       ~~(c) Suspension for a period of up to 5 years or~~  
10 ~~revocation of a license, registration, or certificate, after~~  
11 ~~hearing.~~
- 12       ~~(d) Immediate suspension of a license, registration,~~  
13 ~~or certificate pursuant to s. 120.60(6).~~
- 14       ~~(e) Imposition of an administrative fine not to exceed~~  
15 ~~\$1,000 for each count or separate offense.~~
- 16       ~~(f) Issuance of a public reprimand.~~
- 17       ~~(g) Placement of an applicant, licensee, registered~~  
18 ~~intern, or certificateholder on probation for a period of time~~  
19 ~~and subject to such conditions as the board may specify,~~  
20 ~~including, but not limited to, requiring the applicant,~~  
21 ~~licensee, registered intern, or certificateholder to submit to~~  
22 ~~treatment, to attend continuing education courses, to submit~~  
23 ~~to reexamination, or to work under the supervision of a~~  
24 ~~designated licensee or certificateholder.~~
- 25       ~~(h) Restriction of practice.~~
- 26       ~~(1)(2) The following acts constitute of a licensee,~~  
27 ~~provisional licensee, registered intern, certificateholder, or~~  
28 ~~applicant are grounds for denial of a license or disciplinary~~  
29 ~~action, as specified in s. 456.072(2) which the disciplinary~~  
30 ~~actions listed in subsection (1) may be taken:~~
- 31       (a) Attempting to obtain, obtaining, or renewing a

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1 license, registration, or certificate under this chapter by  
2 bribery or fraudulent misrepresentation or through an error of  
3 the board or the department.

4 (b) Having a license, registration, or certificate to  
5 practice a comparable profession revoked, suspended, or  
6 otherwise acted against, including the denial of certification  
7 or licensure by another state, territory, or country.

8 (c) Being convicted or found guilty of, regardless of  
9 adjudication, or having entered a plea of nolo contendere to,  
10 a crime in any jurisdiction which directly relates to the  
11 practice of his or her profession or the ability to practice  
12 his or her profession. However, in the case of a plea of nolo  
13 contendere, the board shall allow the person who is the  
14 subject of the disciplinary proceeding to present evidence in  
15 mitigation relevant to the underlying charges and  
16 circumstances surrounding the plea.

17 (d) False, deceptive, or misleading advertising or  
18 obtaining a fee or other thing of value on the representation  
19 that beneficial results from any treatment will be guaranteed.

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

22 (f) Maintaining a professional association with any  
23 person who the applicant, licensee, registered intern, or  
24 certificateholder knows, or has reason to believe, is in  
25 violation of this chapter or of a rule of the department or  
26 the board.

27 (g) Knowingly aiding, assisting, procuring, or  
28 advising any nonlicensed, nonregistered, or noncertified  
29 person to hold himself or herself out as licensed, registered,  
30 or certified under this chapter.

31 (h) Failing to perform any statutory or legal

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1 obligation placed upon a person licensed, registered, or  
2 certified under this chapter.

3 (i) Willfully making or filing a false report or  
4 record; failing to file a report or record required by state  
5 or federal law; willfully impeding or obstructing the filing  
6 of a report or record; or inducing another person to make or  
7 file a false report or record or to impede or obstruct the  
8 filing of a report or record. Such report or record includes  
9 only a report or record which requires the signature of a  
10 person licensed, registered, or certified under this chapter.

11 (j) Paying a kickback, rebate, bonus, or other  
12 remuneration for receiving a patient or client, or receiving a  
13 kickback, rebate, bonus, or other remuneration for referring a  
14 patient or client to another provider of mental health care  
15 services or to a provider of health care services or goods;  
16 referring a patient or client to oneself for services on a  
17 fee-paid basis when those services are already being paid for  
18 by some other public or private entity; or entering into a  
19 reciprocal referral agreement.

20 (k) Committing any act upon a patient or client which  
21 would constitute sexual battery or which would constitute  
22 sexual misconduct as defined pursuant to s. 491.0111.

23 (l) Making misleading, deceptive, untrue, or  
24 fraudulent representations in the practice of any profession  
25 licensed, registered, or certified under this chapter.

26 (m) Soliciting patients or clients personally, or  
27 through an agent, through the use of fraud, intimidation,  
28 undue influence, or a form of overreaching or vexatious  
29 conduct.

30 (n) Failing to make available to a patient or client,  
31 upon written request, copies of tests, reports, or documents

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1 in the possession or under the control of the licensee,  
2 registered intern, or certificateholder which have been  
3 prepared for and paid for by the patient or client.

4 (o) Failing to respond within 30 days to a written  
5 communication from the department or the board concerning any  
6 investigation by the department or the board, or failing to  
7 make available any relevant records with respect to any  
8 investigation about the licensee's, registered intern's, or  
9 certificateholder's conduct or background.

10 (p) Being unable to practice the profession for which  
11 he or she is licensed, registered, or certified under this  
12 chapter with reasonable skill or competence as a result of any  
13 mental or physical condition or by reason of illness;  
14 drunkenness; or excessive use of drugs, narcotics, chemicals,  
15 or any other substance. In enforcing this paragraph, upon a  
16 finding by the secretary, the secretary's designee, or the  
17 board that probable cause exists to believe that the licensee,  
18 registered intern, or certificateholder is unable to practice  
19 the profession because of the reasons stated in this  
20 paragraph, the department shall have the authority to compel a  
21 licensee, registered intern, or certificateholder to submit to  
22 a mental or physical examination by psychologists, physicians,  
23 or other licensees under this chapter, designated by the  
24 department or board. If the licensee, registered intern, or  
25 certificateholder refuses to comply with such order, the  
26 department's order directing the examination may be enforced  
27 by filing a petition for enforcement in the circuit court in  
28 the circuit in which the licensee, registered intern, or  
29 certificateholder resides or does business. The licensee,  
30 registered intern, or certificateholder against whom the  
31 petition is filed shall not be named or identified by initials

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1 in any public court records or documents, and the proceedings  
2 shall be closed to the public. The department shall be  
3 entitled to the summary procedure provided in s. 51.011. A  
4 licensee, registered intern, or certificateholder affected  
5 under this paragraph shall at reasonable intervals be afforded  
6 an opportunity to demonstrate that he or she can resume the  
7 competent practice for which he or she is licensed,  
8 registered, or certified with reasonable skill and safety to  
9 patients.

10 ~~(q)~~ ~~Violating provisions of this chapter, or of~~  
11 ~~chapter 456, or any rules adopted pursuant thereto.~~

12 ~~(q)~~~~(r)~~ Performing any treatment or prescribing any  
13 therapy which, by the prevailing standards of the mental  
14 health professions in the community, would constitute  
15 experimentation on human subjects, without first obtaining  
16 full, informed, and written consent.

17 ~~(r)~~~~(s)~~ Failing to meet the minimum standards of  
18 performance in professional activities when measured against  
19 generally prevailing peer performance, including the  
20 undertaking of activities for which the licensee, registered  
21 intern, or certificateholder is not qualified by training or  
22 experience.

23 ~~(s)~~~~(t)~~ Delegating professional responsibilities to a  
24 person whom the licensee, registered intern, or  
25 certificateholder knows or has reason to know is not qualified  
26 by training or experience to perform such responsibilities.

27 ~~(t)~~~~(u)~~ Violating a rule relating to the regulation of  
28 the profession or a lawful order of the department or the  
29 board previously entered in a disciplinary hearing.

30 ~~(u)~~~~(v)~~ Failure of the licensee, registered intern, or  
31 certificateholder to maintain in confidence a communication



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1 made by a patient or client in the context of such services,  
2 except as provided in s. 491.0147.

3 ~~(v)(w)~~ Making public statements which are derived from  
4 test data, client contacts, or behavioral research and which  
5 identify or damage research subjects or clients.

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

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

14 Section 52. Subsection (3) of section 456.065, Florida  
15 Statutes, is amended to read:

16 456.065 Unlicensed practice of a health care  
17 profession; intent; cease and desist notice; penalties;  
18 enforcement; citations; fees; allocation and disposition of  
19 moneys collected.--

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

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1 department shall seek board advice regarding enforcement  
2 methods and strategies. The department shall directly credit  
3 the Medical Quality Assurance Trust Fund, by profession, with  
4 the revenues received from the department's efforts to enforce  
5 licensure provisions. The department shall include all  
6 financial and statistical data resulting from unlicensed  
7 activity enforcement as a separate category in the quarterly  
8 management report provided for in s. 456.025. For an  
9 unlicensed activity account, a balance which remains at the  
10 end of a renewal cycle may, with concurrence of the applicable  
11 board and the department, be transferred to the operating fund  
12 account of that profession. The department shall also use  
13 these funds to inform and educate consumers generally on the  
14 importance of using licensed health care practitioners.

15 Section 53. Subsection (1) of section 456.074, Florida  
16 Statutes, is amended to read:

17 456.074 Certain health care practitioners; immediate  
18 suspension of license.--

19 (1) The department shall issue an emergency order  
20 suspending the license of any person licensed under chapter  
21 458, chapter 459, chapter 460, chapter 461, chapter 462,  
22 chapter 463, chapter 464, chapter 465, chapter 466, or chapter  
23 484 who pleads guilty to, is convicted or found guilty of, or  
24 who enters a plea of nolo contendere to, regardless of  
25 adjudication, a felony under chapter 409, chapter 817, or  
26 chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C.  
27 ss. 1395-1396.

28 Section 54. Effective July 1, 2003, section 464.005,  
29 Florida Statutes, is amended to read:

30 464.005 Board headquarters.--The board shall maintain  
31 its official headquarters in Tallahassee ~~the city in which it~~

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1 ~~has been domiciled for the past 5 years.~~

2 Section 55. Except as otherwise expressly provided in  
3 this act, this act shall take effect July 1, 2001.

4

5

6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 1, line 2 through page 4, line 25,  
9 remove from the title of the bill: all of said lines

10

11 and insert in lieu thereof:

12 An act relating to health care practitioner  
13 regulation; providing legislative intent and  
14 findings with respect to the Medical Quality  
15 Assurance Trust Fund and function administered  
16 by the Department of Health; requiring the  
17 Auditor General to do a followup Medical  
18 Quality Assurance audit and issue a report to  
19 the Legislature; requiring the Office of  
20 Program Policy Analysis and Government  
21 Accountability to study the feasibility of  
22 maintaining the Medical Quality Assurance  
23 function within a single department and issue a  
24 report to the Legislature; amending s. 456.004,  
25 F.S.; providing requirements for rules relating  
26 to biennial renewal of licenses; amending s.  
27 456.025, F.S.; revising requirements relating  
28 to the setting and use of fees for the  
29 regulation of health care professions and  
30 practitioners, including continuing education  
31 fees; providing for an electronic continuing

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1 education tracking system; repealing s.  
2 458.31151, F.S.; relating to development of the  
3 examination for foreign-trained physicians and  
4 the fees therefor; amending s. 457.107, F.S.;  
5 for clarification of acupuncture fees; amending  
6 s. 483.807, F.S.; relating to clinical  
7 laboratory personnel fees; amending s. 456.011,  
8 F.S.; requiring board meetings to be conducted  
9 through teleconferencing or other technological  
10 means except under certain circumstances;  
11 amending s. 456.013, F.S.; requiring the  
12 department to charge initial license fees;  
13 amending s. 456.017, F.S.; providing for  
14 administration of national examinations and  
15 termination of state-administered written  
16 examinations; providing for administration of  
17 state-administered practical or clinical  
18 examinations if paid for in advance by the  
19 examination candidates; providing legislative  
20 intent with respect to the use of national  
21 examinations and the removal of  
22 state-administered examinations as a barrier to  
23 licensure; providing for electronic access to  
24 and posting of examination scores under certain  
25 conditions; providing for the sharing of  
26 examinations or examination item banks with  
27 certain entities; clarifying circumstances  
28 under which candidates may bring a challenge;  
29 providing for electronic administration of  
30 certain laws and rules examinations; amending  
31 s. 456.035, F.S.; providing for electronic

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1 notification of a licensee's current mailing  
2 address and place of practice; amending s.  
3 456.073, F.S.; authorizing a letter of guidance  
4 in lieu of a finding of probable cause under  
5 certain conditions; amending s. 456.081, F.S.;  
6 providing for the posting of newsletters on the  
7 department's website; amending s. 456.072,  
8 F.S.; revising and providing grounds for  
9 discipline of licensees; revising and providing  
10 disciplinary actions; amending s. 456.079,  
11 F.S.; requiring mitigating or aggravating  
12 circumstances to be in the final order to be  
13 considered in the imposition of penalties;  
14 amending ss. 457.109, 458.320, 458.331,  
15 458.345, 458.347, 459.0085, 459.015, 459.022,  
16 460.413, 461.013, 462.14, 463.016, 464.018,  
17 465.008, 465.016, 466.028, 466.037, 467.203,  
18 468.1295, 468.1755, 468.217, 468.365, 468.518,  
19 468.719, 468.811, 478.52, 480.046, 483.825,  
20 483.901, 484.014, 484.056, 486.125, 490.009,  
21 and 491.009, F.S.; revising and conforming  
22 provisions relating to disciplinary grounds and  
23 penalties; amending s. 456.065, F.S.; requiring  
24 the unlicensed activity fee to be in addition  
25 to all other fees collected from each licensee;  
26 amending s. 456.074, F.S.; providing for  
27 immediate suspension of license for convictions  
28 relating to fraudulent practices; amending s.  
29 464.005, F.S.; providing for future relocation  
30 of the headquarters of the Board of Nursing;  
31 providing effective dates.

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