

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Farkas 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

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

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

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

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

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

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

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

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

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

14 456.025 Fees; receipts; disposition.--

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

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

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

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

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1 barrier to licensure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 ~~chapter 465.~~
2 (7)(5) All moneys collected by the department from
3 fees or fines or from costs awarded to the agency by a court
4 shall be paid into a trust fund used by the department to
5 implement this chapter. The Legislature shall appropriate
6 funds from this trust fund sufficient to carry out this
7 chapter and the provisions of law with respect to professions
8 regulated by the Division of Medical Quality Assurance within
9 the department and the boards. The department may contract
10 with public and private entities to receive and deposit
11 revenue pursuant to this section. The department shall
12 maintain separate accounts in the trust fund used by the
13 department to implement this chapter for every profession
14 within the department. To the maximum extent possible, the
15 department shall directly charge all expenses to the account
16 of each regulated profession. For the purpose of this
17 subsection, direct charge expenses include, but are not
18 limited to, costs for investigations, examinations, and legal
19 services. For expenses that cannot be charged directly, the
20 department shall provide for the proportionate allocation
21 among the accounts of expenses incurred by the department in
22 the performance of its duties with respect to each regulated
23 profession. The regulation by the department of professions,
24 as defined in this chapter, shall be financed solely from
25 revenue collected by it from fees and other charges and
26 deposited in the Medical Quality Assurance Trust Fund, and all
27 such revenue is hereby appropriated to the department.
28 However, it is legislative intent that each profession shall
29 operate within its anticipated fees. The department may not
30 expend funds from the account of a profession to pay for the
31 expenses incurred on behalf of another profession, except that

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

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

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

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

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

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1 457.107 Renewal of licenses; continuing education.--

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

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

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

9 483.807 Fees; establishment; disposition.--

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

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

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

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

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

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

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

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

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

6 456.013 Department; general licensing provisions.--

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

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

25 456.017 Department of Health; examinations.--

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

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

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

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1 appropriate.

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

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

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

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

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

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

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

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

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

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

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1 incorrectly or, if not feasible, the parts of the examination
2 failed. Applicants shall bear the actual cost for the
3 department to provide examination review pursuant to this
4 subsection. An applicant may waive in writing the
5 confidentiality of the applicant's examination grades.
6 Notwithstanding any other provision of law, only candidates
7 who fail an examination by less than 10 percent shall be
8 entitled to challenge the validity of the examination at
9 hearing.

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

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

30 (5) For examinations developed by the department or a
31 contracted vendor, each board, or the department when there is

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

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

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

29 456.035 Address of record.--

30 (1) Each licensee of the department is solely
31 responsible for notifying the department in writing of the

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

10 Section 14. Subsections (2), (4), and (10) of section
11 456.073, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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1 department from providing such information to any law
2 enforcement agency or to any other regulatory agency.

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

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

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

17 456.079 Disciplinary guidelines.--

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

26 Section 17. Subsections (1) and (2) of section
27 457.109, Florida Statutes, are amended to read:

28 457.109 Disciplinary actions; grounds; 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) Attempting to obtain, obtaining, or renewing a
4 license to practice acupuncture by bribery, by fraudulent
5 misrepresentations, or through an error of the department.

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

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

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

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

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

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

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

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1 to do so. Such reports or records shall include only those
2 which are signed in the capacity as a licensed acupuncturist.

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

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

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

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

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

23 (o) Being unable to practice acupuncture 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, upon a finding of the
28 secretary or the secretary's designee that probable cause
29 exists to believe that the licensee is unable to serve as an
30 acupuncturist due to the reasons stated in this paragraph, the
31 department shall have the authority to issue an order to

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

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

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

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

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

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

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

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

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

18 (x) 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 acts 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 ~~\$1,000 for each count or separate offense.~~

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

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

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

9 458.320 Financial responsibility.--

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

16 Section 19. Subsections (1) and (2) of section
17 458.331, Florida Statutes, are amended to read:

18 458.331 Grounds for disciplinary action; action by the
19 board and department.--

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

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

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

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

7 (c) Being convicted or found guilty of, or entering a
8 plea of nolo contendere to, regardless of adjudication, a
9 crime in any jurisdiction which directly relates to the
10 practice of medicine or to the ability to practice medicine.

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

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

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

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

23 (h) Making or filing a report which the licensee knows
24 to be 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 person
27 to do so. Such reports or records shall include only those
28 which are signed in the capacity as a licensed physician.

29 (i) Paying or receiving any commission, bonus,
30 kickback, or rebate, or engaging in any split-fee arrangement
31 in any form whatsoever with a physician, organization, agency,

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

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

13 (k) Making deceptive, untrue, or fraudulent
14 representations in or related to the practice of medicine or
15 employing a trick or scheme in the practice of medicine.

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

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

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

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

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

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

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

30 (s) Being unable to practice medicine with reasonable
31 skill and safety to patients by reason of illness or use of

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

23 (t) Gross or repeated malpractice or the failure to
24 practice medicine with that level of care, skill, and
25 treatment which is recognized by a reasonably prudent similar
26 physician as being acceptable under similar conditions and
27 circumstances. The board shall give great weight to the
28 provisions of s. 766.102 when enforcing this paragraph. As
29 used in this paragraph, "repeated malpractice" includes, but
30 is not limited to, three or more claims for medical
31 malpractice within the previous 5-year period resulting in

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1 indemnities being paid in excess of \$25,000 each to the
2 claimant in a judgment or settlement and which incidents
3 involved negligent conduct by the physician. As used in this
4 paragraph, "gross malpractice" or "the failure to practice
5 medicine with that level of care, skill, and treatment which
6 is recognized by a reasonably prudent similar physician as
7 being acceptable under similar conditions and circumstances,"
8 shall not be construed so as to require more than one
9 instance, event, or act. Nothing in this paragraph shall be
10 construed to require that a physician be incompetent to
11 practice medicine in order to be disciplined pursuant to this
12 paragraph.

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

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

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

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

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

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

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

14 (aa) Presigning blank prescription forms.

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

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

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

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

30 3. The clinical investigation of the effects of such
31 drugs or compounds when an investigative protocol therefor is

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1 submitted to, reviewed, and approved by the board before such
2 investigation is begun.

3 (dd) Failing to supervise adequately the activities of
4 those physician assistants, paramedics, emergency medical
5 technicians, or advanced registered nurse practitioners acting
6 under the supervision of the physician.

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

17 (ff) Prescribing, ordering, dispensing, administering,
18 supplying, selling, or giving amygdalin (laetrile) to any
19 person.

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

23 (hh) Improperly interfering with an investigation or
24 with any disciplinary proceeding.

25 (ii) Failing to report to the department any licensee
26 under this chapter or under chapter 459 who the physician or
27 physician assistant knows has violated the grounds for
28 disciplinary action set out in the law under which that person
29 is licensed and who provides health care services in a
30 facility licensed under chapter 395, or a health maintenance
31 organization certificated under part I of chapter 641, in

1 which the physician or physician assistant also provides
2 services.

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

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

12 (ll) Advertising or holding oneself out as a
13 board-certified specialist, if not qualified under s.
14 458.3312, in violation of this chapter.

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

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

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

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

31 (a) ~~Refusal to certify, or certification with~~

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1 ~~restrictions, to the department an application for licensure,~~
2 ~~certification, or registration.~~

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

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

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

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

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

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

15 ~~(h) Corrective action.~~

16 ~~(i) Refund of fees billed to and collected from the~~
17 ~~patient.~~

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

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

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

31 458.345 Registration of resident physicians, interns,

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1 and fellows; list of hospital employees; prescribing of
2 medicinal drugs; penalty.--

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

10 Section 21. Paragraph (g) of subsection (7) of section
11 458.347, Florida Statutes, is amended to read:

12 458.347 Physician assistants.--

13 (7) PHYSICIAN ASSISTANT LICENSURE.--

14 (g) The Board of Medicine may impose any of the
15 penalties authorized under ~~specified in~~ ss. 456.072 and
16 458.331(2) upon a physician assistant if the physician
17 assistant or the supervising physician has been found guilty
18 of or is being investigated for any act that constitutes a
19 violation of this chapter or chapter 456.

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

22 459.0085 Financial responsibility.--

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

29 Section 23. Subsections (1) and (2) of section
30 459.015, Florida Statutes, are amended to read:

31 459.015 Grounds for disciplinary action; action by the

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1 board and department.--

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

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

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

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

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

28 (e) Failing to report to the department or the
29 department's impaired professional consultant any person who
30 the licensee or certificateholder knows is in violation of
31 this chapter or of the rules of the department or the board.

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1 A treatment provider, approved pursuant to s. 456.076, shall
2 provide the department or consultant with information in
3 accordance with the requirements of s. 456.076(3), (4), (5),
4 and (6).

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

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

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

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

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

30 (k) Refusing to provide health care based on a
31 patient's participation in pending or past litigation or

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1 participation in any disciplinary action conducted pursuant to
2 this chapter, unless such litigation or disciplinary action
3 directly involves the osteopathic physician requested to
4 provide services.

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

10 (m) Making deceptive, untrue, or fraudulent
11 representations in or related to the practice of osteopathic
12 medicine or employing a trick or scheme in the practice of
13 osteopathic medicine.

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

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

30 (p) Fraudulently altering or destroying records
31 relating to patient care or treatment, including, but not

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1 limited to, patient histories, examination results, and test
2 results.

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

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

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

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

28 (u) Prescribing or dispensing any medicinal drug
29 appearing on any schedule set forth in chapter 893 by the
30 osteopathic physician for himself or herself or administering
31 any such drug by the osteopathic physician to himself or

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1 herself unless such drug is prescribed for the osteopathic
2 physician by another practitioner authorized to prescribe
3 medicinal drugs.

4 (v) Prescribing, ordering, dispensing, administering,
5 supplying, selling, or giving amygdalin (laetrile) to any
6 person.

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

31 (x) Gross or repeated malpractice or the failure to

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

30 (y) Performing any procedure or prescribing any
31 therapy which, by the prevailing standards of medical practice

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1 in the community, would constitute experimentation on human
2 subjects, without first obtaining full, informed, and written
3 consent.

4 (z) 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 he or she is not competent to perform. The
8 board may establish by rule standards of practice and
9 standards of care for particular practice settings, including,
10 but not limited to, education and training, equipment and
11 supplies, medications including anesthetics, assistance of and
12 delegation to other personnel, transfer agreements,
13 sterilization, records, performance of complex or multiple
14 procedures, informed consent, and policy and procedure
15 manuals.

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

20 (bb) ~~Violating any provision of this chapter, a rule~~
21 ~~of 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 board~~
24 ~~or department.~~

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

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

31 (ee) Presigning blank prescription forms.

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1 (ff) Prescribing any medicinal drug appearing on
2 Schedule II in chapter 893 by the osteopathic physician for
3 office use.

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

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

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

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

21 (hh) Failing to supervise adequately the activities of
22 those physician assistants, paramedics, emergency medical
23 technicians, advanced registered nurse practitioners, or other
24 persons acting under the supervision of the osteopathic
25 physician.

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

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

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

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

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

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

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

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

9 ~~(a) Refusal to certify, or certify with restrictions,~~
10 ~~to the department an application for certification, licensure,~~
11 ~~renewal, or reactivation.~~

12 ~~(b) Revocation or suspension of a license or~~
13 ~~certificate.~~

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

15 ~~(d) Imposition of an administrative fine not to exceed~~
16 ~~\$10,000 for each count or separate offense.~~

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

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

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

26 ~~(h) Corrective action.~~

27 ~~(i) Refund of fees billed to and collected from the~~
28 ~~patient.~~

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

31

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

9 Section 24. Paragraph (f) of subsection (7) of section
10 459.022, Florida Statutes, is amended to read:

11 459.022 Physician assistants.--

12 (7) PHYSICIAN ASSISTANT LICENSURE.--

13 (f) The Board of Osteopathic Medicine may impose any
14 of the penalties authorized under ~~specified in~~ ss. 456.072 and
15 459.015(2) upon a physician assistant if the physician
16 assistant or the supervising physician has been found guilty
17 of or is being investigated for any act that constitutes a
18 violation of this chapter or chapter 456.

19 Section 25. Subsections (1) and (2) of section
20 460.413, Florida Statutes, are amended to read:

21 460.413 Grounds for disciplinary action; action by
22 board or department.--

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

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

31 (b) Having a license to practice chiropractic medicine

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

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

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

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

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

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

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

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

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

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1 to do so. Such reports or records shall include only those
2 which are signed in the capacity of a licensed chiropractic
3 physician.

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

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

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

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

27 (o) 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 (p) Prescribing, dispensing, or administering any

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1 medicinal drug except as authorized by s. 460.403(9)(c)2.,
2 performing any surgery, or practicing obstetrics.

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

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

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

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

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

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

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

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

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1 (x) Submitting to any third-party payor a claim for a
2 service or treatment which was not actually provided to a
3 patient.

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

27 1. Funds reasonably sufficient to pay bank charges may
28 be deposited therein.

29 2. Funds belonging in part to a patient and in part
30 presently or potentially to the physician must be deposited
31 therein, but the portion belonging to the physician may be

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1 withdrawn when due unless the right of the physician to
2 receive it is disputed by the patient, in which event the
3 disputed portion shall not be withdrawn until the dispute is
4 finally resolved.

5
6 Every chiropractic physician shall maintain complete records
7 of all funds, securities, and other properties of a patient
8 coming into the possession of the physician and render
9 appropriate accounts to the patient regarding them. In
10 addition, every chiropractic physician shall promptly pay or
11 deliver to the patient, as requested by the patient, the
12 funds, securities, or other properties in the possession of
13 the physician which the patient is entitled to receive.

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

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

24 (bb) Advertising a fee or charge for a service or
25 treatment which is different from the fee or charge the
26 licensee submits to third-party payors for that service or
27 treatment.

28 (cc) Advertising any reduced or discounted fees for
29 services or treatments, or advertising any free services or
30 treatments, without prominently stating in the advertisement
31 the usual fee of the licensee for the service or treatment

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1 which is the subject of the discount, rebate, or free
2 offering.

3 (dd) Using acupuncture without being certified
4 pursuant to s. 460.403(9)(f).

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

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

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

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

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

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

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

28 ~~(d) Imposition of an administrative fine not to exceed~~
29 ~~\$10,000 for each count or separate offense.~~

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

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

1 ~~probation for a period of time and subject to such conditions~~
2 ~~as the board may specify, including requiring the chiropractic~~
3 ~~physician to submit to treatment, to attend continuing~~
4 ~~education courses, to submit to reexamination, or to work~~
5 ~~under the supervision of another chiropractic physician.~~

6 ~~(g) Imposition of costs of the investigation and~~
7 ~~prosecution.~~

8 ~~(h) Requirement that the chiropractic physician~~
9 ~~undergo remedial education.~~

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

11 ~~(j) Corrective action.~~

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

14

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

23 Section 26. Subsections (1) and (2) of section
24 461.013, Florida Statutes, are amended to read:

25 461.013 Grounds for disciplinary action; action by the
26 board; investigations by 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 podiatric 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 podiatric 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 podiatric medicine or to the
11 ability to practice podiatric 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) Advertising, practicing, or attempting to practice
16 under a name other than one's own.

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

20 (g) Aiding, assisting, procuring, permitting, or
21 advising any unlicensed person to practice podiatric medicine
22 contrary to this chapter or to rule of the department or the
23 board.

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

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

1 physician.

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

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

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

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

23 (n) Performing professional services which have not
24 been duly authorized by the patient or client or her or his
25 legal representative except as provided in ss. 743.064,
26 766.103, and 768.13.

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

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

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

13 (q) Prescribing, ordering, dispensing, administering,
14 supplying, selling, or giving any amphetamine or
15 sympathomimetic amine drug or compound designated as a
16 Schedule II controlled substance pursuant to chapter 893.

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

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

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

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

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

31 (v) Delegating professional responsibilities to a

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

4 (w) Violating ~~any provision of this chapter or chapter~~
5 ~~456, any rule of the board or department, or~~ a lawful order of
6 the board or department previously entered in a disciplinary
7 hearing or failing to comply with a lawfully issued subpoena
8 of the board or department.

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

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

23 (z) Fraud, deceit, or misconduct in the practice of
24 podiatric medicine.

25 (aa) Failing to report to the department any licensee
26 under chapter 458 or chapter 459 who the podiatric physician
27 knows has violated the grounds for disciplinary action set out
28 in the law under which that person is licensed and who
29 provides health care services in a facility licensed under
30 chapter 395, or a health maintenance organization certificated
31 under part I of chapter 641, in which the podiatric physician

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1 also provides services.

2 (bb) Failing to comply with the requirements of ss.
3 381.026 and 381.0261 to provide patients with information
4 about their patient rights and how to file a patient
5 complaint.

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

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

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

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

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

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

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

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

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

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

31 Section 27. Subsections (1) and (2) of section 462.14,

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1 Florida Statutes, are amended to read:

2 462.14 Grounds for disciplinary action; action by the
3 department.--

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

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

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

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

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

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

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

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

31 (h) Failing to perform any statutory or legal

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1 obligation placed upon a licensed naturopathic physician.

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

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

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

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

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

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

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

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

18 (p) Performing professional services which have not
19 been duly authorized by the patient or client, or her or his
20 legal representative, except as provided in s. 743.064, s.
21 766.103, or s. 768.13.

22 (q) Prescribing, dispensing, administering, mixing, or
23 otherwise preparing a legend drug, including any controlled
24 substance, other than in the course of the naturopathic
25 physician's professional practice. For the purposes of this
26 paragraph, it shall be legally presumed that prescribing,
27 dispensing, administering, mixing, or otherwise preparing
28 legend drugs, including all controlled substances,
29 inappropriately or in excessive or inappropriate quantities is
30 not in the best interest of the patient and is not in the
31 course of the naturopathic physician's professional practice,

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1 without regard to her or his intent.

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

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

30 (t) Gross or repeated malpractice or the failure to
31 practice naturopathic medicine with that level of care, skill,

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1 and treatment which is recognized by a reasonably prudent
2 similar physician as being acceptable under similar conditions
3 and circumstances. The department shall give great weight to
4 the provisions of s. 766.102 when enforcing this paragraph.

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

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

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

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

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

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

28 (aa) Presigning blank prescription forms.

29 (bb) Prescribing by the naturopathic physician for
30 office use any medicinal drug appearing on Schedule II in
31 chapter 893.

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

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

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

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

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

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

31 (2) The department may enter an order denying

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

22 Section 28. Subsections (1) and (2) of section
23 463.016, Florida Statutes, are amended to read:

24 463.016 Grounds for disciplinary action; action by the
25 board.--

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

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

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

3 (b) Procuring or attempting to procure a license for
4 any other person by making or causing to be made any false
5 representation.

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

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

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

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

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

26 (h) A violation or repeated violations of provisions
27 of this chapter, or of chapter 456, and any rules promulgated
28 pursuant thereto.

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

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1 advertising her or his services.

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

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

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

9 (m) Gross or repeated malpractice.

10 (n) Practicing with a revoked, suspended, inactive, or
11 delinquent license.

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

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

23 (q) Violating any provision of s. 463.014 or s.
24 463.015.

25 (r) Violating any 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 (s) Practicing or offering to practice beyond the
30 scope permitted by law or accepting and performing
31 professional responsibilities which the licensed practitioner

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1 knows or has reason to know she or he is not competent to
2 perform.

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

5 (2) The department may enter an order imposing any of
6 the penalties in s. 456.072(2) against any licensee who is
7 found guilty of violating any provision of subsection (1) of
8 this section or who is found guilty of violating any provision
9 of s. 456.072(1). ~~When the board 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) ~~Imposition of an administrative fine not to exceed~~
16 ~~\$5,000 for each count or separate offense.~~

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

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

24 Section 29. Subsections (1) and (2) of section
25 464.018, Florida Statutes, are amended to read:

26 464.018 Disciplinary actions.--

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

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

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

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

7 (c) Being convicted or found guilty of, or entering a
8 plea of nolo contendere to, regardless of adjudication, a
9 crime in any jurisdiction which directly relates to the
10 practice of nursing or to the ability to practice nursing.

11 (d) Being found guilty, regardless of adjudication, of
12 any of the following offenses:

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

14 2. A violation of chapter 812, relating to theft,
15 robbery, and related crimes.

16 3. A violation of chapter 817, relating to fraudulent
17 practices.

18 4. A violation of chapter 800, relating to lewdness
19 and indecent exposure.

20 5. A violation of chapter 784, relating to assault,
21 battery, and culpable negligence.

22 6. A violation of chapter 827, relating to child
23 abuse.

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

26 8. A violation of chapter 39, relating to child abuse,
27 abandonment, and neglect.

28 (e) Having been found guilty of, regardless of
29 adjudication, or entered a plea of nolo contendere or guilty
30 to, any offense prohibited under s. 435.03 or under any
31 similar statute of another jurisdiction; or having committed

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1 an act which constitutes domestic violence as defined in s.
2 741.28.

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

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

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

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

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

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

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

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

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

31 (n) Violating any provision of this chapter or chapter

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1 456, or any rules adopted pursuant thereto.

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

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

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

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

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

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

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

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

25 Section 30. Subsections (3) and (4) of section
26 465.008, Florida Statutes, are amended to read:

27 465.008 Renewal of license.--

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

31 ~~(3)(4)~~ Any person licensed under this chapter for 50

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1 years or more is exempt from the payment of the renewal or
2 delinquent fee, and the department shall issue a lifetime
3 license to such a person.

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

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

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)(1)~~ 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

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.

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

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

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

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. Paragraphs (e) and (f) of subsection (4)
16 of section 458.347, Florida Statutes, are amended to read:

17 458.347 Physician assistants.--

18 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

19 (e) A supervisory physician may delegate to a fully
20 licensed physician assistant the authority to prescribe any
21 medication used in the supervisory physician's practice unless
22 if such medication is listed on the formulary created pursuant
23 to paragraph (f). A fully licensed physician assistant may
24 only prescribe such medication under the following
25 circumstances:

26 1. A physician assistant must clearly identify to the
27 patient that he or she is a physician assistant. Furthermore,
28 the physician assistant must inform the patient that the
29 patient has the right to see the physician prior to any
30 prescription being prescribed by the physician assistant.

31 2. The supervisory physician must notify the

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1 department of his or her intent to delegate, on a
2 department-approved form, before delegating such authority and
3 notify the department of any change in prescriptive privileges
4 of the physician assistant.

5 3. The physician assistant must file with the
6 department, before commencing to prescribe, evidence that he
7 or she has completed a continuing medical education course of
8 at least 3 classroom hours in prescriptive practice, conducted
9 by an accredited program approved by the boards, which course
10 covers the limitations, responsibilities, and privileges
11 involved in prescribing medicinal drugs, or evidence that he
12 or she has received education comparable to the continuing
13 education course as part of an accredited physician assistant
14 training program.

15 4. The physician assistant must file with the
16 department, before commencing to prescribe, evidence that the
17 physician assistant has a minimum of 3 months of clinical
18 experience in the specialty area of the supervising physician.

19 5. The physician assistant must file with the
20 department a signed affidavit that he or she has completed a
21 minimum of 10 continuing medical education hours in the
22 specialty practice in which the physician assistant has
23 prescriptive privileges with each licensure renewal
24 application.

25 6. The department shall issue a license and a
26 prescriber number to the physician assistant granting
27 authority for the prescribing of medicinal drugs authorized
28 within this paragraph upon completion of the foregoing
29 requirements.

30 7. The prescription must be written in a form that
31 complies with chapter 499 and must contain, in addition to the

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1 supervisory physician's name, address, and telephone number,
2 the physician assistant's prescriber number. Unless it is a
3 drug sample dispensed by the physician assistant, the
4 prescription must be filled in a pharmacy permitted under
5 chapter 465 and must be dispensed in that pharmacy by a
6 pharmacist licensed under chapter 465. The appearance of the
7 prescriber number creates a presumption that the physician
8 assistant is authorized to prescribe the medicinal drug and
9 the prescription is valid.

10 8. The physician assistant must note the prescription
11 in the appropriate medical record, and the supervisory
12 physician must review and sign each notation. For dispensing
13 purposes only, the failure of the supervisory physician to
14 comply with these requirements does not affect the validity of
15 the prescription.

16 9. This paragraph does not prohibit a supervisory
17 physician from delegating to a physician assistant the
18 authority to order medication for a hospitalized patient of
19 the supervisory physician.

20
21 This paragraph does not apply to facilities licensed pursuant
22 to chapter 395.

23 ~~(f)1. There is created a five-member committee~~
24 ~~appointed by the Secretary of Health. The committee must be~~
25 ~~composed of one fully licensed physician assistant licensed~~
26 ~~pursuant to this section or s. 459.022, two physicians~~
27 ~~licensed pursuant to this chapter, one of whom supervises a~~
28 ~~fully licensed physician assistant, one osteopathic physician~~
29 ~~licensed pursuant to chapter 459, and one pharmacist licensed~~
30 ~~pursuant to chapter 465 who is not licensed pursuant to this~~
31 ~~chapter or chapter 459. The council committee shall establish~~

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1 a formulary of medicinal drugs that for which a fully licensed
2 physician assistant, licensed under this section or s.
3 459.022, may not prescribe. The formulary must ~~may not~~ include
4 controlled substances as defined in chapter 893,
5 ~~antineoplastics, antipsychotics, radiopharmaceuticals, general~~
6 ~~anesthetics and or~~ radiographic contrast materials, and all or
7 ~~any~~ parenteral preparations except insulin and epinephrine.

8 2. In establishing the formulary, the council shall
9 consult with a pharmacist licensed under chapter 465, but not
10 licensed under this chapter or chapter 459, who shall be
11 selected by the Secretary of Health.

12 3.2. Only the council committee shall add to, delete
13 from, or modify the formulary. Any person who requests an
14 addition, deletion, or modification of a medicinal drug listed
15 on such formulary has the burden of proof to show cause why
16 such addition, deletion, or modification should be made.

17 4.3. The boards shall adopt the formulary required by
18 this paragraph, and each addition, deletion, or modification
19 to the formulary, by rule. Notwithstanding any provision of
20 chapter 120 to the contrary, the formulary rule shall be
21 effective 60 days after the date it is filed with the
22 Secretary of State. Upon adoption of the formulary, the
23 department shall mail a copy of such formulary to each fully
24 licensed physician assistant, licensed under this section or
25 s. 459.022, and to each pharmacy licensed by the state. The
26 boards shall establish, by rule, a fee not to exceed \$200 to
27 fund the provisions of this paragraph and paragraph (e).

28 Section 54. Subsection (4) and paragraph (c) of
29 subsection (9) of section 459.022, Florida Statutes, are
30 amended to read:

31 459.022 Physician assistants.--

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1 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

2 (a) The boards shall adopt, by rule, the general
3 principles that supervising physicians must use in developing
4 the scope of practice of a physician assistant under direct
5 supervision and under indirect supervision. These principles
6 shall recognize the diversity of both specialty and practice
7 settings in which physician assistants are used.

8 (b) This chapter does not prevent third-party payors
9 from reimbursing employers of physician assistants for covered
10 services rendered by licensed physician assistants.

11 (c) Licensed physician assistants may not be denied
12 clinical hospital privileges, except for cause, so long as the
13 supervising physician is a staff member in good standing.

14 (d) A supervisory physician may delegate to a licensed
15 physician assistant, pursuant to a written protocol, the
16 authority to act according to s. 154.04(1)(c). Such delegated
17 authority is limited to the supervising physician's practice
18 in connection with a county health department as defined and
19 established pursuant to chapter 154. The boards shall adopt
20 rules governing the supervision of physician assistants by
21 physicians in county health departments.

22 (e) A supervisory physician may delegate to a fully
23 licensed physician assistant the authority to prescribe any
24 medication used in the supervisory physician's practice unless
25 ~~if~~ such medication is listed on the formulary created pursuant
26 to s. 458.347. A fully licensed physician assistant may only
27 prescribe such medication under the following circumstances:

28 1. A physician assistant must clearly identify to the
29 patient that she or he is a physician assistant. Furthermore,
30 the physician assistant must inform the patient that the
31 patient has the right to see the physician prior to any

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1 prescription being prescribed by the physician assistant.

2 2. The supervisory physician must notify the
3 department of her or his intent to delegate, on a
4 department-approved form, before delegating such authority and
5 notify the department of any change in prescriptive privileges
6 of the physician assistant.

7 3. The physician assistant must file with the
8 department, before commencing to prescribe, evidence that she
9 or he has completed a continuing medical education course of
10 at least 3 classroom hours in prescriptive practice, conducted
11 by an accredited program approved by the boards, which course
12 covers the limitations, responsibilities, and privileges
13 involved in prescribing medicinal drugs, or evidence that she
14 or he has received education comparable to the continuing
15 education course as part of an accredited physician assistant
16 training program.

17 4. The physician assistant must file with the
18 department, before commencing to prescribe, evidence that the
19 physician assistant has a minimum of 3 months of clinical
20 experience in the specialty area of the supervising physician.

21 5. The physician assistant must file with the
22 department a signed affidavit that she or he has completed a
23 minimum of 10 continuing medical education hours in the
24 specialty practice in which the physician assistant has
25 prescriptive privileges with each licensure renewal
26 application.

27 6. The department shall issue a license and a
28 prescriber number to the physician assistant granting
29 authority for the prescribing of medicinal drugs authorized
30 within this paragraph upon completion of the foregoing
31 requirements.

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1 7. The prescription must be written in a form that
2 complies with chapter 499 and must contain, in addition to the
3 supervisory physician's name, address, and telephone number,
4 the physician assistant's prescriber number. Unless it is a
5 drug sample dispensed by the physician assistant, the
6 prescription must be filled in a pharmacy permitted under
7 chapter 465, and must be dispensed in that pharmacy by a
8 pharmacist licensed under chapter 465. The appearance of the
9 prescriber number creates a presumption that the physician
10 assistant is authorized to prescribe the medicinal drug and
11 the prescription is valid.

12 8. The physician assistant must note the prescription
13 in the appropriate medical record, and the supervisory
14 physician must review and sign each notation. For dispensing
15 purposes only, the failure of the supervisory physician to
16 comply with these requirements does not affect the validity of
17 the prescription.

18 9. This paragraph does not prohibit a supervisory
19 physician from delegating to a physician assistant the
20 authority to order medication for a hospitalized patient of
21 the supervisory physician.

22
23 This paragraph does not apply to facilities licensed pursuant
24 to chapter 395.

25 ~~(f)1. There is created a five-member committee~~
26 ~~appointed by the Secretary of Health. The committee must be~~
27 ~~composed of one fully licensed physician assistant licensed~~
28 ~~pursuant to this section or s. 458.347, two physicians~~
29 ~~licensed pursuant to chapter 458, one of whom supervises a~~
30 ~~fully licensed physician assistant, one osteopathic physician~~
31 ~~licensed pursuant to this chapter, and one pharmacist licensed~~

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~~1 pursuant to chapter 465 who is not licensed pursuant to this
2 chapter or chapter 458. The committee shall establish a
3 formulary of medicinal drugs for which a fully licensed
4 physician assistant may prescribe. The formulary may not
5 include controlled substances as defined in chapter 893,
6 antineoplastics, antipsychotics, radiopharmaceuticals, general
7 anesthetics or radiographic contrast materials, or any
8 parenteral preparations except insulin and epinephrine.~~

~~9 2. Only the committee shall add to, delete from, or
10 modify the formulary. Any person who requests an addition,
11 deletion, or modification of a medicinal drug listed on such
12 formulary has the burden of proof to show cause why such
13 addition, deletion, or modification should be made.~~

~~14 3. The boards shall adopt the formulary required by
15 this paragraph, and each addition, deletion, or modification
16 to the formulary, by rule. Notwithstanding any provision of
17 chapter 120 to the contrary, the formulary rule shall be
18 effective 60 days after the date it is filed with the
19 Secretary of State. Upon adoption of the formulary, the
20 department shall mail a copy of such formulary to each fully
21 licensed physician assistant and to each pharmacy licensed by
22 the state. The boards shall establish, by rule, a fee not to
23 exceed \$200 to fund the provisions of this paragraph and
24 paragraph (e).~~

~~25 (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on
26 Physician Assistants is created within the department.~~

~~27 (c) The council shall:~~

~~28 1. Recommend to the department the licensure of
29 physician assistants.~~

~~30 2. Develop all rules regulating the use of physician
31 assistants by physicians under chapter 458 and this chapter,~~

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1 except for rules relating to the formulary developed under s.
2 458.347(4)(f). The council shall also develop rules to ensure
3 that the continuity of supervision is maintained in each
4 practice setting. The boards shall consider adopting a
5 proposed rule developed by the council at the regularly
6 scheduled meeting immediately following the submission of the
7 proposed rule by the council. A proposed rule submitted by
8 the council may not be adopted by either board unless both
9 boards have accepted and approved the identical language
10 contained in the proposed rule. The language of all proposed
11 rules submitted by the council must be approved by both boards
12 pursuant to each respective board's guidelines and standards
13 regarding the adoption of proposed rules. If either board
14 rejects the council's proposed rule, that board must specify
15 its objection to the council with particularity and include
16 any recommendations it may have for the modification of the
17 proposed rule.

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

20 4. Address concerns and problems of practicing
21 physician assistants in order to improve safety in the
22 clinical practices of licensed physician assistants.

23 Section 55. Subsection (6) is added to section
24 456.003, Florida Statutes, to read:

25 456.003 Legislative intent; requirements.--

26 (6) Unless expressly and specifically granted in
27 statute, the duties conferred on the boards do not include the
28 enlargement, modification, or contravention of the lawful
29 scope of practice of the profession regulated by the boards.
30 This subsection shall not prohibit the boards, or the
31 department when there is no board, from taking disciplinary

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1 action or issuing a declaratory statement.

2 Section 56. (1)(a) The Agency for Health Care
3 Administration shall create an Organ Transplant Task Force
4 within the Agency for Health Care Administration, which task
5 force must be funded by existing agency funds.

6 (b) Task force participants shall be responsible for
7 only the expenses that they generate individually through
8 participation. The agency shall be responsible for expenses
9 incidental to the production of any required data or reports.

10 (2) The task force shall consist of up to 15 members.
11 The task force chairperson shall be selected by majority vote
12 of a quorum present. Eight members shall constitute a quorum.
13 The membership shall include, but not be limited to, a balance
14 of members representing the Agency for Health Care
15 Administration, health care facilities that have existing
16 organ transplantation programs, individual organ transplant
17 health care practitioners, pediatric organ transplantation
18 programs, organ procurement agencies, and organ transplant
19 recipients or family members.

20 (3) The task force shall meet for the purpose of
21 studying and making recommendations regarding current and
22 future supply of organs in relation to the number of existing
23 organ transplantation programs and the future necessity of the
24 issuance of a certificate of need for proposed organ
25 transplantation programs. At a minimum, the task force shall
26 submit a report to the Legislature which includes a summary of
27 the methods of allocation and distribution of organs; a list
28 of facilities performing multiple organ transplants and the
29 number being performed; the number of Medicaid and charity
30 care patients who have received organ transplants by existing
31 organ transplant programs; suggested mechanisms for funding

1 organ transplants, which shall include, but need not be
2 limited to, an organ transplant trust fund for the treatment
3 of Medicaid and charity patients; the impact of trends in
4 health care delivery and financing on organ transplantation;
5 and the number of certificates of need applications reviewed
6 by the Agency for Health Care Administration in the last 5
7 years, including the number approved or denied and the number
8 litigated.

9 (4) The task force shall meet at the call of the
10 chairperson. The task force shall submit a report to the
11 Governor, the President of the Senate, and the Speaker of the
12 House of Representatives by January 15, 2002. The task force
13 is abolished effective December 31, 2002.

14 Section 57. Section 409.9205, Florida Statutes, is
15 amended to read:

16 409.9205 Medicaid Fraud Control Unit; ~~law enforcement~~
17 ~~officers.~~--

18 (1) Except as provided in s. 110.205, all positions in
19 the Medicaid Fraud Control Unit of the Department of Legal
20 Affairs are hereby transferred to the Career Service System.

21 (2) All investigators employed by the Medicaid Fraud
22 Control Unit who have been certified under s. 943.1395 are law
23 enforcement officers of the state. Such investigators have
24 the authority to conduct criminal investigations, bear arms,
25 make arrests, and apply for, serve, and execute search
26 warrants, arrest warrants, capias, and other process
27 throughout the state pertaining to Medicaid fraud as described
28 in this chapter. The Attorney General shall provide
29 reasonable notice of criminal investigations conducted by the
30 Medicaid Fraud Control Unit to, and coordinate those
31 investigations with, the sheriffs of the respective counties.

1 ~~Investigators employed by the Medicaid Fraud Control Unit are~~
2 ~~not eligible for membership in the Special Risk Class of the~~
3 ~~Florida Retirement System under s. 121.0515.~~

4 Section 58. Subsection (1) of section 483.245, Florida
5 Statutes, is amended to read:

6 483.245 Rebates prohibited; penalties.--

7 (1) It is unlawful for any person to pay or receive
8 any commission, bonus, kickback, or rebate or engage in any
9 split-fee arrangement in any form whatsoever with any dialysis
10 facility, physician, surgeon, organization, agency, or person,
11 either directly or indirectly, for patients referred to a
12 clinical laboratory licensed under this part.

13 Section 59. Subsection (3) of section 232.435, Florida
14 Statutes, is amended to read:

15 232.435 Extracurricular athletic activities; athletic
16 trainers.--

17 (3)~~(a)~~ To the extent practicable, a school district
18 program should include the following employment classification
19 and advancement scheme:

20 1. First responder - To qualify as a first responder,
21 a person must possess a professional, temporary, part-time,
22 adjunct, or substitute certificate pursuant to s. 231.17, be
23 certified in cardiopulmonary resuscitation, first aid, and
24 have 15 semester hours in courses such as care and prevention
25 of athletic injuries, anatomy, physiology, nutrition,
26 counseling, and other similar courses approved by the
27 Commissioner of Education. This person may only administer
28 first aid and similar care.

29 ~~1. Teacher apprentice trainer I.--To qualify as a~~
30 ~~teacher apprentice trainer I, a person must possess a~~
31 ~~professional, temporary, part-time, adjunct, or substitute~~

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1 ~~certificate pursuant to s. 231.17, be certified in first aid~~
2 ~~and cardiopulmonary resuscitation, and have earned a minimum~~
3 ~~of 6 semester hours or the equivalent number of inservice~~
4 ~~education points in the basic prevention and care of athletic~~
5 ~~injuries.~~

6 ~~2. Teacher apprentice trainer II.--To qualify as a~~
7 ~~teacher apprentice trainer II, a person must meet the~~
8 ~~requirements of teacher apprentice trainer I and also have~~
9 ~~earned a minimum of 15 additional semester hours or the~~
10 ~~equivalent number of inservice education points in such~~
11 ~~courses as anatomy, physiology, use of modalities, nutrition,~~
12 ~~counseling, and other courses approved by the Commissioner of~~
13 ~~Education.~~

14 ~~2.3. Teacher athletic trainer.--To qualify as a~~
15 ~~teacher athletic trainer, a person must possess a~~
16 ~~professional, temporary, part-time, adjunct, or substitute~~
17 ~~certificate pursuant to s. 232.17, and be licensed as required~~
18 ~~by part XIII of chapter 468 meet the requirements of teacher~~
19 ~~apprentice trainer II, be certified by the Department of~~
20 ~~Education or a nationally recognized athletic trainer~~
21 ~~association, and perform one or more of the following~~
22 ~~functions: preventing athletic injuries; recognizing,~~
23 ~~evaluating, managing, treating, and rehabilitating athletic~~
24 ~~injuries; administering an athletic training program; and~~
25 ~~educating and counseling athletes.~~

26 ~~(b) If a school district uses the services of an~~
27 ~~athletic trainer who is not a teacher athletic trainer or a~~
28 ~~teacher apprentice trainer within the requirements of this~~
29 ~~section, such athletic trainer must be licensed as required by~~
30 ~~part XIII of chapter 468.~~

31 Section 60. Paragraph (b) of subsection (1) of section

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1 383.14, Florida Statutes, is amended to read:

2 383.14 Screening for metabolic disorders, other
3 hereditary and congenital disorders, and environmental risk
4 factors.--

5 (1) SCREENING REQUIREMENTS.--To help ensure access to
6 the maternal and child health care system, the Department of
7 Health shall promote the screening of all infants born in
8 Florida for phenylketonuria and other metabolic, hereditary,
9 and congenital disorders known to result in significant
10 impairment of health or intellect, as screening programs
11 accepted by current medical practice become available and
12 practical in the judgment of the department. The department
13 shall also promote the identification and screening of all
14 infants born in this state and their families for
15 environmental risk factors such as low income, poor education,
16 maternal and family stress, emotional instability, substance
17 abuse, and other high-risk conditions associated with
18 increased risk of infant mortality and morbidity to provide
19 early intervention, remediation, and prevention services,
20 including, but not limited to, parent support and training
21 programs, home visitation, and case management.
22 Identification, perinatal screening, and intervention efforts
23 shall begin prior to and immediately following the birth of
24 the child by the attending health care provider. Such efforts
25 shall be conducted in hospitals, perinatal centers, county
26 health departments, school health programs that provide
27 prenatal care, and birthing centers, and reported to the
28 Office of Vital Statistics.

29 (b) Postnatal screening.--A risk factor analysis using
30 the department's designated risk assessment instrument shall
31 also be conducted as part of the medical screening process

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1 upon the birth of a child and submitted to the department's
2 Office of Vital Statistics for recording and other purposes
3 provided for in this chapter. The department's screening
4 process for risk assessment shall include a scoring mechanism
5 and procedures that establish thresholds for notification,
6 further assessment, referral, and eligibility for services by
7 professionals or paraprofessionals consistent with the level
8 of risk. Procedures for developing and using the screening
9 instrument, notification, referral, and care coordination
10 services, reporting requirements, management information, and
11 maintenance of a computer-driven registry in the Office of
12 Vital Statistics which ensures privacy safeguards must be
13 consistent with the provisions and plans established under
14 chapter 411, Pub. L. No. 99-457, and this chapter. Procedures
15 established for reporting information and maintaining a
16 confidential registry must include a mechanism for a
17 centralized information depository at the state and county
18 levels. The department shall coordinate with existing risk
19 assessment systems and information registries. The department
20 must ensure, to the maximum extent possible, that the
21 screening information registry is integrated with the
22 department's automated data systems, including the Florida
23 On-line Recipient Integrated Data Access (FLORIDA) system.
24 Tests and screenings must be performed by the State Public
25 Health Laboratory, in coordination with Children's Medical
26 Services, at such times and in such manner as is prescribed by
27 the department after consultation with the Genetics and Infant
28 Screening Advisory Council and the State Coordinating Council
29 for School Readiness Programs.

30 Section 61. Section 395.0197, Florida Statutes, is
31 amended to read:

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1 395.0197 Internal risk management program.--

2 (1) Every licensed facility shall, as a part of its
3 administrative functions, establish an internal risk
4 management program that includes all of the following
5 components:

6 (a) The investigation and analysis of the frequency
7 and causes of general categories and specific types of adverse
8 incidents to patients.

9 (b) The development of appropriate measures to
10 minimize the risk of adverse incidents to patients, including,
11 but not limited to:

12 1. Risk management and risk prevention education and
13 training of all nonphysician personnel as follows:

14 a. Such education and training of all nonphysician
15 personnel as part of their initial orientation; and

16 b. At least 1 hour of such education and training
17 annually for all ~~nonphysician~~ personnel of the licensed
18 facility working in clinical areas and providing patient care,
19 except those persons licensed as health care practitioners who
20 are required to complete continuing education coursework
21 pursuant to chapter 456 or the respective practice act.

22 2. A prohibition, except when emergency circumstances
23 require otherwise, against a staff member of the licensed
24 facility attending a patient in the recovery room, unless the
25 staff member is authorized to attend the patient in the
26 recovery room and is in the company of at least one other
27 person. However, a licensed facility is exempt from the
28 two-person requirement if it has:

29 a. Live visual observation;

30 b. Electronic observation; or

31 c. Any other reasonable measure taken to ensure

1 patient protection and privacy.

2 3. A prohibition against an unlicensed person from
3 assisting or participating in any surgical procedure unless
4 the facility has authorized the person to do so following a
5 competency assessment, and such assistance or participation is
6 done under the direct and immediate supervision of a licensed
7 physician and is not otherwise an activity that may only be
8 performed by a licensed health care practitioner.

9 4. Development, implementation, and ongoing evaluation
10 of procedures, protocols, and systems to accurately identify
11 patients, planned procedures, and the correct site of the
12 planned procedure so as to minimize the performance of a
13 surgical procedure on the wrong patient, a wrong surgical
14 procedure, a wrong-site surgical procedure, or a surgical
15 procedure otherwise unrelated to the patient's diagnosis or
16 medical condition.

17 (c) The analysis of patient grievances that relate to
18 patient care and the quality of medical services.

19 (d) The development and implementation of an incident
20 reporting system based upon the affirmative duty of all health
21 care providers and all agents and employees of the licensed
22 health care facility to report adverse incidents to the risk
23 manager, or to his or her designee, within 3 business days
24 after their occurrence.

25 (2) The internal risk management program is the
26 responsibility of the governing board of the health care
27 facility. Each licensed facility shall hire a risk manager,
28 licensed under s. 395.10974 ~~part IX of chapter 626~~, who is
29 responsible for implementation and oversight of such
30 facility's internal risk management program as required by
31 this section. A risk manager must not be made responsible for

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1 more than four internal risk management programs in separate
2 licensed facilities, unless the facilities are under one
3 corporate ownership or the risk management programs are in
4 rural hospitals.

5 (3) In addition to the programs mandated by this
6 section, other innovative approaches intended to reduce the
7 frequency and severity of medical malpractice and patient
8 injury claims shall be encouraged and their implementation and
9 operation facilitated. Such additional approaches may include
10 extending internal risk management programs to health care
11 providers' offices and the assuming of provider liability by a
12 licensed health care facility for acts or omissions occurring
13 within the licensed facility.

14 (4) The agency shall, ~~after consulting with the~~
15 ~~Department of Insurance,~~ adopt rules governing the
16 establishment of internal risk management programs to meet the
17 needs of individual licensed facilities. Each internal risk
18 management program shall include the use of incident reports
19 to be filed with an individual of responsibility who is
20 competent in risk management techniques in the employ of each
21 licensed facility, such as an insurance coordinator, or who is
22 retained by the licensed facility as a consultant. The
23 individual responsible for the risk management program shall
24 have free access to all medical records of the licensed
25 facility. The incident reports are part of the workpapers of
26 the attorney defending the licensed facility in litigation
27 relating to the licensed facility and are subject to
28 discovery, but are not admissible as evidence in court. A
29 person filing an incident report is not subject to civil suit
30 by virtue of such incident report. As a part of each internal
31 risk management program, the incident reports shall be used to

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1 develop categories of incidents which identify problem areas.
2 Once identified, procedures shall be adjusted to correct the
3 problem areas.

4 (5) For purposes of reporting to the agency pursuant
5 to this section, the term "adverse incident" means an event
6 over which health care personnel could exercise control and
7 which is associated in whole or in part with medical
8 intervention, rather than the condition for which such
9 intervention occurred, and which:

10 (a) Results in one of the following injuries:

- 11 1. Death;
- 12 2. Brain or spinal damage;
- 13 3. Permanent disfigurement;
- 14 4. Fracture or dislocation of bones or joints;
- 15 5. A resulting limitation of neurological, physical,
16 or sensory function which continues after discharge from the
17 facility;
- 18 6. Any condition that required specialized medical
19 attention or surgical intervention resulting from nonemergency
20 medical intervention, other than an emergency medical
21 condition, to which the patient has not given his or her
22 informed consent; or
- 23 7. Any condition that required the transfer of the
24 patient, within or outside the facility, to a unit providing a
25 more acute level of care due to the adverse incident, rather
26 than the patient's condition prior to the adverse incident;

27 (b) Was the performance of a surgical procedure on the
28 wrong patient, a wrong surgical procedure, a wrong-site
29 surgical procedure, or a surgical procedure otherwise
30 unrelated to the patient's diagnosis or medical condition;

31 (c) Required the surgical repair of damage resulting

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1 to a patient from a planned surgical procedure, where the
2 damage was not a recognized specific risk, as disclosed to the
3 patient and documented through the informed-consent process;
4 or

5 (d) Was a procedure to remove unplanned foreign
6 objects remaining from a surgical procedure.

7 (6)(a) Each licensed facility subject to this section
8 shall submit an annual report to the agency summarizing the
9 incident reports that have been filed in the facility for that
10 year. The report shall include:

11 1. The total number of adverse incidents.

12 2. A listing, by category, of the types of operations,
13 diagnostic or treatment procedures, or other actions causing
14 the injuries, and the number of incidents occurring within
15 each category.

16 3. A listing, by category, of the types of injuries
17 caused and the number of incidents occurring within each
18 category.

19 4. A code number using the health care professional's
20 licensure number and a separate code number identifying all
21 other individuals directly involved in adverse incidents to
22 patients, the relationship of the individual to the licensed
23 facility, and the number of incidents in which each individual
24 has been directly involved. Each licensed facility shall
25 maintain names of the health care professionals and
26 individuals identified by code numbers for purposes of this
27 section.

28 5. A description of all malpractice claims filed
29 against the licensed facility, including the total number of
30 pending and closed claims and the nature of the incident which
31 led to, the persons involved in, and the status and

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1 disposition of each claim. Each report shall update status and
2 disposition for all prior reports.

3 (b) The information reported to the agency pursuant to
4 paragraph (a) which relates to persons licensed under chapter
5 458, chapter 459, chapter 461, or chapter 466 shall be
6 reviewed by the agency. The agency shall determine whether
7 any of the incidents potentially involved conduct by a health
8 care professional who is subject to disciplinary action, in
9 which case the provisions of s. 456.073 shall apply.

10 (c) The report submitted to the agency shall also
11 contain the name and license number of the risk manager of the
12 licensed facility, a copy of its policy and procedures which
13 govern the measures taken by the facility and its risk manager
14 to reduce the risk of injuries and adverse incidents, and the
15 results of such measures. The annual report is confidential
16 and is not available to the public pursuant to s. 119.07(1) or
17 any other law providing access to public records. The annual
18 report is not discoverable or admissible in any civil or
19 administrative action, except in disciplinary proceedings by
20 the agency or the appropriate regulatory board. The annual
21 report is not available to the public as part of the record of
22 investigation for and prosecution in disciplinary proceedings
23 made available to the public by the agency or the appropriate
24 regulatory board. However, the agency or the appropriate
25 regulatory board shall make available, upon written request by
26 a health care professional against whom probable cause has
27 been found, any such records which form the basis of the
28 determination of probable cause.

29 (7) The licensed facility shall notify the agency no
30 later than 1 business day after the risk manager or his or her
31 designee has received a report pursuant to paragraph (1)(d)

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1 and can determine within 1 business day that any of the
2 following adverse incidents has occurred, whether occurring in
3 the licensed facility or arising from health care prior to
4 admission in the licensed facility:

- 5 (a) The death of a patient;
- 6 (b) Brain or spinal damage to a patient;
- 7 (c) The performance of a surgical procedure on the
8 wrong patient;
- 9 (d) The performance of a wrong-site surgical
10 procedure; or
- 11 (e) The performance of a wrong surgical procedure.

12
13 The notification must be made in writing and be provided by
14 facsimile device or overnight mail delivery. The notification
15 must include information regarding the identity of the
16 affected patient, the type of adverse incident, the initiation
17 of an investigation by the facility, and whether the events
18 causing or resulting in the adverse incident represent a
19 potential risk to other patients.

20 (8) Any of the following adverse incidents, whether
21 occurring in the licensed facility or arising from health care
22 prior to admission in the licensed facility, shall be reported
23 by the facility to the agency within 15 calendar days after
24 its occurrence:

- 25 (a) The death of a patient;
- 26 (b) Brain or spinal damage to a patient;
- 27 (c) The performance of a surgical procedure on the
28 wrong patient;
- 29 (d) The performance of a wrong-site surgical
30 procedure;
- 31 (e) The performance of a wrong surgical procedure;

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

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

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

10

11 The agency may grant extensions to this reporting requirement
12 for more than 15 days upon justification submitted in writing
13 by the facility administrator to the agency. The agency may
14 require an additional, final report. These reports shall not
15 be available to the public pursuant to s. 119.07(1) or any
16 other law providing access to public records, nor be
17 discoverable or admissible in any civil or administrative
18 action, except in disciplinary proceedings by the agency or
19 the appropriate regulatory board, nor shall they be available
20 to the public as part of the record of investigation for and
21 prosecution in disciplinary proceedings made available to the
22 public by the agency or the appropriate regulatory board.

23 However, the agency or the appropriate regulatory board shall
24 make available, upon written request by a health care
25 professional against whom probable cause has been found, any
26 such records which form the basis of the determination of
27 probable cause. The agency may investigate, as it deems
28 appropriate, any such incident and prescribe measures that
29 must or may be taken in response to the incident. The agency
30 shall review each incident and determine whether it
31 potentially involved conduct by the health care professional

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

3 (9) The agency shall publish on the agency's website,
4 no less than quarterly, a summary and trend analysis of
5 adverse incident reports received pursuant to this section,
6 which shall not include information that would identify the
7 patient, the reporting facility, or the health care
8 practitioners involved. The agency shall publish on the
9 agency's website an annual summary and trend analysis of all
10 adverse incident reports and malpractice claims information
11 provided by facilities in their annual reports, which shall
12 not include information that would identify the patient, the
13 reporting facility, or the practitioners involved. The
14 purpose of the publication of the summary and trend analysis
15 is to promote the rapid dissemination of information relating
16 to adverse incidents and malpractice claims to assist in
17 avoidance of similar incidents and reduce morbidity and
18 mortality.

19 (10)(9) The internal risk manager of each licensed
20 facility shall:

21 (a) Investigate every allegation of sexual misconduct
22 which is made against a member of the facility's personnel who
23 has direct patient contact, when the allegation is that the
24 sexual misconduct occurred at the facility or on the grounds
25 of the facility. ~~and~~

26 (b) Report every allegation of sexual misconduct to
27 the administrator of the licensed facility.

28 (c) Notify the family or guardian of the victim, if a
29 minor, that an allegation of sexual misconduct has been made
30 and that an investigation is being conducted. ~~and~~

31 (d) Report to the Department of Health every

1 allegation of sexual misconduct, as defined in chapter 456 and
2 the respective practice act, by a licensed health care
3 practitioner that involves a patient.

4 (11)~~(10)~~ Any witness who witnessed or who possesses
5 actual knowledge of the act that is the basis of an allegation
6 of sexual abuse shall:

7 (a) Notify the local police; and

8 (b) Notify the hospital risk manager and the
9 administrator.

10

11 For purposes of this subsection, "sexual abuse" means acts of
12 a sexual nature committed for the sexual gratification of
13 anyone upon, or in the presence of, a vulnerable adult,
14 without the vulnerable adult's informed consent, or a minor.
15 "Sexual abuse" includes, but is not limited to, the acts
16 defined in s. 794.011(1)(h), fondling, exposure of a
17 vulnerable adult's or minor's sexual organs, or the use of the
18 vulnerable adult or minor to solicit for or engage in
19 prostitution or sexual performance. "Sexual abuse" does not
20 include any act intended for a valid medical purpose or any
21 act which may reasonably be construed to be a normal
22 caregiving action.

23 (12)~~(11)~~ A person who, with malice or with intent to
24 discredit or harm a licensed facility or any person, makes a
25 false allegation of sexual misconduct against a member of a
26 licensed facility's personnel is guilty of a misdemeanor of
27 the second degree, punishable as provided in s. 775.082 or s.
28 775.083.

29 (13)~~(12)~~ In addition to any penalty imposed pursuant
30 to this section, the agency shall require a written plan of
31 correction from the facility. For a single incident or series

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1 of isolated incidents that are nonwillful violations of the
2 reporting requirements of this section, the agency shall first
3 seek to obtain corrective action by the facility. If the
4 correction is not demonstrated within the timeframe
5 established by the agency or if there is a pattern of
6 nonwillful violations of this section, the agency may impose
7 an administrative fine, not to exceed \$5,000 for any violation
8 of the reporting requirements of this section. The
9 administrative fine for repeated nonwillful violations shall
10 not exceed \$10,000 for any violation. The administrative fine
11 for each intentional and willful violation may not exceed
12 \$25,000 per violation, per day. The fine for an intentional
13 and willful violation of this section may not exceed \$250,000.
14 In determining the amount of fine to be levied, the agency
15 shall be guided by s. 395.1065(2)(b). This subsection does not
16 apply to the notice requirements under subsection (7).

17 (14)~~(13)~~ The agency shall have access to all licensed
18 facility records necessary to carry out the provisions of this
19 section. The records obtained by the agency under subsection
20 (6), subsection (8), or subsection (10)~~(9)~~ are not available
21 to the public under s. 119.07(1), nor shall they be
22 discoverable or admissible in any civil or administrative
23 action, except in disciplinary proceedings by the agency or
24 the appropriate regulatory board, nor shall records obtained
25 pursuant to s. 456.071 be available to the public as part of
26 the record of investigation for and prosecution in
27 disciplinary proceedings made available to the public by the
28 agency or the appropriate regulatory board. However, the
29 agency or the appropriate regulatory board shall make
30 available, upon written request by a health care professional
31 against whom probable cause has been found, any such records

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

4 (15)~~(14)~~ The meetings of the committees and governing
5 board of a licensed facility held solely for the purpose of
6 achieving the objectives of risk management as provided by
7 this section shall not be open to the public under the
8 provisions of chapter 286. The records of such meetings are
9 confidential and exempt from s. 119.07(1), except as provided
10 in subsection~~(14)~~~~(13)~~.

11 (16)~~(15)~~ The agency shall review, as part of its
12 licensure inspection process, the internal risk management
13 program at each licensed facility regulated by this section to
14 determine whether the program meets standards established in
15 statutes and rules, whether the program is being conducted in
16 a manner designed to reduce adverse incidents, and whether the
17 program is appropriately reporting incidents under this
18 section ~~subsections (5), (6), (7), and (8)~~.

19 (17)~~(16)~~ There shall be no monetary liability on the
20 part of, and no cause of action for damages shall arise
21 against, any risk manager, licensed under s. 395.10974 ~~part IX~~
22 ~~of chapter 626~~, for the implementation and oversight of the
23 internal risk management program in a facility licensed under
24 this chapter or chapter 390 as required by this section, for
25 any act or proceeding undertaken or performed within the scope
26 of the functions of such internal risk management program if
27 the risk manager acts without intentional fraud.

28 (18) A privilege against civil liability is hereby
29 granted to any licensed risk manager or licensed facility with
30 regard to information furnished pursuant to this chapter,
31 unless the licensed risk manager or facility acted in bad

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1 faith or with malice in providing such information.

2 (19)(17) If the agency, through its receipt of any
3 reports required under this section the annual reports
4 prescribed in subsection (6) or through any investigation, has
5 a reasonable belief that conduct by a staff member or employee
6 of a licensed facility is grounds for disciplinary action by
7 the appropriate regulatory board, the agency shall report this
8 fact to such regulatory board.

9 ~~(18) The agency shall annually publish a report~~
10 ~~summarizing the information contained in the annual incident~~
11 ~~reports submitted by licensed facilities pursuant to~~
12 ~~subsection (6) and disciplinary actions reported to the agency~~
13 ~~pursuant to s. 395.0193. The report must, at a minimum,~~
14 ~~summarize:~~

15 ~~(a) Adverse incidents, by category of reported~~
16 ~~incident, and by type of professional involved.~~

17 ~~(b) Types of malpractice claims filed, by type of~~
18 ~~professional involved.~~

19 ~~(c) Disciplinary actions taken against professionals,~~
20 ~~by type of professional involved.~~

21 (20) It shall be unlawful for any person to coerce,
22 intimidate, or preclude a risk manager from lawfully executing
23 his or her reporting obligations pursuant to this chapter.
24 Such unlawful action shall be subject to civil monetary
25 penalties not to exceed \$10,000 per violation.

26 Section 62. Section 395.10972, Florida Statutes, is
27 amended to read:

28 395.10972 Health Care Risk Manager Advisory
29 Council.--The Secretary of Health Care Administration may
30 appoint a seven-member ~~five-member~~ advisory council to advise
31 the agency on matters pertaining to health care risk managers.

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1 The members of the council shall serve at the pleasure of the
2 secretary. The council shall designate a chair. The council
3 shall meet at the call of the secretary or at those times as
4 may be required by rule of the agency. The members of the
5 advisory council shall receive no compensation for their
6 services, but shall be reimbursed for travel expenses as
7 provided in s. 112.061. The council shall consist of
8 individuals representing the following areas:

9 (1) Two shall be active health care risk managers,
10 including one risk manager who is recommended by and a member
11 of the Florida Society of Healthcare Risk Management.

12 (2) One shall be an active hospital administrator.

13 (3) One shall be an employee of an insurer or
14 self-insurer of medical malpractice coverage.

15 (4) One shall be a representative of the
16 health-care-consuming public.

17 (5) Two shall be licensed health care practitioners,
18 one of whom shall be licensed as a physician under chapter 458
19 or chapter 459.

20 Section 63. Paragraph (b) of subsection (2) of section
21 395.701, Florida Statutes, is amended to read:

22 395.701 Annual assessments on net operating revenues
23 for inpatient and outpatient services to fund public medical
24 assistance; administrative fines for failure to pay
25 assessments when due; exemption.--

26 (2)

27 (b) There is imposed upon each hospital an assessment
28 in an amount equal to 1 percent of the annual net operating
29 revenue for outpatient services for each hospital, such
30 revenue to be determined by the agency, based on the actual
31 experience of the hospital as reported to the agency. While

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1 prior year report worksheets may be reconciled to the
2 hospital's audited financial statements, no additional audited
3 financial components may be required for the purposes of
4 determining the amount of the assessment imposed pursuant to
5 this section other than those in effect on July 1, 2000.
6 Within 6 months after the end of each hospital fiscal year,
7 the agency shall certify the amount of the assessment for each
8 hospital. The assessment shall be payable to and collected by
9 the agency in equal quarterly amounts, on or before the first
10 day of each calendar quarter, beginning with the first full
11 calendar quarter that occurs after the agency certifies the
12 amount of the assessment for each hospital. All moneys
13 collected pursuant to this subsection shall be deposited into
14 the Public Medical Assistance Trust Fund.

15 Section 64. Section 409.905, Florida Statutes, is
16 amended to read:

17 409.905 Mandatory Medicaid services.--The agency may
18 make payments for the following services, which are required
19 of the state by Title XIX of the Social Security Act,
20 furnished by Medicaid providers to recipients who are
21 determined to be eligible on the dates on which the services
22 were provided. Any service under this section shall be
23 provided only when medically necessary and in accordance with
24 state and federal law. Mandatory services rendered by
25 providers in mobile units to Medicaid recipients may be
26 restricted by the agency. Nothing in this section shall be
27 construed to prevent or limit the agency from adjusting fees,
28 reimbursement rates, lengths of stay, number of visits, number
29 of services, or any other adjustments necessary to comply with
30 the availability of moneys and any limitations or directions
31 provided for in the General Appropriations Act or chapter 216.

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1 (1) ADVANCED REGISTERED NURSE PRACTITIONER
2 SERVICES.--The agency shall pay for services provided to a
3 recipient by a licensed advanced registered nurse practitioner
4 who has a valid collaboration agreement with a licensed
5 physician on file with the Department of Health or who
6 provides anesthesia services in accordance with established
7 protocol required by state law and approved by the medical
8 staff of the facility in which the anesthetic service is
9 performed. Reimbursement for such services must be provided in
10 an amount that equals not less than 80 percent of the
11 reimbursement to a physician who provides the same services,
12 unless otherwise provided for in the General Appropriations
13 Act.

14 (2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND
15 TREATMENT SERVICES.--The agency shall pay for early and
16 periodic screening and diagnosis of a recipient under age 21
17 to ascertain physical and mental problems and conditions and
18 provide treatment to correct or ameliorate these problems and
19 conditions. These services include all services determined by
20 the agency to be medically necessary for the treatment,
21 correction, or amelioration of these problems, including
22 personal care, private duty nursing, durable medical
23 equipment, physical therapy, occupational therapy, speech
24 therapy, respiratory therapy, and immunizations.

25 (3) FAMILY PLANNING SERVICES.--The agency shall pay
26 for services necessary to enable a recipient voluntarily to
27 plan family size or to space children. These services include
28 information; education; counseling regarding the availability,
29 benefits, and risks of each method of pregnancy prevention;
30 drugs and supplies; and necessary medical care and followup.
31 Each recipient participating in the family planning portion of

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1 the Medicaid program must be provided freedom to choose any
2 alternative method of family planning, as required by federal
3 law.

4 (4) HOME HEALTH CARE SERVICES.--The agency shall pay
5 for nursing and home health aide services, supplies,
6 appliances, and durable medical equipment, necessary to assist
7 a recipient living at home. An entity that provides services
8 pursuant to this subsection shall be licensed under part IV of
9 chapter 400 or part II of chapter 499, if appropriate. These
10 services, equipment, and supplies, or reimbursement therefor,
11 may be limited as provided in the General Appropriations Act
12 and do not include services, equipment, or supplies provided
13 to a person residing in a hospital or nursing facility. In
14 providing home health care services, the agency may require
15 prior authorization of care based on diagnosis.

16 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay
17 for all covered services provided for the medical care and
18 treatment of a recipient who is admitted as an inpatient by a
19 licensed physician or dentist to a hospital licensed under
20 part I of chapter 395. However, the agency shall limit the
21 payment for inpatient hospital services for a Medicaid
22 recipient 21 years of age or older to 45 days or the number of
23 days necessary to comply with the General Appropriations Act.

24 (a) The agency is authorized to implement
25 reimbursement and utilization management reforms in order to
26 comply with any limitations or directions in the General
27 Appropriations Act, which may include, but are not limited to:
28 prior authorization for inpatient psychiatric days; enhanced
29 utilization and concurrent review programs for highly utilized
30 services; reduction or elimination of covered days of service;
31 adjusting reimbursement ceilings for variable costs; adjusting

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1 reimbursement ceilings for fixed and property costs; and
2 implementing target rates of increase.

3 (b) A licensed hospital maintained primarily for the
4 care and treatment of patients having mental disorders or
5 mental diseases is not eligible to participate in the hospital
6 inpatient portion of the Medicaid program except as provided
7 in federal law. However, the department shall apply for a
8 waiver, within 9 months after June 5, 1991, designed to
9 provide hospitalization services for mental health reasons to
10 children and adults in the most cost-effective and lowest cost
11 setting possible. Such waiver shall include a request for the
12 opportunity to pay for care in hospitals known under federal
13 law as "institutions for mental disease" or "IMD's." The
14 waiver proposal shall propose no additional aggregate cost to
15 the state or Federal Government, and shall be conducted in
16 Hillsborough County, Highlands County, Hardee County, Manatee
17 County, and Polk County. The waiver proposal may incorporate
18 competitive bidding for hospital services, comprehensive
19 brokering, prepaid capitated arrangements, or other mechanisms
20 deemed by the department to show promise in reducing the cost
21 of acute care and increasing the effectiveness of preventive
22 care. When developing the waiver proposal, the department
23 shall take into account price, quality, accessibility,
24 linkages of the hospital to community services and family
25 support programs, plans of the hospital to ensure the earliest
26 discharge possible, and the comprehensiveness of the mental
27 health and other health care services offered by participating
28 providers.

29 (c) Agency for Health Care Administration shall adjust
30 a hospital's current inpatient per diem rate to reflect the
31 cost of serving the Medicaid population at that institution

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1 if:

2 1. The hospital experiences an increase in Medicaid
3 caseload by more than 25 percent in any year, primarily
4 resulting from the closure of a hospital in the same service
5 area occurring after July 1, 1995; or

6 2. The hospital's Medicaid per diem rate is at least
7 25 percent below the Medicaid per patient cost for that year.

8
9 No later than November 1, 2000, the agency must provide
10 estimated costs for any adjustment in a hospital inpatient per
11 diem pursuant to this paragraph to the Executive Office of the
12 Governor, the House of Representatives General Appropriations
13 Committee, and the Senate Budget Committee. Before the agency
14 implements a change in a hospital's inpatient per diem rate
15 pursuant to this paragraph, the Legislature must have
16 specifically appropriated sufficient funds in the 2001-2002
17 General Appropriations Act to support the increase in cost as
18 estimated by the agency. This paragraph is repealed on July 1,
19 2001.

20 (6) HOSPITAL OUTPATIENT SERVICES.--The agency shall
21 pay for preventive, diagnostic, therapeutic, or palliative
22 care and other services provided to a recipient in the
23 outpatient portion of a hospital licensed under part I of
24 chapter 395, and provided under the direction of a licensed
25 physician or licensed dentist, except that payment for such
26 care and services is limited to \$1,500 per state fiscal year
27 per recipient, unless an exception has been made by the
28 agency, and with the exception of a Medicaid recipient under
29 age 21, in which case the only limitation is medical
30 necessity.

31 (7) INDEPENDENT LABORATORY SERVICES.--The agency shall

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1 pay for medically necessary diagnostic laboratory procedures
2 ordered by a licensed physician or other licensed practitioner
3 of the healing arts which are provided for a recipient in a
4 laboratory that meets the requirements for Medicare
5 participation and is licensed under chapter 483, if required.

6 (8) NURSING FACILITY SERVICES.--The agency shall pay
7 for 24-hour-a-day nursing and rehabilitative services for a
8 recipient in a nursing facility licensed under part II of
9 chapter 400 or in a rural hospital, as defined in s. 395.602,
10 or in a Medicare certified skilled nursing facility operated
11 by a hospital, as defined by s. 395.002(11), that is licensed
12 under part I of chapter 395, and in accordance with provisions
13 set forth in s. 409.908(2)(a), which services are ordered by
14 and provided under the direction of a licensed physician.
15 However, if a nursing facility has been destroyed or otherwise
16 made uninhabitable by natural disaster or other emergency and
17 another nursing facility is not available, the agency must pay
18 for similar services temporarily in a hospital licensed under
19 part I of chapter 395 provided federal funding is approved and
20 available.

21 (9) PHYSICIAN SERVICES.--The agency shall pay for
22 covered services and procedures rendered to a recipient by, or
23 under the personal supervision of, a person licensed under
24 state law to practice medicine or osteopathic medicine. These
25 services may be furnished in the physician's office, the
26 Medicaid recipient's home, a hospital, a nursing facility, or
27 elsewhere, but shall be medically necessary for the treatment
28 of an injury, illness, or disease within the scope of the
29 practice of medicine or osteopathic medicine as defined by
30 state law. The agency shall not pay for services that are
31 clinically unproven, experimental, or for purely cosmetic

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1 purposes.

2 (10) PORTABLE X-RAY SERVICES.--The agency shall pay
3 for professional and technical portable radiological services
4 ordered by a licensed physician or other licensed practitioner
5 of the healing arts which are provided by a licensed
6 professional in a setting other than a hospital, clinic, or
7 office of a physician or practitioner of the healing arts, on
8 behalf of a recipient.

9 (11) RURAL HEALTH CLINIC SERVICES.--The agency shall
10 pay for outpatient primary health care services for a
11 recipient provided by a clinic certified by and participating
12 in the Medicare program which is located in a federally
13 designated, rural, medically underserved area and has on its
14 staff one or more licensed primary care nurse practitioners or
15 physician assistants, and a licensed staff supervising
16 physician or a consulting supervising physician.

17 (12) TRANSPORTATION SERVICES.--The agency shall ensure
18 that appropriate transportation services are available for a
19 Medicaid recipient in need of transport to a qualified
20 Medicaid provider for medically necessary and
21 Medicaid-compensable services, provided a client's ability to
22 choose a specific transportation provider shall be limited to
23 those options resulting from policies established by the
24 agency to meet the fiscal limitations of the General
25 Appropriations Act. The agency may pay for transportation and
26 other related travel expenses as necessary only if these
27 services are not otherwise available.

28 Section 65. Section 409.906, Florida Statutes, is
29 amended to read:

30 409.906 Optional Medicaid services.--Subject to
31 specific appropriations, the agency may make payments for

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1 services which are optional to the state under Title XIX of
2 the Social Security Act and are furnished by Medicaid
3 providers to recipients who are determined to be eligible on
4 the dates on which the services were provided. Any optional
5 service that is provided shall be provided only when medically
6 necessary and in accordance with state and federal law.
7 Optional services rendered by providers in mobile units to
8 Medicaid recipients may be restricted or prohibited by the
9 agency. Nothing in this section shall be construed to prevent
10 or limit the agency from adjusting fees, reimbursement rates,
11 lengths of stay, number of visits, or number of services, or
12 making any other adjustments necessary to comply with the
13 availability of moneys and any limitations or directions
14 provided for in the General Appropriations Act or chapter 216.
15 If necessary to safeguard the state's systems of providing
16 services to elderly and disabled persons and subject to the
17 notice and review provisions of s. 216.177, the Governor may
18 direct the Agency for Health Care Administration to amend the
19 Medicaid state plan to delete the optional Medicaid service
20 known as "Intermediate Care Facilities for the Developmentally
21 Disabled." Optional services may include:

22 (1) ADULT DENTURE SERVICES.--The agency may pay for
23 dentures, the procedures required to seat dentures, and the
24 repair and reline of dentures, provided by or under the
25 direction of a licensed dentist, for a recipient who is age 21
26 or older. However, Medicaid will not provide reimbursement for
27 dental services provided in a mobile dental unit, except for a
28 mobile dental unit:

29 (a) Owned by, operated by, or having a contractual
30 agreement with the Department of Health and complying with
31 Medicaid's county health department clinic services program

1 specifications as a county health department clinic services
2 provider.

3 (b) Owned by, operated by, or having a contractual
4 arrangement with a federally qualified health center and
5 complying with Medicaid's federally qualified health center
6 specifications as a federally qualified health center
7 provider.

8 (c) Rendering dental services to Medicaid recipients,
9 21 years of age and older, at nursing facilities.

10 (d) Owned by, operated by, or having a contractual
11 agreement with a state-approved dental educational
12 institution.

13 (2) ADULT HEALTH SCREENING SERVICES.--The agency may
14 pay for an annual routine physical examination, conducted by
15 or under the direction of a licensed physician, for a
16 recipient age 21 or older, without regard to medical
17 necessity, in order to detect and prevent disease, disability,
18 or other health condition or its progression.

19 (3) AMBULATORY SURGICAL CENTER SERVICES.--The agency
20 may pay for services provided to a recipient in an ambulatory
21 surgical center licensed under part I of chapter 395, by or
22 under the direction of a licensed physician or dentist.

23 (4) BIRTH CENTER SERVICES.--The agency may pay for
24 examinations and delivery, recovery, and newborn assessment,
25 and related services, provided in a licensed birth center
26 staffed with licensed physicians, certified nurse midwives,
27 and midwives licensed in accordance with chapter 467, to a
28 recipient expected to experience a low-risk pregnancy and
29 delivery.

30 (5) CASE MANAGEMENT SERVICES.--The agency may pay for
31 primary care case management services rendered to a recipient

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1 pursuant to a federally approved waiver, and targeted case
2 management services for specific groups of targeted
3 recipients, for which funding has been provided and which are
4 rendered pursuant to federal guidelines. The agency is
5 authorized to limit reimbursement for targeted case management
6 services in order to comply with any limitations or directions
7 provided for in the General Appropriations Act.
8 Notwithstanding s. 216.292, the Department of Children and
9 Family Services may transfer general funds to the Agency for
10 Health Care Administration to fund state match requirements
11 exceeding the amount specified in the General Appropriations
12 Act for targeted case management services.

13 (6) CHILDREN'S DENTAL SERVICES.--The agency may pay
14 for diagnostic, preventive, or corrective procedures,
15 including orthodontia in severe cases, provided to a recipient
16 under age 21, by or under the supervision of a licensed
17 dentist. Services provided under this program include
18 treatment of the teeth and associated structures of the oral
19 cavity, as well as treatment of disease, injury, or impairment
20 that may affect the oral or general health of the individual.
21 However, Medicaid will not provide reimbursement for dental
22 services provided in a mobile dental unit, except for a mobile
23 dental unit:

24 (a) Owned by, operated by, or having a contractual
25 agreement with the Department of Health and complying with
26 Medicaid's county health department clinic services program
27 specifications as a county health department clinic services
28 provider.

29 (b) Owned by, operated by, or having a contractual
30 arrangement with a federally qualified health center and
31 complying with Medicaid's federally qualified health center

1 specifications as a federally qualified health center
2 provider.

3 (c) Rendering dental services to Medicaid recipients,
4 21 years of age and older, at nursing facilities.

5 (d) Owned by, operated by, or having a contractual
6 agreement with a state-approved dental educational
7 institution.

8 (7) CHIROPRACTIC SERVICES.--The agency may pay for
9 manual manipulation of the spine and initial services,
10 screening, and X rays provided to a recipient by a licensed
11 chiropractic physician.

12 (8) COMMUNITY MENTAL HEALTH SERVICES.--The agency may
13 pay for rehabilitative services provided to a recipient by a
14 mental health or substance abuse provider licensed by the
15 agency and under contract with the agency or the Department of
16 Children and Family Services to provide such services. Those
17 services which are psychiatric in nature shall be rendered or
18 recommended by a psychiatrist, and those services which are
19 medical in nature shall be rendered or recommended by a
20 physician or psychiatrist. The agency must develop a provider
21 enrollment process for community mental health providers which
22 bases provider enrollment on an assessment of service need.
23 The provider enrollment process shall be designed to control
24 costs, prevent fraud and abuse, consider provider expertise
25 and capacity, and assess provider success in managing
26 utilization of care and measuring treatment outcomes.
27 Providers will be selected through a competitive procurement
28 or selective contracting process. In addition to other
29 community mental health providers, the agency shall consider
30 for enrollment mental health programs licensed under chapter
31 395 and group practices licensed under chapter 458, chapter

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1 459, chapter 490, or chapter 491. The agency is also
2 authorized to continue operation of its behavioral health
3 utilization management program and may develop new services if
4 these actions are necessary to ensure savings from the
5 implementation of the utilization management system. The
6 agency shall coordinate the implementation of this enrollment
7 process with the Department of Children and Family Services
8 and the Department of Juvenile Justice. The agency is
9 authorized to utilize diagnostic criteria in setting
10 reimbursement rates, to preauthorize certain high-cost or
11 highly utilized services, to limit or eliminate coverage for
12 certain services, or to make any other adjustments necessary
13 to comply with any limitations or directions provided for in
14 the General Appropriations Act.

15 (9) DIALYSIS FACILITY SERVICES.--Subject to specific
16 appropriations being provided for this purpose, the agency may
17 pay a dialysis facility that is approved as a dialysis
18 facility in accordance with Title XVIII of the Social Security
19 Act, for dialysis services that are provided to a Medicaid
20 recipient under the direction of a physician licensed to
21 practice medicine or osteopathic medicine in this state,
22 including dialysis services provided in the recipient's home
23 by a hospital-based or freestanding dialysis facility.

24 (10) DURABLE MEDICAL EQUIPMENT.--The agency may
25 authorize and pay for certain durable medical equipment and
26 supplies provided to a Medicaid recipient as medically
27 necessary.

28 (11) HEALTHY START SERVICES.--The agency may pay for a
29 continuum of risk-appropriate medical and psychosocial
30 services for the Healthy Start program in accordance with a
31 federal waiver. The agency may not implement the federal

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1 waiver unless the waiver permits the state to limit enrollment
2 or the amount, duration, and scope of services to ensure that
3 expenditures will not exceed funds appropriated by the
4 Legislature or available from local sources. If the Health
5 Care Financing Administration does not approve a federal
6 waiver for Healthy Start services, the agency, in consultation
7 with the Department of Health and the Florida Association of
8 Healthy Start Coalitions, is authorized to establish a
9 Medicaid certified-match program for Healthy Start services.
10 Participation in the Healthy Start certified-match program
11 shall be voluntary, and reimbursement shall be limited to the
12 federal Medicaid share to Medicaid-enrolled Healthy Start
13 coalitions for services provided to Medicaid recipients. The
14 agency shall take no action to implement a certified-match
15 program without ensuring that the amendment and review
16 requirements of ss. 216.177 and 216.181 have been met.

17 (12) HEARING SERVICES.--The agency may pay for hearing
18 and related services, including hearing evaluations, hearing
19 aid devices, dispensing of the hearing aid, and related
20 repairs, if provided to a recipient by a licensed hearing aid
21 specialist, otolaryngologist, otologist, audiologist, or
22 physician.

23 (13) HOME AND COMMUNITY-BASED SERVICES.--The agency
24 may pay for home-based or community-based services that are
25 rendered to a recipient in accordance with a federally
26 approved waiver program.

27 (14) HOSPICE CARE SERVICES.--The agency may pay for
28 all reasonable and necessary services for the palliation or
29 management of a recipient's terminal illness, if the services
30 are provided by a hospice that is licensed under part VI of
31 chapter 400 and meets Medicare certification requirements.

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1 (15) INTERMEDIATE CARE FACILITY FOR THE
2 DEVELOPMENTALLY DISABLED SERVICES.--The agency may pay for
3 health-related care and services provided on a 24-hour-a-day
4 basis by a facility licensed and certified as a Medicaid
5 Intermediate Care Facility for the Developmentally Disabled,
6 for a recipient who needs such care because of a developmental
7 disability.

8 (16) INTERMEDIATE CARE SERVICES.--The agency may pay
9 for 24-hour-a-day intermediate care nursing and rehabilitation
10 services rendered to a recipient in a nursing facility
11 licensed under part II of chapter 400, if the services are
12 ordered by and provided under the direction of a physician.

13 (17) OPTOMETRIC SERVICES.--The agency may pay for
14 services provided to a recipient, including examination,
15 diagnosis, treatment, and management, related to ocular
16 pathology, if the services are provided by a licensed
17 optometrist or physician.

18 (18) PHYSICIAN ASSISTANT SERVICES.--The agency may pay
19 for all services provided to a recipient by a physician
20 assistant licensed under s. 458.347 or s. 459.022.
21 Reimbursement for such services must be not less than 80
22 percent of the reimbursement that would be paid to a physician
23 who provided the same services.

24 (19) PODIATRIC SERVICES.--The agency may pay for
25 services, including diagnosis and medical, surgical,
26 palliative, and mechanical treatment, related to ailments of
27 the human foot and lower leg, if provided to a recipient by a
28 podiatric physician licensed under state law.

29 (20) PRESCRIBED DRUG SERVICES.--The agency may pay for
30 medications that are prescribed for a recipient by a physician
31 or other licensed practitioner of the healing arts authorized

1 to prescribe medications and that are dispensed to the
2 recipient by a licensed pharmacist or physician in accordance
3 with applicable state and federal law.

4 (21) REGISTERED NURSE FIRST ASSISTANT SERVICES.--The
5 agency may pay for all services provided to a recipient by a
6 registered nurse first assistant as described in s. 464.027.
7 Reimbursement for such services may not be less than 80
8 percent of the reimbursement that would be paid to a physician
9 providing the same services.

10 (22) STATE HOSPITAL SERVICES.--The agency may pay for
11 all-inclusive psychiatric inpatient hospital care provided to
12 a recipient age 65 or older in a state mental hospital.

13 (23) VISUAL SERVICES.--The agency may pay for visual
14 examinations, eyeglasses, and eyeglass repairs for a
15 recipient, if they are prescribed by a licensed physician
16 specializing in diseases of the eye or by a licensed
17 optometrist.

18 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The
19 Agency for Health Care Administration, in consultation with
20 the Department of Children and Family Services, may establish
21 a targeted case-management pilot project in those counties
22 identified by the Department of Children and Family Services
23 and for the community-based child welfare project in Sarasota
24 and Manatee counties, as authorized under s. 409.1671. These
25 projects shall be established for the purpose of determining
26 the impact of targeted case management on the child welfare
27 program and the earnings from the child welfare program.
28 Results of the pilot projects shall be reported to the Child
29 Welfare Estimating Conference and the Social Services
30 Estimating Conference established under s. 216.136. The number
31 of projects may not be increased until requested by the

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1 Department of Children and Family Services, recommended by the
2 Child Welfare Estimating Conference and the Social Services
3 Estimating Conference, and approved by the Legislature. The
4 covered group of individuals who are eligible to receive
5 targeted case management include children who are eligible for
6 Medicaid; who are between the ages of birth through 21; and
7 who are under protective supervision or postplacement
8 supervision, under foster-care supervision, or in shelter care
9 or foster care. The number of individuals who are eligible to
10 receive targeted case management shall be limited to the
11 number for whom the Department of Children and Family Services
12 has available matching funds to cover the costs. The general
13 revenue funds required to match the funds for services
14 provided by the community-based child welfare projects are
15 limited to funds available for services described under s.
16 409.1671. The Department of Children and Family Services may
17 transfer the general revenue matching funds as billed by the
18 Agency for Health Care Administration.

19 Section 66. Subsections (7) through (11) of section
20 456.013, Florida Statutes, are renumbered as subsections (8)
21 through (12), respectively, and a new subsection (7) is added
22 to said section to read:

23 456.013 Department; general licensing provisions.--
24 (7) The boards, or the department when there is no
25 board, shall require the completion of a 2-hour course
26 relating to prevention of medical errors as part of the
27 licensure and renewal process. The 2-hour course shall count
28 towards the total number of continuing education hours
29 required for the profession. The course shall be approved by
30 the board or department, as appropriate, and shall include a
31 study of root-cause analysis, error reduction and prevention,

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1 and patient safety. If the course is being offered by a
2 facility licensed pursuant to chapter 395 for its employees,
3 the board may approve up to 1 hour of the 2-hour course to be
4 specifically related to error reduction and prevention methods
5 used in that facility.

6 Section 67. Subsection (19) is added to section
7 456.057, Florida Statutes, to read:

8 456.057 Ownership and control of patient records;
9 report or copies of records to be furnished.--

10 (19) The board, or department when there is no board,
11 may temporarily or permanently appoint a person or entity as a
12 custodian of medical records in the event of the death of a
13 practitioner, the mental or physical incapacitation of the
14 practitioner, or the abandonment of medical records by a
15 practitioner. The custodian appointed shall comply with all
16 provisions of this section, including the release of patient
17 records.

18 Section 68. Subsection (3) is added to section
19 456.063, Florida Statutes, to read:

20 456.063 Sexual misconduct; disqualification for
21 license, certificate, or registration; reports of allegation
22 of sexual misconduct.--

23 (3) Licensed health care practitioners shall report
24 allegations of sexual misconduct to the department, regardless
25 of the practice setting in which the alleged sexual misconduct
26 occurred.

27 Section 69. Paragraphs (c) and (q) of subsection (1)
28 of section 456.072, Florida Statutes, are amended, paragraphs
29 (aa), (bb), and (cc) are added to said subsection, paragraphs
30 (c), (d), and (e) of subsection (2) and subsection (4) are
31 amended, and paragraphs (i) and (j) are added to subsection

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1 (2) of said section, to read:

2 456.072 Grounds for discipline; penalties;
3 enforcement.--

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

7 (c) Being convicted or found guilty of, or entering a
8 plea of guilty or nolo contendere to, regardless of
9 adjudication, a crime in any jurisdiction which relates to the
10 practice of, or the ability to practice, a licensee's
11 profession.

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

17 (aa) Performing or attempting to perform health care
18 services on the wrong patient, a wrong-site procedure, a wrong
19 procedure, or an unauthorized procedure or a procedure that is
20 medically unnecessary or otherwise unrelated to the patient's
21 diagnosis or medical condition. For the purposes of this
22 paragraph, performing or attempting to perform health care
23 services includes the preparation of the patient.

24 (bb) Leaving a foreign body in a patient, such as a
25 sponge, clamp, forceps, surgical needle, or other
26 paraphernalia commonly used in surgical, examination, or other
27 diagnostic procedures. For the purposes of this paragraph, it
28 shall be legally presumed that retention of a foreign body is
29 not in the best interest of the patient and is not within the
30 standard of care of the profession, regardless of the intent
31 of the professional.

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1 (cc) Violating any provision of this chapter, the
2 applicable practice act, or any rules adopted pursuant
3 thereto.

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

12 (c) Restriction of practice or license, including, but
13 not limited to, restricting the licensee from practicing in
14 certain settings, restricting the licensee to work only under
15 designated conditions or in certain settings, restricting the
16 licensee from performing or providing designated clinical and
17 administrative services, restricting the licensee from
18 practicing more than a designated number of hours, or any
19 other restriction found to be necessary for the protection of
20 the public health, safety, and welfare.

21 (d) Imposition of an administrative fine not to exceed
22 \$10,000 for each count or separate offense. If the violation
23 is for fraud or making a false or fraudulent representation,
24 the board, or the department if there is no board, must impose
25 a fine of \$10,000 per count or offense.

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

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

29 (j) Requirement that the practitioner undergo remedial
30 education.

31

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1 In determining what action is appropriate, the board, or
2 department when there is no board, must first consider what
3 sanctions are necessary to protect the public or to compensate
4 the patient. Only after those sanctions have been imposed may
5 the disciplining authority consider and include in the order
6 requirements designed to rehabilitate the practitioner. All
7 costs associated with compliance with orders issued under this
8 subsection are the obligation of the practitioner.

9 (4) In addition to any other discipline imposed
10 through final order, or citation, entered on or after July 1,
11 2001, pursuant to this section or discipline imposed through
12 final order, or citation, entered on or after July 1, 2001,
13 for a violation of any practice act, the board, or the
14 department when there is no board, shall ~~may~~ assess costs
15 related to the investigation and prosecution of the case. In
16 any case where the board or the department imposes a fine or
17 assessment and the fine or assessment is not paid within a
18 reasonable time, such reasonable time to be prescribed in the
19 rules of the board, or the department when there is no board,
20 or in the order assessing such fines or costs, the department
21 or the Department of Legal Affairs may contract for the
22 collection of, or bring a civil action to recover, the fine or
23 assessment.

24 Section 70. Paragraphs (a) and (c) of subsection (9)
25 of section 456.073, Florida Statutes, are amended, and,
26 effective upon this act becoming a law, subsection (13) is
27 added to said section, to read:

28 456.073 Disciplinary proceedings.--Disciplinary
29 proceedings for each board shall be within the jurisdiction of
30 the department.

31 (9)(a) The department shall periodically notify the

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1 person who filed the complaint, as well as the patient or the
2 patient's legal representative, of the status of the
3 investigation, indicating whether probable cause has been
4 found and the status of any civil action or administrative
5 proceeding or appeal.

6 (c) In any disciplinary case for which probable cause
7 is not found, the department shall so inform the person who
8 filed the complaint and notify that person that he or she may,
9 within 60 days, provide any additional information to the
10 department ~~probable cause panel~~ which may be relevant to the
11 decision. To facilitate the provision of additional
12 information, the person who filed the complaint may receive,
13 upon request, a copy of the department's expert report that
14 supported the recommendation for closure, if such a report was
15 relied upon by the department. In no way does this require the
16 department to procure an expert opinion or report if none was
17 used. Additionally, the identity of the expert shall remain
18 confidential. In any administrative proceeding under s.
19 120.57, the person who filed the disciplinary complaint shall
20 have the right to present oral or written communication
21 relating to the alleged disciplinary violations or to the
22 appropriate penalty.

23 (13) Notwithstanding any provision of law to the
24 contrary, an administrative complaint against a licensee shall
25 be filed within 6 years after the time of the incident or
26 occurrence giving rise to the complaint against the licensee.
27 If such incident or occurrence involved criminal actions,
28 diversion of controlled substances, sexual misconduct, or
29 impairment by the licensee, this subsection does not apply to
30 bar initiation of an investigation or filing of an
31 administrative complaint beyond the 6-year timeframe. In those

1 cases covered by this subsection in which it can be shown that
2 fraud, concealment, or intentional misrepresentation of fact
3 prevented the discovery of the violation of law, the period of
4 limitations is extended forward, but in no event to exceed 12
5 years after the time of the incident or occurrence.

6 Section 71. Subsection (1) of section 456.074, Florida
7 Statutes, is amended to read:

8 456.074 Certain health care practitioners; immediate
9 suspension of license.--

10 (1) The department shall issue an emergency order
11 suspending the license of any person licensed under chapter
12 458, chapter 459, chapter 460, chapter 461, chapter 462,
13 chapter 463, chapter 464, chapter 465, chapter 466, or chapter
14 484 who pleads guilty to, is convicted or found guilty of, or
15 who enters a plea of nolo contendere to, regardless of
16 adjudication, a felony under chapter 409, chapter 817,or
17 chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C.
18 ss. 1395-1396.

19 Section 72. Subsections (2) and (6) of section
20 456.077, Florida Statutes, are amended to read:

21 456.077 Authority to issue citations.--

22 (2) The board, or the department if there is no board,
23 shall adopt rules designating violations for which a citation
24 may be issued. Such rules shall designate as citation
25 violations those violations for which there is no substantial
26 threat to the public health, safety, and welfare. Violations
27 for which a citation may be issued shall include violations of
28 continuing education requirements, failure to timely pay
29 required fees and fines, failure to comply with the
30 requirements of ss. 381.026 and 381.0261 regarding the
31 dissemination of information regarding patient rights, failure

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1 to comply with advertising requirements, failure to timely
2 update practitioner profile and credentialing files, failure
3 to display signs, licenses, and permits, failure to have
4 required reference books available, and all other violations
5 that do not pose a direct and serious threat to the health and
6 safety of the patient.

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

14 Section 73. Section 456.081, Florida Statutes, is
15 amended to read:

16 456.081 Publication of information.--The department
17 and the boards shall have the authority to advise licensees
18 periodically, through the publication of a newsletter, about
19 information that the department or the board determines is of
20 interest to the industry. The department and the boards shall
21 maintain a website which contains copies of the newsletter;
22 information relating to adverse incident reports without
23 identifying the patient, practitioner, or facility in which
24 the adverse incident occurred until 10 days after probable
25 cause is found, at which time the name of the practitioner and
26 facility shall become public as part of the investigative
27 file; information about error prevention and safety
28 strategies; and information concerning best practices.Unless
29 otherwise prohibited by law, the department and the boards
30 shall publish on the website a summary of final orders entered
31 after July 1, 2001, resulting in disciplinary action fines,

1 ~~suspensions, or revocations~~, and any other information the
2 department or the board determines is of interest to the
3 public. In order to provide useful and timely information at
4 minimal cost, the department and boards may consult with, and
5 include information provided by, professional associations and
6 national organizations.

7 Section 74. Subsections (1) and (2) of section
8 458.315, Florida Statutes, are amended to read:

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

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

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

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1 (b) The recipient of a temporary certificate for
2 practice in areas of critical need shall, within 30 days after
3 accepting employment, notify the board of all approved
4 institutions in which the licensee practices and of all
5 approved institutions where practice privileges have been
6 denied.

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

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

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

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

24 Section 75. Section 458.3147, Florida Statutes, is
25 created to read:

26 458.3147 Medical school eligibility of military
27 academy students or graduates.--Any Florida resident who is a
28 student at or a graduate of any of the United States military
29 academies who qualifies for assignment to the Medical Corps of
30 the United States military shall be admitted to any medical
31 school in the State University System.

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1 Section 76. Subsection (9) of section 458.331, Florida
2 Statutes, is amended to read:

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

5 (9) When an investigation of a physician is
6 undertaken, the department shall promptly furnish to the
7 physician or the physician's attorney a copy of the complaint
8 or document which resulted in the initiation of the
9 investigation. For purposes of this subsection, such
10 documents include, but are not limited to: the pertinent
11 portions of an annual report submitted to the department
12 pursuant to s. 395.0197(6); a report of an adverse incident
13 which is provided to the department pursuant to s.
14 395.0197~~(8)~~; a report of peer review disciplinary action
15 submitted to the department pursuant to s. 395.0193(4) or s.
16 458.337, providing that the investigations, proceedings, and
17 records relating to such peer review disciplinary action shall
18 continue to retain their privileged status even as to the
19 licensee who is the subject of the investigation, as provided
20 by ss. 395.0193(8) and 458.337(3); a report of a closed claim
21 submitted pursuant to s. 627.912; a presuit notice submitted
22 pursuant to s. 766.106(2); and a petition brought under the
23 Florida Birth-Related Neurological Injury Compensation Plan,
24 pursuant to s. 766.305(2). The physician may submit a written
25 response to the information contained in the complaint or
26 document which resulted in the initiation of the investigation
27 within 45 days after service to the physician of the complaint
28 or document. The physician's written response shall be
29 considered by the probable cause panel.

30 Section 77. Subsection (9) of section 459.015, Florida
31 Statutes, is amended to read:

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1 459.015 Grounds for disciplinary action; action by the
2 board and department.--

3 (9) When an investigation of an osteopathic physician
4 is undertaken, the department shall promptly furnish to the
5 osteopathic physician or his or her attorney a copy of the
6 complaint or document which resulted in the initiation of the
7 investigation. For purposes of this subsection, such documents
8 include, but are not limited to: the pertinent portions of an
9 annual report submitted to the department pursuant to s.

10 395.0197(6); a report of an adverse incident which is provided
11 to the department pursuant to s. 395.0197(8); a report of peer
12 review disciplinary action submitted to the department
13 pursuant to s. 395.0193(4) or s. 459.016, provided that the
14 investigations, proceedings, and records relating to such peer
15 review disciplinary action shall continue to retain their
16 privileged status even as to the licensee who is the subject
17 of the investigation, as provided by ss. 395.0193(8) and
18 459.016(3); a report of a closed claim submitted pursuant to
19 s. 627.912; a /result notice submitted pursuant to s.

20 766.106(2); and a petition brought under the Florida
21 Birth-Related Neurological Injury Compensation Plan, pursuant
22 to s. 766.305(2). The osteopathic physician may submit a
23 written response to the information contained in the complaint
24 or document which resulted in the initiation of the
25 investigation within 45 days after service to the osteopathic
26 physician of the complaint or document. The osteopathic
27 physician's written response shall be considered by the
28 probable cause panel.

29 Section 78. Effective January 1, 2002, subsection (4)
30 of section 641.51, Florida Statutes, is amended to read:

31 641.51 Quality assurance program; second medical

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1 opinion requirement.--

2 (4) The organization shall ensure that only a
3 physician with an active, unencumbered license licensed under
4 chapter 458 or chapter 459, ~~or an allopathic or osteopathic~~
5 ~~physician with an active, unencumbered license in another~~
6 ~~state with similar licensing requirements~~ may render an
7 adverse determination regarding a service provided by a
8 physician licensed in this state. The organization shall
9 submit to the treating provider and the subscriber written
10 notification regarding the organization's adverse
11 determination within 2 working days after the subscriber or
12 provider is notified of the adverse determination. The written
13 notification must include the utilization review criteria or
14 benefits provisions used in the adverse determination,
15 identify the physician who rendered the adverse determination,
16 and be signed by an authorized representative of the
17 organization or the physician who rendered the adverse
18 determination. The organization must include with the
19 notification of an adverse determination information
20 concerning the appeal process for adverse determinations. This
21 provision does not create authority for the Board of Medicine
22 or Board of Osteopathic Medicine to regulate the organization;
23 however, the Board of Medicine and the Board of Osteopathic
24 Medicine continue to have jurisdiction over licensees of their
25 respective boards.

26 Section 79. Subsection (5) of section 465.019, Florida
27 Statutes, is amended to read:

28 465.019 Institutional pharmacies; permits.--

29 (5) All institutional pharmacies shall be under the
30 professional supervision of a consultant pharmacist, and the
31 compounding and dispensing of medicinal drugs shall be done

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1 only by a licensed pharmacist. Every institutional pharmacy
2 that employs or otherwise utilizes pharmacy technicians shall
3 have a written policy and procedures manual specifying those
4 duties, tasks, and functions which a pharmacy technician is
5 allowed to perform.

6 Section 80. Section 465.0196, Florida Statutes, is
7 amended to read:

8 465.0196 Special pharmacy permits.--Any person
9 desiring a permit to operate a pharmacy which does not fall
10 within the definitions set forth in s. 465.003(11)(a)1., 2.,
11 and 3. shall apply to the department for a special pharmacy
12 permit. If the board certifies that the application complies
13 with the applicable laws and rules of the board governing the
14 practice of the profession of pharmacy, the department shall
15 issue the permit. No permit shall be issued unless a licensed
16 pharmacist is designated to undertake the professional
17 supervision of the compounding and dispensing of all drugs
18 dispensed by the pharmacy. The licensed pharmacist shall be
19 responsible for maintaining all drug records and for providing
20 for the security of the area in the facility in which the
21 compounding, storing, and dispensing of medicinal drugs
22 occurs. The permittee shall notify the department within 10
23 days of any change of the licensed pharmacist responsible for
24 such duties. Every permittee that employs or otherwise
25 utilizes pharmacy technicians shall have a written policy and
26 procedures manual specifying those duties, tasks, and
27 functions which a pharmacy technician is allowed to perform.

28 Section 81. Effective upon this act becoming a law and
29 operating retroactively to July 1, 2000, section 22 of Chapter
30 2000-256, Laws of Florida, is amended to read:

31 Section 22. The amendments to ss. 395.701 and

1 395.7015, Florida Statutes, by this act shall take effect July
2 1, 2000 ~~only upon the Agency for Health Care Administration~~
3 ~~receiving written confirmation from the federal Health Care~~
4 ~~Financing Administration that the changes contained in such~~
5 ~~amendments will not adversely affect the use of the remaining~~
6 ~~assessments as state match for the state's Medicaid program.~~

7 Section 82. The Department of Health and the Agency
8 for Health Care Administration shall conduct a review of all
9 statutorily imposed reporting requirements for health care
10 practitioners and health facilities. The department and the
11 agency shall report back to the Legislature on or before
12 November 1, 2001, with recommendations and suggested statutory
13 changes to streamline reporting requirements to avoid
14 duplicative, overlapping, and unnecessary reports or data
15 elements.

16 Section 83. Paragraph (r) is added to subsection (1)
17 of section 468.1755, Florida Statutes, and, for the purpose of
18 incorporating the amendment to section 456.072(1), Florida
19 Statutes, in a reference thereto, paragraph (a) of subsection
20 (1) of said section is reenacted, to read:

21 468.1755 Disciplinary proceedings.--

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

24 (a) Violation of any provision of s. 456.072(1) or s.
25 468.1745(1).

26 (r) Failing to implement an ongoing quality assurance
27 program directed by an interdisciplinary team that meets at
28 least every other month.

29 (2) When the board finds any nursing home
30 administrator guilty of any of the grounds set forth in
31 subsection (1), it may enter an order imposing one or more of

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1 the following penalties:

2 (a) Denial of an application for licensure.

3 (b) Revocation or suspension of a license.

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

6 (d) Issuance of a reprimand.

7 (e) Placement of the licensee on probation for a
8 period of time and subject to such conditions as the board may
9 specify, including requiring the licensee to attend continuing
10 education courses or to work under the supervision of another
11 licensee.

12 (f) Restriction of the authorized scope of practice.

13 Section 84. For the purpose of incorporating the
14 amendment to section 468.1755(1), Florida Statutes, in
15 reference thereto, subsection (3) of section 468.1695, Florida
16 Statutes, and section 468.1735, Florida Statutes, are
17 reenacted to read:

18 468.1695 Licensure by examination.--

19 (3) The department shall issue a license to practice
20 nursing home administration to any applicant who successfully
21 completes the examination in accordance with this section and
22 otherwise meets the requirements of this part. The department
23 shall not issue a license to any applicant who is under
24 investigation in this state or another jurisdiction for an
25 offense which would constitute a violation of s. 468.1745 or
26 s. 468.1755. Upon completion of the investigation, the
27 provisions of s. 468.1755 shall apply.

28 468.1735 Provisional license.--The board may establish
29 by rule requirements for issuance of a provisional license. A
30 provisional license shall be issued only to fill a position of
31 nursing home administrator that unexpectedly becomes vacant

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1 due to illness, sudden death of the administrator, or
2 abandonment of position and shall be issued for one single
3 period as provided by rule not to exceed 6 months. The
4 department shall not issue a provisional license to any
5 applicant who is under investigation in this state or another
6 jurisdiction for an offense which would constitute a violation
7 of s. 468.1745 or s. 468.1755. Upon completion of the
8 investigation, the provisions of s. 468.1755 shall apply. The
9 provisional license may be issued to a person who does not
10 meet all of the licensing requirements established by this
11 part, but the board shall by rule establish minimal
12 requirements to ensure protection of the public health,
13 safety, and welfare. The provisional license shall be issued
14 to the person who is designated as the responsible person next
15 in command in the event of the administrator's departure. The
16 board may set an application fee not to exceed \$500 for a
17 provisional license.

18 Section 85. For the purpose of incorporating the
19 amendment to section 456.072(1), Florida Statutes, in a
20 reference thereto, paragraph (a) of subsection (1) of section
21 484.056, Florida Statutes, is reenacted to read:

22 484.056 Disciplinary proceedings.--

23 (1) The following acts relating to the practice of
24 dispensing hearing aids shall be grounds for both disciplinary
25 action against a hearing aid specialist as set forth in this
26 section and cease and desist or other related action by the
27 department as set forth in s. 456.065 against any person
28 owning or operating a hearing aid establishment who engages
29 in, aids, or abets any such violation:

30 (a) Violation of any provision of s. 456.072(1), s.
31 484.0512, or s. 484.053.

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1 Section 86. Paragraph (a) of subsection (1), paragraph
2 (a) of subsection (7), and subsection (8) of section 766.101,
3 Florida Statutes, are amended to read:

4 766.101 Medical review committee, immunity from
5 liability.--

6 (1) As used in this section:

7 (a) The term "medical review committee" or "committee"
8 means:

9 1.a. A committee of a hospital or ambulatory surgical
10 center licensed under chapter 395 or a health maintenance
11 organization certificated under part I of chapter 641,

12 b. A committee of a physician-hospital organization, a
13 provider-sponsored organization, or an integrated delivery
14 system,

15 c. A committee of a state or local professional
16 society of health care providers,

17 d. A committee of a medical staff of a licensed
18 hospital or nursing home, provided the medical staff operates
19 pursuant to written bylaws that have been approved by the
20 governing board of the hospital or nursing home,

21 e. A committee of the Department of Corrections or the
22 Correctional Medical Authority as created under s. 945.602, or
23 employees, agents, or consultants of either the department or
24 the authority or both,

25 f. A committee of a professional service corporation
26 formed under chapter 621 or a corporation organized under
27 chapter 607 or chapter 617, which is formed and operated for
28 the practice of medicine as defined in s. 458.305(3), and
29 which has at least 25 health care providers who routinely
30 provide health care services directly to patients,

31 g. A committee of a mental health treatment facility

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1 licensed under chapter 394 or a community mental health center
2 as defined in s. 394.907, provided the quality assurance
3 program operates pursuant to the guidelines which have been
4 approved by the governing board of the agency,

5 h. A committee of a substance abuse treatment and
6 education prevention program licensed under chapter 397
7 provided the quality assurance program operates pursuant to
8 the guidelines which have been approved by the governing board
9 of the agency,

10 i. A peer review or utilization review committee
11 organized under chapter 440, ~~or~~

12 j. A committee of the Department of Health, a county
13 health department, healthy start coalition, or certified rural
14 health network, when reviewing quality of care, or employees
15 of these entities when reviewing mortality records, or

16 k. A continuous quality improvement committee of a
17 pharmacy licensed pursuant to chapter 465,

18
19 which committee is formed to evaluate and improve the quality
20 of health care rendered by providers of health service or to
21 determine that health services rendered were professionally
22 indicated or were performed in compliance with the applicable
23 standard of care or that the cost of health care rendered was
24 considered reasonable by the providers of professional health
25 services in the area; or

26 2. A committee of an insurer, self-insurer, or joint
27 underwriting association of medical malpractice insurance, or
28 other persons conducting review under s. 766.106.

29 (7)(a) It is the intent of the Legislature to
30 encourage medical review committees to contribute further to
31 the quality of health care in this state by reviewing

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1 complaints against physicians in the manner described in this
2 paragraph. Accordingly, the Department of Health ~~Business and~~
3 ~~Professional Regulation~~ may enter into a letter of agreement
4 with a professional society of physicians licensed under
5 chapter 458 or chapter 459, under which agreement the medical
6 or peer review committees of the professional society will
7 conduct a review of any complaint or case referred to the
8 society by the department which involves a question as to
9 whether a physician's actions represented a breach of the
10 prevailing professional standard of care. The prevailing
11 professional standard of care is that level of care, skill,
12 and treatment which, in light of all relevant surrounding
13 circumstances, is recognized as acceptable and appropriate by
14 reasonably prudent similar health care providers. The letter
15 of agreement must specify that the professional society will
16 submit an advisory report to the department within a
17 reasonable time following the department's written and
18 appropriately supported request to the professional society.
19 The advisory report, which is not binding upon the department,
20 constitutes the professional opinion of the medical review
21 committee and must include:

- 22 1. A statement of relevant factual findings.
- 23 2. The judgment of the committee as to whether the
24 physician's actions represented a breach of the prevailing
25 professional standard of care.

26 (8) No cause of action of any nature by a person
27 licensed pursuant to chapter 458, chapter 459, chapter 461,
28 chapter 463, part I of chapter 464, chapter 465, or chapter
29 466 shall arise against another person licensed pursuant to
30 chapter 458, chapter 459, chapter 461, chapter 463, part I of
31 chapter 464, chapter 465, or chapter 466 for furnishing

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1 information to a duly appointed medical review committee, to
2 an internal risk management program established under s.
3 395.0197, to the Department of Health or the Agency for Health
4 Care Administration ~~Business and Professional Regulation~~, or
5 to the appropriate regulatory board if the information
6 furnished concerns patient care at a facility licensed
7 pursuant to part I of chapter 395 where both persons provide
8 health care services, if the information is not intentionally
9 fraudulent, and if the information is within the scope of the
10 functions of the committee, department, or board. However, if
11 such information is otherwise available from original sources,
12 it is not immune from discovery or use in a civil action
13 merely because it was presented during a proceeding of the
14 committee, department, or board.

15 Section 87. For the purpose of incorporating the
16 amendment to section 766.101(1)(a), Florida Statutes, in
17 references thereto, paragraph (a) of subsection (1) of section
18 440.105, Florida Statutes, and subsection (6) of section
19 626.989, Florida Statutes, are reenacted to read:

20 440.105 Prohibited activities; reports; penalties;
21 limitations.--

22 (1)(a) Any insurance carrier, any individual
23 self-insured, any commercial or group self-insurance fund, any
24 professional practitioner licensed or regulated by the
25 Department of Business and Professional Regulation, except as
26 otherwise provided by law, any medical review committee as
27 defined in s. 766.101, any private medical review committee,
28 and any insurer, agent, or other person licensed under the
29 insurance code, or any employee thereof, having knowledge or
30 who believes that a fraudulent act or any other act or
31 practice which, upon conviction, constitutes a felony or

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1 misdemeanor under this chapter is being or has been committed
2 shall send to the Division of Insurance Fraud, Bureau of
3 Workers' Compensation Fraud, a report or information pertinent
4 to such knowledge or belief and such additional information
5 relative thereto as the bureau may require. The bureau shall
6 review such information or reports and select such information
7 or reports as, in its judgment, may require further
8 investigation. It shall then cause an independent examination
9 of the facts surrounding such information or report to be made
10 to determine the extent, if any, to which a fraudulent act or
11 any other act or practice which, upon conviction, constitutes
12 a felony or a misdemeanor under this chapter is being
13 committed. The bureau shall report any alleged violations of
14 law which its investigations disclose to the appropriate
15 licensing agency and state attorney or other prosecuting
16 agency having jurisdiction with respect to any such violations
17 of this chapter. If prosecution by the state attorney or other
18 prosecuting agency having jurisdiction with respect to such
19 violation is not begun within 60 days of the bureau's report,
20 the state attorney or other prosecuting agency having
21 jurisdiction with respect to such violation shall inform the
22 bureau of the reasons for the lack of prosecution.

23 626.989 Investigation by department or Division of
24 Insurance Fraud; compliance; immunity; confidential
25 information; reports to division; division investigator's
26 power of arrest.--

27 (6) Any person, other than an insurer, agent, or other
28 person licensed under the code, or an employee thereof, having
29 knowledge or who believes that a fraudulent insurance act or
30 any other act or practice which, upon conviction, constitutes
31 a felony or a misdemeanor under the code, or under s. 817.234,

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1 is being or has been committed may send to the Division of
2 Insurance Fraud a report or information pertinent to such
3 knowledge or belief and such additional information relative
4 thereto as the department may request. Any professional
5 practitioner licensed or regulated by the Department of
6 Business and Professional Regulation, except as otherwise
7 provided by law, any medical review committee as defined in s.
8 766.101, any private medical review committee, and any
9 insurer, agent, or other person licensed under the code, or an
10 employee thereof, having knowledge or who believes that a
11 fraudulent insurance act or any other act or practice which,
12 upon conviction, constitutes a felony or a misdemeanor under
13 the code, or under s. 817.234, is being or has been committed
14 shall send to the Division of Insurance Fraud a report or
15 information pertinent to such knowledge or belief and such
16 additional information relative thereto as the department may
17 require. The Division of Insurance Fraud shall review such
18 information or reports and select such information or reports
19 as, in its judgment, may require further investigation. It
20 shall then cause an independent examination of the facts
21 surrounding such information or report to be made to determine
22 the extent, if any, to which a fraudulent insurance act or any
23 other act or practice which, upon conviction, constitutes a
24 felony or a misdemeanor under the code, or under s. 817.234,
25 is being committed. The Division of Insurance Fraud shall
26 report any alleged violations of law which its investigations
27 disclose to the appropriate licensing agency and state
28 attorney or other prosecuting agency having jurisdiction with
29 respect to any such violation, as provided in s. 624.310. If
30 prosecution by the state attorney or other prosecuting agency
31 having jurisdiction with respect to such violation is not

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1 begun within 60 days of the division's report, the state
2 attorney or other prosecuting agency having jurisdiction with
3 respect to such violation shall inform the division of the
4 reasons for the lack of prosecution.

5 Section 88. Paragraph (c) of subsection (4) of section
6 766.1115, Florida Statutes, is amended to read:

7 766.1115 Health care providers; creation of agency
8 relationship with governmental contractors.--

9 (4) CONTRACT REQUIREMENTS.--A health care provider
10 that executes a contract with a governmental contractor to
11 deliver health care services on or after April 17, 1992, as an
12 agent of the governmental contractor is an agent for purposes
13 of s. 768.28(9), while acting within the scope of duties
14 pursuant to the contract, if the contract complies with the
15 requirements of this section and regardless of whether the
16 individual treated is later found to be ineligible. A health
17 care provider under contract with the state may not be named
18 as a defendant in any action arising out of the medical care
19 or treatment provided on or after April 17, 1992, pursuant to
20 contracts entered into under this section. The contract must
21 provide that:

22 (c) Adverse incidents and information on treatment
23 outcomes must be reported by any health care provider to the
24 governmental contractor if such incidents and information
25 pertain to a patient treated pursuant to the contract. The
26 health care provider shall submit the reports required by s.
27 395.0197 annually submit an adverse incident report that
28 includes all information required by s. 395.0197(6)(a), unless
29 the adverse incident involves a result described by s.
30 395.0197(8), in which case it shall be reported within 15 days
31 after the occurrence of such incident. If an incident involves

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1 a professional licensed by the Department of Health or a
2 facility licensed by the Agency for Health Care
3 Administration, the governmental contractor shall submit such
4 incident reports to the appropriate department or agency,
5 which shall review each incident and determine whether it
6 involves conduct by the licensee that is subject to
7 disciplinary action. All patient medical records and any
8 identifying information contained in adverse incident reports
9 and treatment outcomes which are obtained by governmental
10 entities pursuant to this paragraph are confidential and
11 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
12 I of the State Constitution.

13 Section 89. Section 456.047, Florida Statutes, is
14 amended to read:

15 456.047 Standardized credentialing for health care
16 practitioners.--

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

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1 Legislature that the department and all entities and
2 practitioners work cooperatively to ensure the integrity and
3 accuracy of the program. Participation under this section
4 shall include those individuals licensed under chapter 458,
5 chapter 459, chapter 460, chapter 461, or s. 464.012. However,
6 the department shall, with the approval of the applicable
7 board, include other professions under the jurisdiction of the
8 Division of Medical Quality Assurance in this program,
9 provided they meet the requirements of s. 456.039 or s.
10 456.0391.

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

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

21 (b) "Core credentials data" means data that is primary
22 source verified and includes the following data: ~~current name,~~
23 ~~any former name, and any alias, any professional education,~~
24 ~~professional training, licensure, current Drug Enforcement~~
25 ~~Administration certification, social security number,~~
26 ~~specialty board certification, Educational Commission for~~
27 ~~Foreign Medical Graduates certification, and hospital or other~~
28 ~~institutional affiliations, evidence of professional liability~~
29 ~~coverage or evidence of financial responsibility as required~~
30 ~~by s. 458.320, s. 459.0085, or s. 456.048, history of claims,~~
31 ~~suits, judgments, or settlements, final disciplinary action~~

1 reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8.
2 The department may by rule designate additional core
3 credentials data elements, and Medicare or Medicaid sanctions.

4 (c) "Credential" or "credentialing" means the process
5 of assessing and verifying the qualifications of a licensed
6 health care practitioner or applicant for licensure as a
7 health care practitioner.

8 (d) "Credentials verification organization" means any
9 organization certified or accredited as a credentials
10 verification organization.

11 (e) "Department" means the Department of Health,
12 Division of Medical Quality Assurance.

13 (f) "Designated credentials verification organization"
14 means the credentials verification organization which is
15 selected by the health care practitioner, if the health care
16 practitioner chooses to make such a designation.

17 (g) "Drug Enforcement Administration certification"
18 means certification issued by the Drug Enforcement
19 Administration for purposes of administration or prescription
20 of controlled substances. Submission of such certification
21 under this section must include evidence that the
22 certification is current and must also include all current
23 addresses to which the certificate is issued.

24 (h) "Health care entity" means:

25 1. Any health care facility or other health care
26 organization licensed or certified to provide approved medical
27 and allied health services in this state;

28 2. Any entity licensed by the Department of Insurance
29 as a prepaid health care plan or health maintenance
30 organization or as an insurer to provide coverage for health
31 care services through a network of providers or similar

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1 organization licensed under chapter 627, chapter 636, chapter
2 641, or chapter 651; or

3 3. Any accredited medical school in this state.

4 (i) "Health care practitioner" means any person
5 licensed, or, for credentialing purposes only, any person
6 applying for licensure, under chapter 458, chapter 459,
7 chapter 460, chapter 461, or s. 464.012 or any person licensed
8 or applying for licensure under a chapter subsequently made
9 subject to this section by the department with the approval of
10 the applicable board, except a person registered or applying
11 for registration pursuant to s. 458.345 or s. 459.021.

12 ~~(j) "Hospital or other institutional affiliations"~~
13 ~~means each hospital or other institution for which the health~~
14 ~~care practitioner or applicant has provided medical services.~~
15 ~~Submission of such information under this section must~~
16 ~~include, for each hospital or other institution, the name and~~
17 ~~address of the hospital or institution, the staff status of~~
18 ~~the health care practitioner or applicant at that hospital or~~
19 ~~institution, and the dates of affiliation with that hospital~~
20 ~~or institution.~~

21 (j)(k) "National accrediting organization" means an
22 organization that awards accreditation or certification to
23 hospitals, managed care organizations, credentials
24 verification organizations, or other health care
25 organizations, including, but not limited to, the Joint
26 Commission on Accreditation of Healthcare Organizations, the
27 American Accreditation HealthCare Commission/URAC, and the
28 National Committee for Quality Assurance.

29 (k) "Primary source verification" means verification
30 of professional qualifications based on evidence obtained
31 directly from the issuing source of the applicable

1 qualification or from any other source deemed as a primary
2 source for such verification by the department or an
3 accrediting body approved by the department.

4 (1) "Professional training" means any internship,
5 residency, or fellowship relating to the profession for which
6 the health care practitioner is licensed or seeking licensure.

7 (m) "Specialty board certification" means
8 certification in a specialty issued by a specialty board
9 recognized by the board in this state that regulates the
10 profession for which the health care practitioner is licensed
11 or seeking licensure.

12 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

13 (a) Every health care practitioner shall:

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

18 2. Notify the department within 45 days of any
19 corrections, updates, or modifications to the core credentials
20 data either through his or her designated credentials
21 verification organization or by submitting the data directly.
22 Corrections, updates, and modifications to the core
23 credentials data provided the department under this section
24 shall comply with the updating requirements of s. 456.039(3)
25 or s. 456.0391(3) related to profiling.

26 (b) The department shall:

27 1. Maintain a complete, current file of applicable
28 core credentials data on each health care practitioner, which
29 shall include data provided in accordance with subparagraph
30 (a)1. and all updates provided in accordance with subparagraph
31 (a)2.

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

6 3. Charge a fee to access the core credentials data,
7 which may not exceed the actual cost, including prorated setup
8 and operating costs, pursuant to the requirements of chapter
9 119.

10 4. Develop standardized forms to be used by the health
11 care practitioner or designated credentials verification
12 organization for the initial reporting of core credentials
13 data, for the health care practitioner to authorize the
14 release of core credentials data, and for the subsequent
15 reporting of corrections, updates, and modifications thereto.

16 (c) A registered credentials verification organization
17 may be designated by a health care practitioner to assist the
18 health care practitioner to comply with the requirements of
19 subparagraph (a)2. A designated credentials verification
20 organization shall:

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

23 2. Not provide the health care practitioner's core
24 credentials data, including all corrections, updates, and
25 modifications, without the authorization of the practitioner.

26 (d) This section shall not be construed to restrict in
27 any way the authority of the health care entity to credential
28 and to approve or deny an application for hospital staff
29 membership, clinical privileges, or managed care network
30 participation.

31 (4) DUPLICATION OF DATA PROHIBITED.--

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

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

23 (5) STANDARDS AND REGISTRATION.--Any credentials
24 verification organization that does business in this state
25 must be fully accredited or certified as a credentials
26 verification organization by a national accrediting
27 organization as specified in paragraph (2)(a) and must
28 register with the department. The department may charge a
29 reasonable registration fee, not to exceed an amount
30 sufficient to cover its actual expenses in providing and
31 enforcing such registration. The department shall establish by

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1 rule for biennial renewal of such registration. Failure by a
2 registered credentials verification organization to maintain
3 full accreditation or certification, to provide data as
4 authorized by the health care practitioner, to report to the
5 department changes, updates, and modifications to a health
6 care practitioner's records within the time period specified
7 in subparagraph (3)(a)2., or to comply with the prohibition
8 against collection of duplicate core credentials data from a
9 practitioner may result in denial of an application for
10 renewal of registration or in revocation or suspension of a
11 registration.

12 (6) PRIMARY SOURCE VERIFIED DATA.--Health care
13 entities and credentials verification organizations may rely
14 upon any data that has been primary source verified by the
15 department or its designee to meet primary source verification
16 requirements of national accrediting organizations.

17 (7)(6) LIABILITY.--No civil, criminal, or
18 administrative action may be instituted, and there shall be no
19 liability, against any registered credentials verification
20 organization or health care entity on account of its reliance
21 on any data obtained directly from the department.

22 (8)(7) LIABILITY INSURANCE REQUIREMENTS.--Each
23 credentials verification organization doing business in this
24 state shall maintain liability insurance appropriate to meet
25 the certification or accreditation requirements established in
26 this section.

27 (9)(8) RULES.--The department shall adopt rules
28 necessary to develop and implement the standardized core
29 credentials data collection program established by this
30 section.

31 Section 90. Section 232.61, Florida Statutes, is

1 amended to read:

2 232.61 Governing organization for athletics; adoption
3 of bylaws.--

4 (1) The organization shall adopt bylaws that, unless
5 specifically provided by statute, establish eligibility
6 requirements for all students who participate in high school
7 athletic competition in its member schools. The bylaws
8 governing residence and transfer shall allow the student to be
9 eligible in the school in which he or she first enrolls each
10 school year, or makes himself or herself a candidate for an
11 athletic team by engaging in a practice prior to enrolling in
12 any member school. The student shall be eligible in that
13 school so long as he or she remains enrolled in that school.
14 Subsequent eligibility shall be determined and enforced
15 through the organization's bylaws.

16 (2) The organization shall ~~also~~ adopt bylaws that
17 specifically prohibit the recruiting of students for athletic
18 purposes. The bylaws shall prescribe penalties and an appeals
19 process for athletic recruiting violations.

20 (3) The organization shall adopt bylaws that require
21 all students participating in interscholastic athletic
22 competition or who are candidates for an interscholastic
23 athletic team to satisfactorily pass a medical evaluation each
24 year prior to participating in interscholastic athletic
25 competition or engaging in any practice, tryout, workout, or
26 other physical activity associated with the student's
27 candidacy for an interscholastic athletic team. Such medical
28 evaluation can only be administered by a practitioner licensed
29 under the provisions of chapter 458, chapter 459, chapter 460,
30 or s. 464.012, and in good standing with the practitioner's
31 regulatory board. The bylaws shall establish requirements for

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1 eliciting a student's medical history and performing the
2 medical evaluation required under this subsection, which shall
3 include minimum standards for the physical capabilities
4 necessary for participation in interscholastic athletic
5 competition as contained in a uniform preparticipation
6 physical evaluation form. The evaluation form shall provide
7 place for the signature of the practitioner performing the
8 evaluation with an attestation that each examination procedure
9 listed on the form was performed by the practitioner or by
10 someone under the direct supervision of the practitioner. The
11 form shall also contain a place for the practitioner to
12 indicate if a referral to another practitioner was made in
13 lieu of completion of a certain examination procedure. The
14 form shall provide a place for the practitioner to whom the
15 student was referred to complete the remaining sections and
16 attest to that portion of the examination. Practitioners
17 administering medical evaluations pursuant to this section
18 must know the minimum standards established by the
19 organization and certify that the student meets the standards.
20 If the practitioner determines that there are any abnormal
21 findings in the cardiovascular system, the student may not
22 participate unless a subsequent EKG or other cardiovascular
23 assessment indicates that the abnormality will not place the
24 student at risk during such participation. Results of such
25 medical evaluation must be provided to the school. No student
26 shall be eligible to participate in any interscholastic
27 athletic competition or engage in any practice, tryout,
28 workout, or other physical activity associated with the
29 student's candidacy for an interscholastic athletic team until
30 the results of the medical evaluation verifying that the
31 student has satisfactorily passed the evaluation have been

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1 received and approved by the school.

2 (4) Notwithstanding the provisions of subsection (3),
3 a student may participate in interscholastic athletic
4 competition or be a candidate for an interscholastic athletic
5 team if the parent or guardian of the student objects in
6 writing to the student undergoing a medical evaluation because
7 such evaluation is contrary to his or her religious tenets or
8 practices, provided that no person or entity shall be held
9 liable for any injury or other damages suffered by such
10 student.

11 Section 91. Section 240.4075, Florida Statutes, is
12 amended to read:

13 240.4075 Nursing Student Loan Forgiveness Program.--

14 (1) To encourage qualified personnel to seek
15 employment in areas of this state in which critical nursing
16 shortages exist, there is established the Nursing Student Loan
17 Forgiveness Program. The primary function of the program is
18 to increase employment and retention of registered nurses and
19 licensed practical nurses in nursing homes and hospitals in
20 the state and in state-operated medical and health care
21 facilities, public schools, birth centers, and federally
22 sponsored community health centers ~~and teaching hospitals~~ by
23 making repayments toward loans received by students from
24 federal or state programs or commercial lending institutions
25 for the support of postsecondary study in accredited or
26 approved nursing programs.

27 (2) To be eligible, a candidate must have graduated
28 from an accredited or approved nursing program and have
29 received a Florida license as a licensed practical nurse or a
30 registered nurse or a Florida certificate as an advanced
31 registered nurse practitioner.

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1 (3) Only loans to pay the costs of tuition, books, and
2 living expenses shall be covered, at an amount not to exceed
3 \$4,000 for each year of education towards the degree obtained.

4 (4) Receipt of funds pursuant to this program shall be
5 contingent upon continued proof of employment in the
6 designated facilities in this state. Loan principal payments
7 shall be made by the Department of Health Education directly
8 to the federal or state programs or commercial lending
9 institutions holding the loan as follows:

10 (a) Twenty-five percent of the loan principal and
11 accrued interest shall be retired after the first year of
12 nursing;

13 (b) Fifty percent of the loan principal and accrued
14 interest shall be retired after the second year of nursing;

15 (c) Seventy-five percent of the loan principal and
16 accrued interest shall be retired after the third year of
17 nursing; and

18 (d) The remaining loan principal and accrued interest
19 shall be retired after the fourth year of nursing.

20
21 In no case may payment for any nurse exceed \$4,000 in any
22 12-month period.

23 (5) There is created the Nursing Student Loan
24 Forgiveness Trust Fund to be administered by the Department of
25 Health Education pursuant to this section and s. 240.4076 and
26 department rules. The Comptroller shall authorize
27 expenditures from the trust fund upon receipt of vouchers
28 approved by the Department of Health Education. All moneys
29 collected from the private health care industry and other
30 private sources for the purposes of this section shall be
31 deposited into the Nursing Student Loan Forgiveness Trust

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1 Fund. Any balance in the trust fund at the end of any fiscal
2 year shall remain therein and shall be available for carrying
3 out the purposes of this section and s. 240.4076.

4 (6) In addition to licensing fees imposed under part I
5 of chapter 464, there is hereby levied and imposed an
6 additional fee of \$5, which fee shall be paid upon licensure
7 or renewal of nursing licensure. Revenues collected from the
8 fee imposed in this subsection shall be deposited in the
9 Nursing Student Loan Forgiveness Trust Fund of the Department
10 of Health Education and will be used solely for the purpose of
11 carrying out the provisions of this section and s. 240.4076.
12 Up to 50 percent of the revenues appropriated to implement
13 this subsection may be used for the nursing scholarship
14 program established pursuant to s. 240.4076.

15 (7)(a) Funds contained in the Nursing Student Loan
16 Forgiveness Trust Fund which are to be used for loan
17 forgiveness for those nurses employed by hospitals, birth
18 centers, and nursing homes must be matched on a
19 dollar-for-dollar basis by contributions from the employing
20 institutions, except that this provision shall not apply to
21 state-operated medical and health care facilities, public
22 schools, county health departments, federally sponsored
23 community health centers, ~~or~~ teaching hospitals as defined in
24 s. 408.07, family practice teaching hospitals as defined in s.
25 395.805, or specialty hospitals for children as used in s.
26 409.9119. If in any given fiscal quarter there are
27 insufficient funds in the trust fund to grant all eligible
28 applicant requests, awards shall be based on the following
29 priority of employer: county health departments; federally
30 sponsored community health centers; state-operated medical and
31 health care facilities; public schools; teaching hospitals as

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1 defined in s. 408.07; family practice teaching hospitals as
2 defined in s. 395.805; specialty hospitals for children as
3 used in s. 409.9119; and other hospitals, birth centers, and
4 nursing homes.

5 (b) All Nursing Student Loan Forgiveness Trust Fund
6 moneys shall be invested pursuant to s. 18.125. Interest
7 income accruing to that portion of the trust fund not matched
8 shall increase the total funds available for loan forgiveness
9 and scholarships. Pledged contributions shall not be eligible
10 for matching prior to the actual collection of the total
11 private contribution for the year.

12 (8) The Department of Health ~~Education~~ may solicit
13 technical assistance relating to the conduct of this program
14 from the Department of Education ~~Health~~.

15 (9) The Department of Health ~~Education~~ is authorized
16 to recover from the Nursing Student Loan Forgiveness Trust
17 Fund its costs for administering the Nursing Student Loan
18 Forgiveness Program.

19 (10) The Department of Health ~~Education~~ may adopt
20 rules necessary to administer this program.

21 (11) This section shall be implemented only as
22 specifically funded.

23 Section 92. Section 240.4076, Florida Statutes, is
24 amended to read:

25 240.4076 Nursing scholarship program.--

26 (1) There is established within the Department of
27 Health ~~Education~~ a scholarship program for the purpose of
28 attracting capable and promising students to the nursing
29 profession.

30 (2) A scholarship applicant shall be enrolled as a
31 full-time or part-time student in the upper division of an

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1 approved nursing program leading to the award of a
2 baccalaureate degree or graduate degree to qualify for a
3 nursing faculty position or as an ~~or any~~ advanced registered
4 nurse practitioner ~~degree~~ or be enrolled as a full-time or
5 part-time student in an approved program leading to the award
6 of an associate degree in nursing ~~or a diploma in nursing.~~

7 (3) A scholarship may be awarded for no more than 2
8 years, in an amount not to exceed \$8,000 per year. However,
9 registered nurses pursuing a graduate degree for a faculty
10 position or to practice as an advanced registered nurse
11 practitioner ~~degree~~ may receive up to \$12,000 per year.

12 Beginning July 1, 1998, these amounts shall be adjusted by the
13 amount of increase or decrease in the consumer price index for
14 urban consumers published by the United States Department of
15 Commerce.

16 (4) Credit for repayment of a scholarship shall be as
17 follows:

18 (a) For each full year of scholarship assistance, the
19 recipient agrees to work for 12 months in a faculty position
20 in a college of nursing or community college nursing program
21 in this state or at a health care facility in a medically
22 underserved area as approved by the Department of Health
23 Education. Scholarship recipients who attend school on a
24 part-time basis shall have their employment service obligation
25 prorated in proportion to the amount of scholarship payments
26 received.

27 (b) Eligible health care facilities include nursing
28 homes and hospitals in this state, state-operated medical or
29 health care facilities, public schools, county health
30 departments, federally sponsored community health centers,
31 colleges of nursing in universities in this state, and

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1 community college nursing programs in this state ~~or teaching~~
2 ~~hospitals as defined in s. 408.07.~~ The recipient shall be
3 encouraged to complete the service obligation at a single
4 employment site. If continuous employment at the same site is
5 not feasible, the recipient may apply to the department for a
6 transfer to another approved health care facility.

7 (c) Any recipient who does not complete an appropriate
8 program of studies or who does not become licensed shall repay
9 to the Department of Health Education, on a schedule to be
10 determined by the department, the entire amount of the
11 scholarship plus 18 percent interest accruing from the date of
12 the scholarship payment. Moneys repaid shall be deposited into
13 the Nursing Student Loan Forgiveness Trust Fund established in
14 s. 240.4075. However, the department may provide additional
15 time for repayment if the department finds that circumstances
16 beyond the control of the recipient caused or contributed to
17 the default.

18 (d) Any recipient who does not accept employment as a
19 nurse at an approved health care facility or who does not
20 complete 12 months of approved employment for each year of
21 scholarship assistance received shall repay to the Department
22 of Health Education an amount equal to two times the entire
23 amount of the scholarship plus interest accruing from the date
24 of the scholarship payment at the maximum allowable interest
25 rate permitted by law. Repayment shall be made within 1 year
26 of notice that the recipient is considered to be in default.
27 However, the department may provide additional time for
28 repayment if the department finds that circumstances beyond
29 the control of the recipient caused or contributed to the
30 default.

31 (5) Scholarship payments shall be transmitted to the

1 recipient upon receipt of documentation that the recipient is
2 enrolled in an approved nursing program. The Department of
3 ~~Health Education~~ shall develop a formula to prorate payments
4 to scholarship recipients so as not to exceed the maximum
5 amount per academic year.

6 (6) The Department of ~~Health Education~~ shall adopt
7 rules, including rules to address extraordinary circumstances
8 that may cause a recipient to default on either the school
9 enrollment or employment contractual agreement, to implement
10 this section and may solicit technical assistance relating to
11 the conduct of this program from the Department of Health.

12 (7) The Department of ~~Health Education~~ is authorized
13 to recover from the Nursing Student Loan Forgiveness Trust
14 Fund its costs for administering the nursing scholarship
15 program.

16 Section 93. All powers, duties, and functions, rules,
17 records, personnel, property, and unexpended balances of
18 appropriations, allocations, or other funds of the Department
19 of Education relating to the Nursing Student Loan Forgiveness
20 Program and the nursing scholarship program are transferred by
21 a type two transfer, as defined in s. 20.06(2), Florida
22 Statutes, to the Department of Health.

23 Section 94. Effective July 1, 2003, section 464.005,
24 Florida Statutes, is amended to read:

25 464.005 Board headquarters.--The board shall maintain
26 its official headquarters in Tallahassee ~~the city in which it~~
27 ~~has been domiciled for the past 5 years.~~

28 Section 95. Subsections (1) and (2) of section
29 464.008, Florida Statutes, are amended to read:

30 464.008 Licensure by examination.--

31 (1) Any person desiring to be licensed as a registered

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1 nurse or licensed practical nurse shall apply to the
2 department to take the licensure examination. The department
3 shall examine each applicant who:

4 (a) Has completed the application form and remitted a
5 fee set by the board not to exceed \$150 and has remitted an
6 examination fee set by the board not to exceed \$75 plus the
7 actual per applicant cost to the department for purchase of
8 the examination from the National Council of State Boards of
9 Nursing or a similar national organization.

10 (b) Has provided sufficient information on or after
11 October 1, 1989, which must be submitted by the department for
12 a statewide criminal records correspondence check through the
13 Department of Law Enforcement.

14 (c) Is in good mental and physical health, is a
15 recipient of a high school diploma or the equivalent, and has
16 completed the requirements for graduation from an approved
17 program, or its equivalent as determined by the board, for the
18 preparation of registered nurses or licensed practical nurses,
19 whichever is applicable. Courses successfully completed in a
20 professional nursing program which are at least equivalent to
21 a practical nursing program may be used to satisfy the
22 education requirements for licensure as a licensed practical
23 nurse.

24 (d) Has the ability to communicate in the English
25 language, which may be determined by an examination given by
26 the department.

27 (2) Each applicant who passes the examination and
28 provides proof of meeting the educational requirements
29 specified in subsection (1)~~graduation from an approved~~
30 ~~nursing program~~ shall, unless denied pursuant to s. 464.018,
31 be entitled to licensure as a registered professional nurse or

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1 a licensed practical nurse, whichever is applicable.

2 Section 96. Section 464.009, Florida Statutes, is
3 amended to read:

4 464.009 Licensure by endorsement.--

5 (1) The department shall issue the appropriate license
6 by endorsement to practice professional or practical nursing
7 to an applicant who, upon applying to the department and
8 remitting a fee set by the board not to exceed \$100,
9 demonstrates to the board that he or she:

10 (a) Holds a valid license to practice professional or
11 practical nursing in another state of the United States,
12 provided that, when the applicant secured his or her original
13 license, the requirements for licensure were substantially
14 equivalent to or more stringent than those existing in Florida
15 at that time; or

16 (b) Meets the qualifications for licensure in s.
17 464.008 and has successfully completed a state, regional, or
18 national examination which is substantially equivalent to or
19 more stringent than the examination given by the department.

20 (2) Such examinations and requirements from other
21 states shall be presumed to be substantially equivalent to or
22 more stringent than those in this state. Such presumption
23 shall not arise until January 1, 1980. However, the board may,
24 by rule, specify states the examinations and requirements of
25 which shall not be presumed to be substantially equivalent to
26 those of this state.

27 (3) The applicant must submit to the department a set
28 of fingerprints on a form and under procedures specified by
29 the department, along with a payment in an amount equal to the
30 costs incurred by the Department of Health for the criminal
31 background check of the applicant. The Department of Health

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1 shall submit the fingerprints provided by the applicant to the
2 Florida Department of Law Enforcement for a statewide criminal
3 history check, and the Florida Department of Law Enforcement
4 shall forward the fingerprints to the Federal Bureau of
5 Investigation for a national criminal history check of the
6 applicant. The Department of Health shall review the results
7 of the criminal history check, issue a license to an applicant
8 who has met all of the other requirements for licensure and
9 has no criminal history, and shall refer all applicants with
10 criminal histories back to the board for determination as to
11 whether a license should be issued and under what conditions.

12 (4)(3) The department shall not issue a license by
13 endorsement to any applicant who is under investigation in
14 another state for an act which would constitute a violation of
15 this part or chapter 456 until such time as the investigation
16 is complete, at which time the provisions of s. 464.018 shall
17 apply.

18 (5) The department shall develop an electronic
19 applicant notification process and provide electronic
20 notification when the application has been received and when
21 background screenings have been completed, and shall issue a
22 license within 30 days after completion of all required data
23 collection and verification. This 30-day period to issue a
24 license shall be tolled if the applicant must appear before
25 the board due to information provided on the application or
26 obtained through screening and data collection and
27 verification procedures.

28 Section 97. Section 464.0195, Florida Statutes, is
29 created to read:

30 464.0195 Florida Center for Nursing; goals.--There is
31 established the Florida Center for Nursing to address issues

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1 of supply and demand for nursing, including issues of
2 recruitment, retention, and utilization of nurse workforce
3 resources. The Legislature finds that the center will repay
4 the state's investment by providing an ongoing strategy for
5 the allocation of the state's resources directed towards
6 nursing. The primary goals for the center shall be to:
7 (1) Develop a strategic statewide plan for nursing
8 manpower in this state by:
9 (a) Establishing and maintaining a database on nursing
10 supply and demand in the state, to include current supply and
11 demand, and future projections; and
12 (b) Selecting from the plan priorities to be
13 addressed.
14 (2) Convene various groups representative of nurses,
15 other health care providers, business and industry, consumers,
16 legislators, and educators to:
17 (a) Review and comment on data analysis prepared for
18 the center;
19 (b) Recommend systemic changes, including strategies
20 for implementation of recommended changes; and
21 (c) Evaluate and report the results of these efforts
22 to the Legislature and others.
23 (3) Enhance and promote recognition, reward, and
24 renewal activities for nurses in the state by:
25 (a) Promoting nursing excellence programs such as
26 magnet recognition by the American Nurses Credentialing
27 Center;
28 (b) Proposing and creating additional reward,
29 recognition, and renewal activities for nurses; and
30 (c) Promoting media and positive image-building
31 efforts for nursing.

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1 Section 98. Section 464.0196, Florida Statutes, is
2 created to read:

3 464.0196 Florida Center for Nursing; board of
4 directors.--

5 (1) The Florida Center for Nursing shall be governed
6 by a policy-setting board of directors. The board shall
7 consist of 16 members, with a simple majority of the board
8 being nurses representative of various practice areas. Other
9 members shall include representatives of other health care
10 professions, business and industry, health care providers, and
11 consumers. The members of the board shall be appointed by the
12 Governor as follows:

13 (a) Four members recommended by the President of the
14 Senate, at least one of whom shall be a registered nurse
15 recommended by the Florida Organization of Nurse Executives
16 and at least one other representative of the hospital industry
17 recommended by the Florida Hospital Association;

18 (b) Four members recommended by the Speaker of the
19 House of Representatives, at least one of whom shall be a
20 registered nurse recommended by the Florida Nurses Association
21 and at least one other representative of the long-term care
22 industry;

23 (c) Four members recommended by the Governor, two of
24 whom shall be registered nurses; and

25 (d) Four nurse educators recommended by the State
26 Board of Education, one of whom shall be a dean of a College
27 of Nursing at a state university, one other shall be a
28 director of a nursing program in a state community college.

29 (2) The initial terms of the members shall be as
30 follows:

31 (a) Of the members appointed pursuant to paragraph

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1 (1)(a), two shall be appointed for terms expiring June 30,
2 2005, one for a term expiring June 30, 2004, and one for a
3 term expiring June 30, 2003.

4 (b) Of the members appointed pursuant to paragraph
5 (1)(b), one shall be appointed for a term expiring June 30,
6 2005, two for terms expiring June 30, 2004, and one for a term
7 expiring June 20, 2003.

8 (c) Of the members appointed pursuant to paragraph
9 (1)(c), one shall be appointed for a term expiring June 30,
10 2005, one for a term expiring June 30, 2004, and two for terms
11 expiring June 30, 2003.

12 (d) Of the members appointed pursuant to paragraph
13 (1)(d), the terms of two members recommended by the State
14 Board of Education shall expire June 30, 2005; the term of the
15 member who is a dean of a College of Nursing at a state
16 university shall expire June 30, 2004; and the term of the
17 member who is a director of a state community college nursing
18 program shall expire June 30, 2003.

19
20 After the initial appointments expire, the terms of all the
21 members shall be for 3 years, with no member serving more than
22 two consecutive terms.

23 (3) The board shall have the following powers and
24 duties:

25 (a) To employ an executive director.

26 (b) To determine operational policy.

27 (c) To elect a chair and officers, to serve 2-year
28 terms. The chair and officers may not succeed themselves.

29 (d) To establish committees of the board as needed.

30 (e) To appoint a multidisciplinary advisory council
31 for input and advice on policy matters.

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1 (f) To implement the major functions of the center as
2 established in the goals set out in s. 464.0195.

3 (g) To seek and accept nonstate funds for sustaining
4 the center and carrying out center policy.

5 (4) The members of the board are entitled to receive
6 per diem and allowances prescribed by law for state boards and
7 commissions.

8 Section 99. Section 464.0197, Florida Statutes, is
9 created to read:

10 464.0197 Florida Center for Nursing; state budget
11 support.--The Legislature finds that it is imperative that the
12 state protect its investment and progress made in nursing
13 efforts to date. The Legislature finds that the Florida Center
14 for Nursing is the appropriate means to do so. The center
15 shall have state budget support for its operations so that it
16 may have adequate resources for the tasks the Legislature has
17 set out in s. 464.0195.

18 Section 100. The Board of Nursing within the
19 Department of Health shall hold in abeyance until July 1,
20 2002, the development of any rule pursuant to s. 464.019(2),
21 Florida Statutes, which relates to the establishment of
22 faculty/student clinical ratios. The Board of Nursing and the
23 Department of Education shall submit to the President of the
24 Senate and the Speaker of the House of Representatives by
25 December 31, 2001, an implementation plan that details both
26 the impact and the cost of any such proposed rule change.

27 Section 101. Subsection (1) of section 464.0205,
28 Florida Statutes, is amended to read:

29 464.0205 Retired volunteer nurse certificate.--

30 (1) Any retired practical or registered nurse desiring
31 to serve indigent, underserved, or critical need populations

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1 in this state may apply to the department for a retired
2 volunteer nurse certificate by providing:
3 (a) A complete application.
4 ~~(b) An application and processing fee of \$25.~~
5 (b)(c) Verification that the applicant had been
6 licensed to practice nursing in any jurisdiction in the United
7 States for at least 10 years, had retired or plans to retire,
8 intends to practice nursing only pursuant to the limitations
9 provided by the retired volunteer nurse certificate, and has
10 not committed any act that would constitute a violation under
11 s. 464.018(1).

12 (c)(d) Proof that the applicant meets the requirements
13 for licensure under s. 464.008 or s. 464.009.

14 Section 102. The Florida Legislature's Office of
15 Program Policy Analysis and Government Accountability shall
16 study the feasibility of maintaining the entire Medical
17 Quality Assurance function, including enforcement, within one
18 department, as recommended by the Auditor General in
19 Operational Report Number 01-063. The study shall be completed
20 and a report issued to the Legislature on or before November
21 30, 2001.

22 Section 103. Effective October 1, 2001, section
23 456.0375, Florida Statutes, is created to read:

24 456.0375 Registration of certain clinics;
25 requirements; discipline; exemptions.--

26 (1)(a) As used in this section, the term "clinic"
27 means a business operating in a single structure or facility
28 or group of adjacent structures or facilities operating under
29 the same business name or management at which health care
30 services are provided to individuals and which tenders charges
31 for reimbursement for such services.

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1 (b) For purposes of this section, the term "clinic"
2 does not include and the registration requirements in this
3 section do not apply to:

4 1. Entities licensed or registered by the state
5 pursuant to chapter 390, chapter 394, chapter 395, chapter
6 397, chapter 400, chapter 463, chapter 465, chapter 466,
7 chapter 478, chapter 480, or chapter 484.

8 2. Entities exempt from federal taxation under 26
9 U.S.C. s. 501(c)(3).

10 3. Sole proprietorships, group practices,
11 partnerships, or corporations which provide health care
12 services by licensed health care practitioners pursuant to
13 chapter 457, chapter 458, chapter 459, chapter 460, chapter
14 461, chapter 462, chapter 463, chapter 466, chapter 467,
15 chapter 484, chapter 486, chapter 490, or chapter 491; part I,
16 part III, part X, part XIII, or part XIV of chapter 468; or s.
17 464.012, which are wholly owned by licensed health care
18 practitioners or wholly owned by licensed health care
19 practitioners and the spouse, parent, or child of a licensed
20 health care practitioner, so long as one of the owners who is
21 a licensed health care practitioner is supervising the
22 services performed therein and is legally responsible for the
23 entity's compliance with all federal and state laws. However,
24 no health care practitioner may supervise services beyond the
25 scope of the practitioner's license.

26 (2)(a) Every clinic, as defined in paragraph (1)(a),
27 must register, and at all times maintain a valid registration,
28 with the department. Each clinic location must be registered
29 separately even though operated under the same business name
30 or management, and each clinic must appoint a medical director
31 or clinic director.

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1 (b) The department shall adopt rules necessary to
2 administer the registration program, including rules
3 establishing the specific registration procedures, forms, and
4 fees. Registration may be conducted electronically.
5 Registration fees must be calculated to reasonably cover the
6 cost of registration and must be of such amount that the total
7 fees collected do not exceed the cost of administering and
8 enforcing compliance with this section. The registration
9 program must require:

10 1. The clinic to file the registration form with the
11 department within 60 days after the effective date of this
12 section or prior to the inception of operation. The
13 registration expires automatically 2 years after its date of
14 issuance and must be renewed biennially thereafter.

15 2. The registration form to contain the name,
16 residence, and business address, phone number, and license
17 number of the medical director or clinic director for the
18 clinic.

19 3. The clinic to display the registration certificate
20 in a conspicuous location within the clinic which is readily
21 visible to all patients.

22 (3)(a) Each clinic must employ or contract with a
23 physician maintaining a full and unencumbered physician
24 license in accordance with chapter 458, chapter 459, chapter
25 460, or chapter 461 to serve as the medical director. However,
26 if the clinic is limited to providing health care services
27 pursuant to chapter 457, chapter 484, chapter 486, chapter
28 490, or chapter 491 or part I, part III, part X, part XIII, or
29 part XIV of chapter 468, the clinic may appoint a health care
30 practitioner licensed under that chapter to serve as the
31 clinic director who is responsible for the clinic's

1 activities. A health care practitioner may not serve as the
2 clinic director if the services provided at the clinic are
3 beyond the scope of that practitioner's license.

4 (b) The medical director or clinic director must agree
5 in writing to accept responsibility for the following
6 activities on behalf of the clinic. The medical director or
7 the clinic director shall:

8 1. Have signs identifying the medical director or
9 clinic director posted in a conspicuous location within the
10 clinic which is readily visible to all patients.

11 2. Ensure that all practitioners providing health care
12 services or supplies to patients maintain a current, active,
13 and unencumbered Florida license.

14 3. Review any patient-referral contracts or agreements
15 executed by the clinic.

16 4. Ensure that all health care practitioners at the
17 clinic have active appropriate certification or licensure for
18 the level of care being provided.

19 5. Serve as the clinic records owner as defined in s.
20 456.057.

21 6. Ensure compliance with the recordkeeping, office
22 surgery, and adverse incident reporting requirements of
23 chapter 456, the respective practice acts, and the rules
24 adopted thereunder.

25 7. Conduct systematic reviews of clinic billings to
26 ensure that the billings are not fraudulent or unlawful. Upon
27 discovery of an unlawful charge, the medical director or
28 clinic director must take immediate corrective action.

29 (c) Any contract to serve as a medical director or
30 clinic director entered into or renewed by a physician or
31 licensed health care practitioner in violation of this section

1 is void as contrary to public policy. This section applies to
2 contracts entered into or renewed on or after the effective
3 date of this section.

4 (d) The department, in consultation with the boards,
5 shall adopt rules specifying limitations on the number of
6 registered clinics and licensees for which a medical director
7 or clinic director may assume responsibility for purposes of
8 this section. In determining the quality of supervision a
9 medical director or clinic director can provide, the
10 department shall consider the number of clinic employees, the
11 clinic location, and the services provided by the clinic.

12 (4)(a) All charges or reimbursement claims made by or
13 on behalf of a clinic that is required to be registered under
14 this section but that is not so registered are unlawful
15 charges and therefore are noncompensable and unenforceable.

16 (b) Any person establishing, operating, or managing an
17 unregistered clinic otherwise required to be registered under
18 this section commits a felony of the third degree, punishable
19 as provided in s. 775.082, s. 775.083, or s. 775.084.

20 (c) Any licensed health care practitioner who violates
21 this section is subject to discipline in accordance with this
22 chapter and the respective practice act.

23 (d) The department shall revoke the registration of
24 any clinic registered under this section for operating in
25 violation of the requirements of this section or the rules
26 adopted pursuant to this section.

27 (e) The department shall investigate allegations of
28 noncompliance with this section and the rules adopted pursuant
29 to this section.

30 Section 104. The sum of \$100,000 is appropriated from
31 the registration fees collected from clinics pursuant to s.

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1 456.0375, Florida Statutes, and one-half of one full-time
2 equivalent position is authorized, to the Department of Health
3 for the purposes of regulating medical clinics pursuant to s.
4 456.0375, Florida Statutes. The appropriated funds shall be
5 deposited into the Medical Quality Assurance Trust Fund.

6 Section 105. Subsection (3) of section 456.031,
7 Florida Statutes, is amended to read:

8 456.031 Requirement for instruction on domestic
9 violence.--

10 (3)(a) In lieu of completing a course as required in
11 subsection (1), a licensee or certificateholder may complete a
12 course in end-of-life care and palliative health care, if the
13 licensee or certificateholder has completed an approved
14 domestic violence course in the immediately preceding
15 biennium.

16 (b) In lieu of completing a course as required by
17 subsection (1), a person licensed under chapter 466 who has
18 completed an approved domestic-violence education course in
19 the immediately preceding 2 years may complete a course
20 approved by the Board of Dentistry.

21 Section 106. Subsection (9) of section 456.033,
22 Florida Statutes, is amended to read:

23 456.033 Requirement for instruction for certain
24 licensees on human immunodeficiency virus and acquired immune
25 deficiency syndrome.--

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

31 (b) In lieu of completing a course as required by

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1 subsection (1), a person licensed under chapter 466 who has
2 completed an approved AIDS/HIV course in the immediately
3 preceding 2 years may complete a course approved by the Board
4 of Dentistry.

5 Section 107. (1) Subsection (9) is added to section
6 627.419, Florida Statutes, to read:

7 627.419 Construction of policies.--

8 (9) With respect to any group or individual insurer
9 covering dental services, each claimant, or dentist acting for
10 a claimant, who has had a claim denied as not medically or
11 dentally necessary or who has had a claim payment based on an
12 alternate dental service in accordance with accepted dental
13 standards for adequate and appropriate care must be provided
14 an opportunity for an appeal to the insurer's licensed dentist
15 who is responsible for the medical necessity reviews under the
16 plan or is a member of the plan's peer review group. The
17 appeal may be by telephone, and the insurer's dentist must
18 respond within a reasonable time, not to exceed 15 business
19 days.

20 (2) This section shall apply to policies issued or
21 renewed on or after July 1, 2001.

22 Section 108. Paragraph (d) of subsection (3) and
23 paragraph (c) of subsection (6) of section 468.302, Florida
24 Statutes, are amended to read:

25 468.302 Use of radiation; identification of certified
26 persons; limitations; exceptions.--

27 (3) Requirement for certification does not apply to:

28 (d) A person holding a certificate as a general
29 radiographer may not perform nuclear medicine and radiation
30 therapy procedures. A general radiographer may participate in
31 additional approved programs as provided by rule of the

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1 department. However, a person who is a general radiographer
2 certified pursuant to this part who is trained and skilled in
3 radiologic technology procedures appropriate to managing
4 patients in the course of radiation therapy treatment and who
5 provides these services while assisting a person registered
6 with the American Registry of Radiologic Technologists in
7 radiation therapy under the general supervision of a physician
8 licensed under chapter 458 or chapter 459 who is trained and
9 skilled in performing radiation therapy treatments, may assist
10 in providing radiation therapy procedures. Such persons must
11 successfully complete a training program in the following
12 areas before performing radiologic technology duties:

- 13 1. Principles of radiation therapy treatment;
- 14 2. Biological effects of radiation;
- 15 3. Radiation exposure and monitoring;
- 16 4. Radiation safety and protection;
- 17 5. Evaluation and handling of radiographic treatment
18 equipment and accessories; and
- 19 6. Patient positioning for radiation therapy
20 treatment.

21 (6) Requirement for certification does not apply to:

22 (c) A person who is trained and skilled in invasive
23 cardiovascular ~~cardiopulmonary~~ technology, including the
24 radiologic technology duties associated with these procedures,
25 and who provides invasive cardiovascular ~~cardiopulmonary~~
26 technology services at the direction, and under the direct
27 supervision, of a licensed practitioner who is trained and
28 skilled in performing invasive cardiovascular procedures. Such
29 persons must have successfully completed a didactic and
30 clinical training program in the following areas before
31 performing radiologic technology duties:

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- 1 1. Principles of X-ray production and equipment
- 2 operation.
- 3 2. Biological effects of radiation.
- 4 3. Radiation exposure and monitoring.
- 5 4. Radiation safety and protection.
- 6 5. Evaluation of radiographic equipment and
- 7 accessories.
- 8 6. Radiographic exposure and technique factors.
- 9 7. Film processing.
- 10 8. Image quality assurance.
- 11 9. Patient positioning.
- 12 10. Administration and complications of contrast
- 13 media.
- 14 11. Specific fluoroscopic and digital X-ray imaging
- 15 procedures related to invasive cardiovascular technology.

16 Section 109. Subsections (8) and (9) of section
17 468.352, Florida Statutes, are amended to read:

18 468.352 Definitions.--As used in this part, unless the
19 context otherwise requires, the term:

20 (8) "Registered respiratory therapist" means any
21 person licensed pursuant to this part who is employed to
22 deliver respiratory care services under the order of a
23 physician licensed pursuant to chapter 458 or chapter 459, and
24 in accordance with protocols established by a hospital, other
25 health care provider, or the board, and who functions in
26 situations of unsupervised patient contact requiring
27 individual judgment.

28 (9) "Certified respiratory therapist" or "respiratory
29 care practitioner" means any person licensed pursuant to this
30 part who is employed to deliver respiratory care services
31 under the order of a physician licensed pursuant to chapter

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1 458 or chapter 459, and in accordance with protocols
2 established by a hospital, other health care provider, or the
3 board.

4 Section 110. Subsections (1) and (2) of section
5 468.355, Florida Statutes, are amended to read:

6 468.355 Eligibility for licensure; temporary
7 licensure.--

8 (1) To be eligible for licensure by the board as a
9 certified respiratory therapist ~~respiratory care practitioner~~,
10 an applicant must:

11 (a) Be at least 18 years old.

12 (b) Possess a high school diploma or a graduate
13 equivalency diploma.

14 (c) Meet at least one of the following criteria:

15 1. The applicant has successfully completed a training
16 program for respiratory therapy technicians or respiratory
17 therapists approved by the Commission on Accreditation of
18 Allied Health Education Programs, or the equivalent thereof,
19 as accepted by the board.

20 2. The applicant is currently a "Certified Respiratory
21 Therapist ~~Therapy Technician~~" certified by the National Board
22 for Respiratory Care, or the equivalent thereof, as accepted
23 by the board.

24 3. The applicant is currently a "Registered
25 Respiratory Therapist" registered by the National Board for
26 Respiratory Care, or the equivalent thereof, as accepted by
27 the board.

28

29 The criteria set forth in subparagraphs 2. and 3.
30 notwithstanding, the board shall periodically review the
31 examinations and standards of the National Board for

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1 Respiratory Care and may reject those examinations and
2 standards if they are deemed inappropriate.

3 (2) To be eligible for licensure by the board as a
4 registered respiratory therapist, an applicant must:

5 (a) Be at least 18 years old.

6 (b) Possess a high school diploma or a graduate
7 equivalency diploma.

8 (c) Meet at least one of the following criteria:

9 1. The applicant has successfully completed a training
10 program for registered respiratory therapists approved by the
11 Commission on Accreditation of Allied Health Education
12 Programs, or the equivalent thereof, as accepted by the board.

13 2. The applicant is currently a "Registered
14 Respiratory Therapist" registered by the National Board for
15 Respiratory Care, or the equivalent thereof, as accepted by
16 the board.

17

18 The criteria set forth in subparagraphs 1. and 2.
19 notwithstanding, the board shall periodically review the
20 examinations and standards of the National Board for
21 Respiratory Care and may reject those examinations and
22 standards if they are deemed inappropriate.

23 Section 111. Section 468.357, Florida Statutes, is
24 amended to read:

25 468.357 Licensure by examination.--

26 (1) A person who desires to be licensed as a certified
27 respiratory therapist ~~respiratory care practitioner~~ may submit
28 an application to take the examination, in accordance with
29 board rule.

30 (a) Each applicant may take the examination who is
31 determined by the board to have:

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1 1. Completed the application form and remitted the
2 applicable fee set by the board;

3 2. Submitted required documentation as required in s.
4 468.355; and

5 3. Remitted an examination fee set by the examination
6 provider.

7 (b) Examinations for licensure of certified
8 respiratory therapist ~~respiratory care practitioners~~ must be
9 conducted no less than two times a year in such geographical
10 locations or by such methods as are deemed advantageous to the
11 majority of the applicants.

12 (c) The examination given for certified respiratory
13 therapist ~~respiratory care practitioners~~ shall be the same as
14 that given by the National Board for Respiratory Care for
15 entry-level certification of respiratory therapists ~~therapy~~
16 ~~technicians~~. However, an equivalent examination may be
17 accepted by the board in lieu of that examination.

18 (2) Each applicant who passes the examination shall be
19 entitled to licensure as a certified respiratory therapist
20 ~~respiratory care practitioner~~, and the department shall issue
21 a license pursuant to this part to any applicant who
22 successfully completes the examination in accordance with this
23 section. However, the department shall not issue a license to
24 any applicant who is under investigation in another
25 jurisdiction for an offense which would constitute a violation
26 of this part. Upon completion of such an investigation, if the
27 applicant is found guilty of such an offense, the applicable
28 provisions of s. 468.365 will apply.

29 Section 112. Subsections (1) and (2) of section
30 468.358, Florida Statutes, are amended to read:

31 468.358 Licensure by endorsement.--

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1 (1) Licensure as a certified respiratory therapist
2 ~~respiratory care practitioner~~ shall be granted by endorsement
3 to an individual who holds the "Certified Respiratory
4 Therapist ~~Therapy Technician~~" credential issued by the
5 National Board for Respiratory Care or an equivalent
6 credential acceptable to the board. Licensure by this
7 mechanism requires verification by oath and submission of
8 evidence satisfactory to the board that such credential is
9 held.

10 (2) Licensure as a registered respiratory therapist
11 shall be granted by endorsement to an individual who holds the
12 "Registered Respiratory Therapist" credential issued by the
13 National Board for Respiratory Care or an equivalent
14 credential acceptable to the board. Licensure by this
15 mechanism requires verification by oath and submission of
16 evidence satisfactory to the board that such credential is
17 held.

18 Section 113. Section 468.359, Florida Statutes, is
19 amended to read:

20 468.359 Assumption of title and use of
21 abbreviations.--

22 (1) Only persons who are licensed pursuant to this
23 part as respiratory care practitioners have the right to use
24 the title "Respiratory Care Practitioner" and the abbreviation
25 "RCP."

26 (2) Only persons who are licensed pursuant to this
27 part as registered respiratory therapists have the right to
28 use the title "Registered Respiratory Therapist" and the
29 abbreviation "RRT," when delivering services pursuant to this
30 part ~~provided such persons have passed the Registry~~
31 ~~Examination for Respiratory Therapists given by the National~~

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1 ~~Board for Respiratory Care.~~

2 (3) Only persons who are licensed pursuant to this
3 part as certified respiratory therapists have the right to use
4 the title "Certified Respiratory Therapist" and the
5 abbreviation "CRT" when delivering services pursuant to this
6 part. ~~graduates of board-approved programs for respiratory~~
7 ~~care practitioners may use the term "Graduate Respiratory~~
8 ~~Therapy Technician" and the abbreviation "GRTT."~~

9 ~~(4) Only persons who are graduates of board-approved~~
10 ~~programs for respiratory therapists may use the term "Graduate~~
11 ~~Respiratory Therapist" and the abbreviation "GRT."~~

12 (4)~~(5)~~ No person in this state shall deliver
13 respiratory care services; advertise as, or assume the title
14 of, respiratory care practitioner, certified respiratory
15 therapist, or registered respiratory therapist; or use the
16 abbreviation "RCP," "CRT," or "RRT" that would lead the public
17 to believe that such person is licensed pursuant to this part
18 unless such person is so licensed; or take any other action
19 that would lead the public to believe that such person is
20 licensed pursuant to this part unless such person is so
21 licensed.

22 Section 114. Subsections (2), (3), and (4) of section
23 468.1155, Florida Statutes, are amended to read:

24 468.1155 Provisional license; requirements.--

25 (2) The department shall issue a provisional license
26 to practice speech-language pathology to each applicant who
27 the board certifies has:

28 (a) Completed the application form and remitted the
29 required fees, including a nonrefundable application fee.

30 (b) Received a master's degree or is currently
31 enrolled in a doctoral degree program with a major emphasis in

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1 speech-language pathology from an institution of higher
2 learning which is, or at the time the applicant was enrolled
3 and graduated, was, accredited by an accrediting agency
4 recognized by the Council for Higher Education Commission on
5 Recognition of Postsecondary Accreditation or from an
6 institution which is ~~publicly recognized as~~ a member in good
7 standing with the Association of Universities and Colleges of
8 Canada. An applicant who graduated from or is currently
9 enrolled in a program at a university or college outside the
10 United States or Canada must present documentation of the
11 determination of equivalency to standards established by the
12 Council for Higher Education Commission on Recognition of
13 Postsecondary Accreditation in order to qualify. The
14 applicant must have completed 60 semester hours that include:
15 1. Fundamental information applicable to the normal
16 development and use of speech, hearing, and language;
17 information about training in management of speech, hearing,
18 and language disorders; and information supplementary to these
19 fields.
20 2. Six semester hours in audiology.
21 3. Thirty of the required 60 semester hours in courses
22 acceptable toward a graduate degree by the college or
23 university in which these courses were taken, of which 24
24 semester hours must be in speech-language pathology.
25 (c) Completed 300 supervised clinical clock hours with
26 200 clock hours in the area of speech-language pathology or
27 completed the number of clock hours required by an accredited
28 institution meeting national certification standards. The
29 supervised clinical clock hours shall be completed within the
30 training institution or one of its cooperating programs.
31 (3) The department shall issue a provisional license

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1 to practice audiology to each applicant who the board
2 certifies has:

3 (a) Completed the application form and remitted the
4 required fees, including a nonrefundable application fee.

5 (b) Received a master's degree or is currently
6 enrolled in a doctoral degree program with a major emphasis in
7 audiology from an institution of higher learning which is, or
8 at the time the applicant was enrolled and graduated was,
9 accredited by an accrediting agency recognized by the Council
10 for Higher Education Commission on Recognition of
11 ~~Postsecondary~~ Accreditation or from an institution which is
12 ~~publicly recognized as~~ a member in good standing with the
13 Association of Universities and Colleges of Canada. An
14 applicant who graduated from or is currently enrolled in a
15 program at a university or college outside the United States
16 or Canada must present documentation of the determination of
17 equivalency to standards established by the Council for Higher
18 Education Commission on Recognition of Postsecondary
19 Accreditation in order to qualify. The applicant must have
20 completed 60 semester hours that include:

21 1. Fundamental information applicable to the normal
22 development and use of speech, hearing, and language;
23 information about training in management of speech, hearing,
24 and language disorders; and information supplementary to these
25 fields.

26 2. Six semester hours in speech-language pathology.

27 3. Thirty of the required 60 semester hours in courses
28 acceptable toward a graduate degree by the college or
29 university in which these courses were taken, of which 24
30 semester hours must be in audiology.

31 (c) Completed 300 supervised clinical clock hours with

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1 200 clock hours in the area of audiology or completed the
2 number of clock hours required by an accredited institution
3 meeting national certification standards. The supervised
4 clinical clock hours shall be completed within the training
5 institution or one of its cooperating programs.

6 (4) An applicant ~~for a provisional license~~ who has
7 received a master's degree or is currently enrolled in a
8 doctoral degree program with a major emphasis in
9 speech-language pathology as provided in subsection (2), or
10 audiology as provided in subsection (3), and who seeks
11 licensure in the area in which the applicant is not currently
12 licensed, must have completed 30 semester hours in courses
13 acceptable toward a graduate degree and 200 supervised
14 clinical clock hours in the second discipline from an
15 accredited institution.

16 Section 115. Paragraph (b) of subsection (1) and
17 paragraph (b) of subsection (2) of section 468.1215, Florida
18 Statutes, are amended to read:

19 468.1215 Speech-language pathology assistant and
20 audiology assistant; certification.--

21 (1) The department shall issue a certificate as a
22 speech-language pathology assistant to each applicant who the
23 board certifies has:

24 (b) Earned a bachelor's degree from a college or
25 university accredited by a regional association of colleges
26 and schools recognized by the Department of Education which
27 includes at least 24 semester hours of coursework as approved
28 by the board at an institution accredited by an accrediting
29 agency recognized by the Council for Higher Education
30 ~~Commission on Recognition of Postsecondary Accreditation.~~

31 (2) The department shall issue a certificate as an

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1 audiology assistant to each applicant who the board certifies
2 has:

3 (b) Completed at least 24 semester hours of coursework
4 as approved by the board at an institution accredited by an
5 accrediting agency recognized by the Council for Higher
6 Education Commission on Recognition of Postsecondary
7 Accreditation.

8 Section 116. Subsection (3) of section 480.033,
9 Florida Statutes, is amended to read:

10 480.033 Definitions.--As used in this act:

11 (3) "Massage" means the manipulation of the soft
12 ~~superficial~~ tissues of the human body with the hand, foot,
13 arm, or elbow, whether or not such manipulation is aided by
14 hydrotherapy, including colonic irrigation, or thermal
15 therapy; any electrical or mechanical device; or the
16 application to the human body of a chemical or herbal
17 preparation.

18 Section 117. Subsection (3) of section 484.002,
19 Florida Statutes, is amended, and subsections (8) and (9) are
20 added to that section, to read:

21 484.002 Definitions.--As used in this part:

22 (3) "Opticianry" means the preparation and dispensing
23 of lenses, spectacles, eyeglasses, contact lenses, and other
24 optical devices to the intended user or agent thereof, upon
25 the written prescription of a licensed allopathic or
26 osteopathic physician ~~medical doctor~~ or optometrist who is
27 duly licensed to practice or upon presentation of a duplicate
28 prescription. The selection of frame designs, the actual
29 sales transaction, and the transfer of physical possession of
30 lenses, spectacles, eyeglasses, contact lenses, and other
31 optical devices subsequent to performance of all services of

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1 the optician shall not be considered the practice of
2 opticianry; however, such physical possession shall not be
3 transferred until the optician has completed the fitting of
4 the optical device upon the customer. The practice of
5 opticianry also includes the duplication of lenses accurately
6 as to power, without prescription. A board-certified optician
7 qualified and operating under rules established by the board
8 may fill, fit, adapt, or dispense any soft contact lens
9 prescription. Such optician may fill, fit, adapt, or dispense
10 any extended wear or hard contact lens prescription to the
11 extent authorized to do so by the prescribing allopathic or
12 osteopathic physician ~~medical doctor~~ or optometrist.

13 (8) "Contact lenses" means a prescribed medical device
14 intended to be worn directly against the cornea of the eye to
15 correct vision conditions, act as a therapeutic device, or
16 provide a cosmetic effect.

17 (9) "Optical dispensing" means interpreting but not
18 altering a prescription of a licensed physician or optometrist
19 and designing, adapting, fitting, or replacing the prescribed
20 optical aids, pursuant to such prescription, to or for the
21 intended wearer, duplicating lenses, accurately as to power
22 without a prescription and duplicating nonprescription eyewear
23 and parts of eyewear. "Optical dispensing" does not include
24 selecting frames, transferring an optical aid to the wearer
25 after an optician has completed fitting it, or providing
26 instruction in the general care and use of an optical aid,
27 including placement, removal, hygiene, or cleaning.

28 Section 118. Subsection (2) of section 484.006,
29 Florida Statutes, is amended to read:

30 484.006 Certain rules prohibited.--

31 (2) No rule or policy of the board shall prohibit any

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1 optician from practicing jointly with optometrists or
2 allopathic or osteopathic physicians ~~medical doctors~~ licensed
3 in this state.

4 Section 119. Subsections (1) and (2) of section
5 484.012, Florida Statutes, are amended to read:

6 484.012 Prescriptions; filing; duplication of
7 prescriptions; duplication of lenses.--

8 (1) Any prescription written by a duly licensed
9 allopathic or osteopathic physician ~~medical doctor~~ or
10 optometrist for any lenses, spectacles, eyeglasses, contact
11 lenses, or other optical devices shall be kept on file for a
12 period of 2 years with the optical establishment that fills
13 such prescription. However, the licensed optician may
14 maintain a copy of the prescription.

15 (2) Upon request by the intended user of the
16 prescribed lenses, spectacles, eyeglasses, contact lenses, or
17 other optical devices, or by an agent of the intended user,
18 the optician who fills the original prescription shall
19 duplicate, on a form prescribed by rule of the board, the
20 original prescription. However, for medical reasons only, the
21 prescribing allopathic or osteopathic physician ~~medical doctor~~
22 or optometrist may, upon the original prescription, prohibit
23 its duplication. Any duplication shall be considered a valid
24 prescription to be filled for a period of 5 years from the
25 date of the original prescription, except that a contact lens
26 prescription shall be considered a valid prescription to be
27 filled for a period of 2 years from the date of the original
28 prescription.

29 Section 120. Section 484.015, Florida Statutes, is
30 amended to read:

31 484.015 Authority to inspect.--Duly authorized agents

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1 and employees of the department shall have the power to
2 inspect in a lawful manner at all reasonable hours an any
3 establishment of any kind in the state in which lenses,
4 spectacles, eyeglasses, contact lenses, and any other optical
5 devices are prepared or and dispensed, for the purposes of:

6 (1) Determining if any provision of this part, or any
7 rule promulgated under its authority, is being violated;

8 (2) Securing samples or specimens of any lenses,
9 spectacles, eyeglasses, contact lenses, or other optical
10 devices, after paying or offering to pay for such sample or
11 specimen; or

12 (3) Securing such other evidence as may be needed for
13 prosecution under this part.

14 Section 121. Section 484.013, Florida Statutes, is
15 amended to read:

16 484.013 Violations and penalties.--

17 (1) It is unlawful for any person:

18 (a) To intentionally make a false or fraudulent
19 statement, either for herself or himself or for another
20 person, in any application, affidavit, or statement presented
21 to the board or in any proceeding before the board.

22 (b) To prepare or dispense lenses, spectacles,
23 eyeglasses, contact lenses, or other optical devices when such
24 person is not licensed as an optician in this state.

25 (c) To prepare or dispense lenses, spectacles,
26 eyeglasses, contact lenses, or other optical devices without
27 first being furnished with a prescription as provided for in
28 s. 484.012.

29 (2) It is unlawful for any person other than an
30 optician licensed under this part to use the title "optician"
31 or otherwise lead the public to believe that she or he is

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1 engaged in the practice of opticianry.

2 (3) It is unlawful for any optician to engage in the
3 diagnosis of the human eyes, attempt to determine the
4 refractive powers of the human eyes, or, in any manner,
5 attempt to prescribe for or treat diseases or ailments of
6 human beings.

7 (4) It is unlawful for any person to open or operate,
8 either alone or with any other person or persons, an optical
9 establishment which does not have the permit required by this
10 part.

11 (5)(a) Except as otherwise provided in paragraph (b),
12 anyAny person who knowingly violates any a provision of this
13 section commits a felony ~~misdemeanor~~ of the third ~~second~~
14 degree, punishable as provided in s. 775.082, or s. 775.083,
15 or s. 775.084.

16 (b) A person who knowingly violates paragraph (1)(c)
17 commits a felony of the third degree, punishable as provided
18 in s. 775.082, s. 775.083, or s. 775.084.

19 Section 122. Paragraph (g) of subsection (3) of
20 section 921.0022, Florida Statutes, is amended to read:

21 921.0022 Criminal Punishment Code; offense severity
22 ranking chart.--

23 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	Description
Statute	Degree	
316.193(3)(c)2.	3rd	(g) LEVEL 7 DUI resulting in serious bodily injury.

31

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1	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
2			bodily injury.
3	402.319(2)	2nd	Misrepresentation and negligence
4			or intentional act resulting in
5			great bodily harm, permanent
6			disfiguration, permanent
7			disability, or death.
8	409.920(2)	3rd	Medicaid provider fraud.
9	456.065(2)	3rd	Practicing a health care
10			profession without a license.
11	456.065(2)	2nd	Practicing a health care
12			profession without a license
13			which results in serious bodily
14			injury.
15	458.327(1)	3rd	Practicing medicine without a
16			license.
17	459.013(1)	3rd	Practicing osteopathic medicine
18			without a license.
19	460.411(1)	3rd	Practicing chiropractic medicine
20			without a license.
21	461.012(1)	3rd	Practicing podiatric medicine
22			without a license.
23	462.17	3rd	Practicing naturopathy without a
24			license.
25	463.015(1)	3rd	Practicing optometry without a
26			license.
27	464.016(1)	3rd	Practicing nursing without a
28			license.
29	465.015(2)	3rd	Practicing pharmacy without a
30			license.
31			

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1	466.026(1)	3rd	Practicing dentistry or dental
2			hygiene without a license.
3	467.201	3rd	Practicing midwifery without a
4			license.
5	468.366	3rd	Delivering respiratory care
6			services without a license.
7	483.828(1)	3rd	Practicing as clinical laboratory
8			personnel without a license.
9	483.901(9)	3rd	Practicing medical physics
10			without a license.
11	<u>484.013(1)(c)</u>	<u>3rd</u>	<u>Preparing or dispensing optical</u>
12			<u>devices without a prescription.</u>
13	484.053	3rd	Dispensing hearing aids without a
14			license.
15	494.0018(2)	1st	Conviction of any violation of
16			ss. 494.001-494.0077 in which the
17			total money and property
18			unlawfully obtained exceeded
19			\$50,000 and there were five or
20			more victims.
21	560.123(8)(b)1.	3rd	Failure to report currency or
22			payment instruments exceeding
23			\$300 but less than \$20,000 by
24			money transmitter.
25	560.125(5)(a)	3rd	Money transmitter business by
26			unauthorized person, currency or
27			payment instruments exceeding
28			\$300 but less than \$20,000.
29	655.50(10)(b)1.	3rd	Failure to report financial
30			transactions exceeding \$300 but
31			less than \$20,000 by financial

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1			institution.
2	782.051(3)	2nd	Attempted felony murder of a
3			person by a person other than the
4			perpetrator or the perpetrator of
5			an attempted felony.
6	782.07(1)	2nd	Killing of a human being by the
7			act, procurement, or culpable
8			negligence of another
9			(manslaughter).
10	782.071	2nd	Killing of human being or viable
11			fetus by the operation of a motor
12			vehicle in a reckless manner
13			(vehicular homicide).
14	782.072	2nd	Killing of a human being by the
15			operation of a vessel in a
16			reckless manner (vessel
17			homicide).
18	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
19			causing great bodily harm or
20			disfigurement.
21	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
22			weapon.
23	784.045(1)(b)	2nd	Aggravated battery; perpetrator
24			aware victim pregnant.
25	784.048(4)	3rd	Aggravated stalking; violation of
26			injunction or court order.
27	784.07(2)(d)	1st	Aggravated battery on law
28			enforcement officer.
29	784.08(2)(a)	1st	Aggravated battery on a person 65
30			years of age or older.
31			

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1	784.081(1)	1st	Aggravated battery on specified
2			official or employee.
3	784.082(1)	1st	Aggravated battery by detained
4			person on visitor or other
5			detainee.
6	784.083(1)	1st	Aggravated battery on code
7			inspector.
8	790.07(4)	1st	Specified weapons violation
9			subsequent to previous conviction
10			of s. 790.07(1) or (2).
11	790.16(1)	1st	Discharge of a machine gun under
12			specified circumstances.
13	790.166(3)	2nd	Possessing, selling, using, or
14			attempting to use a hoax weapon
15			of mass destruction.
16	796.03	2nd	Procuring any person under 16
17			years for prostitution.
18	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
19			victim less than 12 years of age;
20			offender less than 18 years.
21	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
22			victim 12 years of age or older
23			but less than 16 years; offender
24			18 years or older.
25	806.01(2)	2nd	Maliciously damage structure by
26			fire or explosive.
27	810.02(3)(a)	2nd	Burglary of occupied dwelling;
28			unarmed; no assault or battery.
29	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
30			unarmed; no assault or battery.
31			

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1	810.02(3)(d)	2nd	Burglary of occupied conveyance;
2			unarmed; no assault or battery.
3	812.014(2)(a)	1st	Property stolen, valued at
4			\$100,000 or more; property stolen
5			while causing other property
6			damage; 1st degree grand theft.
7	812.019(2)	1st	Stolen property; initiates,
8			organizes, plans, etc., the theft
9			of property and traffics in
10			stolen property.
11	812.131(2)(a)	2nd	Robbery by sudden snatching.
12	812.133(2)(b)	1st	Carjacking; no firearm, deadly
13			weapon, or other weapon.
14	825.102(3)(b)	2nd	Neglecting an elderly person or
15			disabled adult causing great
16			bodily harm, disability, or
17			disfigurement.
18	825.1025(2)	2nd	Lewd or lascivious battery upon
19			an elderly person or disabled
20			adult.
21	825.103(2)(b)	2nd	Exploiting an elderly person or
22			disabled adult and property is
23			valued at \$20,000 or more, but
24			less than \$100,000.
25	827.03(3)(b)	2nd	Neglect of a child causing great
26			bodily harm, disability, or
27			disfigurement.
28	827.04(3)	3rd	Impregnation of a child under 16
29			years of age by person 21 years
30			of age or older.
31			

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1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), (2)(b), or
9			(2)(c)4.) within 1,000 feet of a
10			child care facility or school.
11	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
12			cocaine or other drug prohibited
13			under s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), (2)(b), or
15			(2)(c)4., within 1,000 feet of
16			property used for religious
17			services or a specified business
18			site.
19	893.13(4)(a)	1st	Deliver to minor cocaine (or
20			other s. 893.03(1)(a), (1)(b),
21			(1)(d), (2)(a), (2)(b), or
22			(2)(c)4. drugs).
23	893.135(1)(a)1.	1st	Trafficking in cannabis, more
24			than 50 lbs., less than 2,000
25			lbs.
26	893.135		
27	(1)(b)1.a.	1st	Trafficking in cocaine, more than
28			28 grams, less than 200 grams.
29	893.135		
30	(1)(c)1.a.	1st	Trafficking in illegal drugs,
31			more than 4 grams, less than 14

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1			grams.
2	893.135		
3	(1)(d)1.	1st	Trafficking in phencyclidine,
4			more than 28 grams, less than 200
5			grams.
6	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
7			than 200 grams, less than 5
8			kilograms.
9	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
10			than 14 grams, less than 28
11			grams.
12	893.135		
13	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
14			grams or more, less than 14
15			grams.
16	893.135		
17	(1)(h)1.a.	1st	Trafficking in
18			gamma-hydroxybutyric acid (GHB),
19			1 kilogram or more, less than 5
20			kilograms.
21	893.135		
22	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
23			kilogram or more, less than 5
24			kilograms.
25	893.135		
26	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
27			10 grams or more, less than 200
28			grams.
29	896.101(5)(a)	3rd	Money laundering, financial
30			transactions exceeding \$300 but
31			less than \$20,000.

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1 896.104(4)(a)1. 3rd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions exceeding \$300 but
5 less than \$20,000.

6 Section 123. Subsection (1) of section 484.0445,
7 Florida Statutes, is amended to read:

8 484.0445 Training program.--

9 (1) The board shall establish by rule a training
10 program for a minimum not to exceed 6 months in length, which
11 may include a board-approved home study course. ~~Upon~~
12 ~~submitting to the department the registration fee, the~~
13 ~~applicant may register and enter the training program. Upon~~
14 ~~completion of the training program, the trainee shall take the~~
15 ~~first available written and practical examinations offered by~~
16 ~~the department. The department shall administer the written~~
17 ~~and practical examinations as prescribed by board rule. If~~
18 ~~the trainee fails either the written or the practical~~
19 ~~examination, she or he may repeat the training program one~~
20 ~~time and retake the failed examination, provided she or he~~
21 ~~takes the next available examination. No person may remain in~~
22 ~~trainee status or further perform any services authorized for~~
23 ~~a trainee if she or he fails either the written or the~~
24 ~~practical examination twice; but, a trainee may continue to~~
25 ~~function as a trainee until she or he has received the results~~
26 ~~of the examinations. Any applicant who has failed an~~
27 ~~examination twice and is no longer functioning as a trainee~~
28 ~~shall be eligible for reexamination as provided in s.~~
29 ~~484.045(2).~~

30 Section 124. Section 484.045, Florida Statutes, is
31 amended to read:

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1 484.045 Licensure by examination.--

2 (1) Any person desiring to be licensed as a hearing
3 aid specialist shall apply to the department on a form
4 approved by the department to take the licensure examination,
5 ~~which shall include a clinical practical component.~~

6 (2) The department shall license ~~examine~~ each
7 applicant who the board certifies:

8 (a) Has completed the application form and remitted
9 the required fees ~~applicable fee to the board and has paid the~~
10 ~~examination fee;~~

11 (b) Is of good moral character;

12 (c) Is 18 years of age or older;

13 (d) Is a graduate of an accredited high school or its
14 equivalent; ~~and~~

15 (e)1. Has met the requirements of the training program
16 ~~set forth in s. 484.0445;~~ or

17 2.a. Has a valid, current license as a hearing aid
18 specialist or its equivalent from another state and has been
19 actively practicing in such capacity for at least 12 months;
20 or

21 b. Is currently certified by the National Board for
22 Certification in Hearing Instrument Sciences and has been
23 actively practicing for at least 12 months. ~~Persons qualifying~~
24 ~~under this sub-subparagraph need not take the written or~~
25 ~~practical examination, but must take and pass a test on~~
26 ~~Florida laws and rules relating to the fitting and dispensing~~
27 ~~of hearing aids.~~

28 (f) Has passed an examination, as prescribed by board
29 rule; and

30 (g) Has demonstrated, in a manner designated by rule
31 of the board, knowledge of state laws and rules relating to

1 the fitting and dispensing of hearing aids.

2 (3) A person who fails the examination may make
3 application for reexamination to the appropriate examining
4 entity, as prescribed by board rule.

5 ~~(2) On or after October 1, 1990, every applicant who~~
6 ~~is qualified to take the examination shall be allowed to take~~
7 ~~the examination three times. If, after October 1, 1990, an~~
8 ~~applicant fails the examination three times, the applicant~~
9 ~~shall no longer be eligible to take the examination.~~

10 ~~(3) The department shall issue a license to practice~~
11 ~~dispensing hearing aids to any applicant who successfully~~
12 ~~completes the examination in accordance with this section.~~

13 Section 125. Effective January 1, 2002, subsection (1)
14 of section 490.012, Florida Statutes, is amended to read:

15 490.012 Violations; penalties; injunction.--

16 (1)(a) No person shall hold herself or himself out by
17 any professional title, name, or description incorporating the
18 word "psychologist" unless such person holds a valid, active
19 license as a psychologist under this chapter.

20 (b) No person shall hold herself or himself out by any
21 professional title, name, or description incorporating the
22 words "school psychologist" unless such person holds a valid,
23 active license as a school psychologist under this chapter or
24 is certified as a school psychologist by the Department of
25 Education.

26 ~~(c)(1)(a) No person shall hold herself or himself out~~
27 ~~by any title or description incorporating the words, or~~
28 ~~permutations of them, "psychologist," "psychology,"~~
29 ~~"psychological," or "psychodiagnostic," or "school~~
30 ~~psychologist," or describe any test or report as~~
31 ~~psychological, unless such person holds a valid, active~~

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1 license under this chapter or is exempt from the provisions of
2 this chapter.

3 ~~(d)(b)~~ No person shall hold herself or himself out by
4 any title or description incorporating the word, or a
5 permutation of the word, "psychotherapy" unless such person
6 holds a valid, active license under chapter 458, chapter 459,
7 chapter 490, or chapter 491, or such person is certified as an
8 advanced registered nurse practitioner, pursuant to s.
9 464.012, who has been determined by the Board of Nursing as a
10 specialist in psychiatric mental health.

11 ~~(e)(c)~~ No person licensed or provisionally licensed
12 pursuant to this chapter shall hold herself or himself out by
13 any title or description which indicates licensure other than
14 that which has been granted to her or him.

15 Section 126. Effective January 1, 2002, section
16 490.014, Florida Statutes, is amended to read:

17 490.014 Exemptions.--

18 (1)(a) No provision of this chapter shall be construed
19 to limit the practice of physicians licensed pursuant to
20 chapter 458 or chapter 459 so long as they do not hold
21 themselves out to the public as psychologists or use a
22 professional title protected by this chapter.

23 (b) No provision of this chapter shall be construed to
24 limit the practice of nursing, clinical social work, marriage
25 and family therapy, mental health counseling, or other
26 recognized businesses or professions, or to prevent qualified
27 members of other professions from doing work of a nature
28 consistent with their training, so long as they do not hold
29 themselves out to the public as psychologists or use a title
30 or description protected by this chapter. Nothing in this
31 subsection shall be construed to exempt any person from the

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1 provisions of s. 490.012.

2 (2) No person shall be required to be licensed or
3 provisionally licensed under this chapter who:

4 (a) Is a salaried employee of a government agency;
5 developmental services program, mental health, alcohol, or
6 drug abuse facility operating pursuant to chapter 393, chapter
7 394, or chapter 397; subsidized child care program, subsidized
8 child care case management program, or child care resource and
9 referral program operating pursuant to chapter 402;
10 child-placing or child-caring agency licensed pursuant to
11 chapter 409; domestic violence center certified pursuant to
12 chapter 39; accredited academic institution; or research
13 institution, if such employee is performing duties for which
14 he or she was trained and hired solely within the confines of
15 such agency, facility, or institution, so long as the employee
16 is not held out to the public as a psychologist pursuant to s.
17 490.012(1)(a).

18 (b) Is a salaried employee of a private, nonprofit
19 organization providing counseling services to children, youth,
20 and families, if such services are provided for no charge, if
21 such employee is performing duties for which he or she was
22 trained and hired, so long as the employee is not held out to
23 the public as a psychologist pursuant to s. 490.012(1)(a).

24 (c) Is a student who is pursuing a course of study
25 which leads to a degree in medicine or a profession regulated
26 by this chapter who is providing services in a training
27 setting, provided such activities or services constitute part
28 of a supervised course of study, or is a graduate accumulating
29 the experience required for any licensure under this chapter,
30 provided such graduate or student is designated by a title
31 such as "intern" or "trainee" which clearly indicates the

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1 in-training status of the student.

2 (d) Is certified in school psychology by the
3 Department of Education and is performing psychological
4 services as an employee of a public or private educational
5 institution. Such exemption shall not be construed to
6 authorize any unlicensed practice which is not performed as a
7 direct employee of an educational institution.

8 (e) Is not a resident of the state but offers services
9 in this state, provided:

10 1. Such services are performed for no more than 5 days
11 in any month and no more than 15 days in any calendar year;
12 and

13 2. Such nonresident is licensed or certified by a
14 state or territory of the United States, or by a foreign
15 country or province, the standards of which were, at the date
16 of his or her licensure or certification, equivalent to or
17 higher than the requirements of this chapter in the opinion of
18 the department or, in the case of psychologists, in the
19 opinion of the board.

20 (f) Is a rabbi, priest, minister, or member of the
21 clergy of any religious denomination or sect when engaging in
22 activities which are within the scope of the performance of
23 his or her regular or specialized ministerial duties and for
24 which no separate charge is made, or when such activities are
25 performed, with or without charge, for or under the auspices
26 or sponsorship, individually or in conjunction with others, of
27 an established and legally cognizable church, denomination, or
28 sect, and when the person rendering service remains
29 accountable to the established authority thereof.

30 (3) No provision of this chapter shall be construed to
31 limit the practice of any individual who solely engages in

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1 behavior analysis so long as he or she does not hold himself
2 or herself out to the public as possessing a license issued
3 pursuant to this chapter or use a title or description
4 protected by this chapter.

5 (4) Nothing in this section shall exempt any person
6 from the provisions ~~provision~~ of s. 490.012(1)(a)-(b)~~(a)-(b)~~.

7 (5) Except as stipulated by the board, the exemptions
8 contained in this section do not apply to any person licensed
9 under this chapter whose license has been suspended or revoked
10 by the board or another jurisdiction.

11 Section 127. Effective January 1, 2002, paragraphs
12 (i), (j), and (k) of subsection (1) of section 491.012,
13 Florida Statutes, are amended to read:

14 491.012 Violations; penalty; injunction.--

15 (1) It is unlawful and a violation of this chapter for
16 any person to:

17 (i) Practice clinical social work in this state, ~~as~~
18 ~~the practice is defined in s. 491.003(7),~~ for compensation,
19 unless the person holds a valid, active license to practice
20 clinical social work issued pursuant to this chapter or is an
21 intern registered pursuant to s. 491.0045.

22 (j) Practice marriage and family therapy in this
23 state, ~~as the practice is defined in s. 491.003(8),~~ for
24 compensation, unless the person holds a valid, active license
25 to practice marriage and family therapy issued pursuant to
26 this chapter or is an intern registered pursuant to s.
27 491.0045.

28 (k) Practice mental health counseling in this state,
29 ~~as the practice is defined in s. 491.003(9),~~ for compensation,
30 unless the person holds a valid, active license to practice
31 mental health counseling issued pursuant to this chapter or is

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1 an intern registered pursuant to s. 491.0045.

2 Section 128. Effective January 1, 2002, paragraphs (a)
3 and (b) of subsection (4) of section 491.014, Florida
4 Statutes, are amended to read:

5 491.014 Exemptions.--

6 (4) No person shall be required to be licensed,
7 provisionally licensed, registered, or certified under this
8 chapter who:

9 (a) Is a salaried employee of a government agency;
10 developmental services program, mental health, alcohol, or
11 drug abuse facility operating pursuant to chapter 393, chapter
12 394, or chapter 397; subsidized child care program, subsidized
13 child care case management program, or child care resource and
14 referral program operating pursuant to chapter 402;
15 child-placing or child-caring agency licensed pursuant to
16 chapter 409; domestic violence center certified pursuant to
17 chapter 39; accredited academic institution; or research
18 institution, if such employee is performing duties for which
19 he or she was trained and hired solely within the confines of
20 such agency, facility, or institution, so long as the employee
21 is not held out to the public as a clinical social worker,
22 mental health counselor, or marriage and family therapist.

23 (b) Is a salaried employee of a private, nonprofit
24 organization providing counseling services to children, youth,
25 and families, if such services are provided for no charge, if
26 such employee is performing duties for which he or she was
27 trained and hired, so long as the employee is not held out to
28 the public as a clinical social worker, mental health
29 counselor, or marriage and family therapist.

30 Section 129. Subsection (4) of section 458.319,
31 Florida Statutes, is amended to read:

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1 458.319 Renewal of license.--

2 (4) Notwithstanding the provisions of s. 456.033, a
3 physician may complete continuing education on end-of-life
4 care and palliative ~~health~~ care in lieu of continuing
5 education in AIDS/HIV, if that physician has completed the
6 AIDS/HIV continuing education in the immediately preceding
7 biennium.

8 Section 130. Subsection (5) of section 459.008,
9 Florida Statutes, is amended to read:

10 459.008 Renewal of licenses and certificates.--

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

17 Section 131. Subsection (4) of section 765.101,
18 Florida Statutes, is amended to read:

19 765.101 Definitions.--As used in this chapter:

20 (4) "End-stage condition" means an irreversible ~~a~~
21 condition that is caused by injury, disease, or illness which
22 has resulted in progressively severe and permanent
23 deterioration, ~~indicated by incapacity and complete physical~~
24 ~~dependency~~ and for which, to a reasonable degree of medical
25 probability ~~certainty~~, treatment of the ~~irreversible~~ condition
26 would be ~~medically~~ ineffective.

27 Section 132. Subsection (4) of section 765.102,
28 Florida Statutes, is amended to read:

29 765.102 Legislative findings and intent.--

30 (4) The Legislature recognizes the need for all health
31 care professionals to rapidly increase their understanding of

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1 end-of-life and palliative ~~health~~ care. Therefore, the
2 Legislature encourages the professional regulatory boards to
3 adopt appropriate standards and guidelines regarding
4 end-of-life care and pain management and encourages
5 educational institutions established to train health care
6 professionals and allied health professionals to implement
7 curricula to train such professionals to provide end-of-life
8 care, including pain management and palliative care.

9 Section 133. Section 765.1025, Florida Statutes, is
10 created to read:

11 765.1025 Palliative care.--For purposes of this
12 chapter:

13 (1) Palliative care is the comprehensive management of
14 the physical, psychological, social, spiritual, and
15 existential needs of patients. Palliative care is especially
16 suited to the care of persons who have incurable, progressive
17 illness.

18 (2) Palliative care must include:

19 (a) An opportunity to discuss and plan for end-of-life
20 care.

21 (b) Assurance that physical and mental suffering will
22 be carefully attended to.

23 (c) Assurance that preferences for withholding and
24 withdrawing life-sustaining interventions will be honored.

25 (d) Assurance that the personal goals of the dying
26 person will be addressed.

27 (e) Assurance that the dignity of the dying person
28 will be a priority.

29 (f) Assurance that health care providers will not
30 abandon the dying person.

31 (g) Assurance that the burden to family and others

1 will be addressed.

2 (h) Assurance that advance directives for care will be
3 respected regardless of the location of care.

4 (i) Assurance that organizational mechanisms are in
5 place to evaluate the availability and quality of end-of-life,
6 palliative, and hospice care services, including the
7 evaluation of administrative and regulatory barriers.

8 (j) Assurance that necessary health care services will
9 be provided and that relevant reimbursement policies are
10 available.

11 (k) Assurance that the goals expressed in paragraphs
12 (a)-(j) will be accomplished in a culturally appropriate
13 manner.

14 Section 134. Subsection (2) of section 765.1103,
15 Florida Statutes, is amended to read:

16 765.1103 Pain management and palliative care.--

17 (2) Health care providers and practitioners regulated
18 under chapter 458, chapter 459, or chapter 464 must, as
19 appropriate, comply with a request for pain management or
20 palliative care from a patient under their care or, for an
21 incapacitated patient under their care, from a surrogate,
22 proxy, guardian, or other representative permitted to make
23 health care decisions for the incapacitated patient.

24 Facilities regulated under chapter 400 or chapter 395 must
25 comply with the pain management or palliative care measures
26 ordered by the patient's physician.~~When the patient is~~
27 ~~receiving care as an admitted patient of a facility or a~~
28 ~~provider or is a subscriber of a health care facility, health~~
29 ~~care provider, or health care practitioner regulated under~~
30 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~
31 ~~464, or chapter 641, such facility, provider, or practitioner~~

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1 ~~must, when appropriate, comply with a request for pain~~
2 ~~management or palliative care from a capacitated patient or an~~
3 ~~incapacitated patient's health care surrogate or proxy,~~
4 ~~court-appointed guardian as provided in chapter 744, or~~
5 ~~attorney in fact as provided in chapter 709. The~~
6 ~~court-appointed guardian or attorney in fact must have been~~
7 ~~delegated authority to make health care decisions on behalf of~~
8 ~~the patient.~~

9 Section 135. Paragraph (b) of subsection (1) of
10 section 765.205, Florida Statutes, is amended to read:

11 765.205 Responsibility of the surrogate.--

12 (1) The surrogate, in accordance with the principal's
13 instructions, unless such authority has been expressly limited
14 by the principal, shall:

15 (b) Consult expeditiously with appropriate health care
16 providers to provide informed consent, and make only health
17 care decisions for the principal which he or she believes the
18 principal would have made under the circumstances if the
19 principal were capable of making such decisions. If there is
20 no indication of what the principal would have chosen, the
21 surrogate may consider the patient's best interest in deciding
22 that proposed treatments are to be withheld or that treatments
23 currently in effect are to be withdrawn.

24 Section 136. Subsections (2) and (3) of section
25 765.401, Florida Statutes, are amended to read:

26 765.401 The proxy.--

27 (2) Any health care decision made under this part must
28 be based on the proxy's informed consent and on the decision
29 the proxy reasonably believes the patient would have made
30 under the circumstances. If there is no indication of what the
31 patient would have chosen, the proxy may consider the

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1 patient's best interest in deciding that proposed treatments
2 are to be withheld or that treatments currently in effect are
3 to be withdrawn.

4 (3) Before exercising the incapacitated patient's
5 rights to select or decline health care, the proxy must comply
6 with the provisions of ss. 765.205 and 765.305, except that a
7 proxy's decision to withhold or withdraw life-prolonging
8 procedures must be supported by clear and convincing evidence
9 that the decision would have been the one the patient would
10 have chosen had the patient been competent or, if there is no
11 indication of what the patient would have chosen, that the
12 decision is in the patient's best interest.

13 Section 137. The Legislature finds that the area of
14 specialty training is of great importance to the citizens of
15 this state and that specialty training and certification
16 creates a higher level of proficiency for the practitioner and
17 improves the delivery of health care to Floridians. Because
18 much confusion exists among the patient population and
19 practitioners as to the requirements for board certification,
20 the Legislature directs the Department of Health to conduct a
21 study of the area of specialty certification relating to the
22 Board of Medicine, the Board of Osteopathic Medicine, and the
23 Board of Dentistry. The study should review current statutes
24 and rules to determine if any barriers exist in board
25 recognition of certifying organizations and if restrictions
26 placed on a licensee's speech both target an identifiable harm
27 and mitigate against such harm in a direct and effective
28 manner. A final report shall be provided no later than January
29 1, 2002, to the President of the Senate and the Speaker of the
30 House of Representatives for distribution to the chairs of the
31 health-care-related committees.

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1 Section 138. Paragraph (d) of subsection (2) of
2 section 499.012, Florida Statutes, is amended to read:

3 499.012 Wholesale distribution; definitions; permits;
4 general requirements.--

5 (2) The following types of wholesaler permits are
6 established:

7 (d) A retail pharmacy wholesaler's permit. A retail
8 pharmacy wholesaler is a retail pharmacy engaged in wholesale
9 distribution of prescription drugs within this state under the
10 following conditions:

11 1. The pharmacy must obtain a retail pharmacy
12 wholesaler's permit pursuant to ss. 499.001-499.081 and the
13 rules adopted under those sections.

14 2. The wholesale distribution activity does not exceed
15 30 percent of the total annual purchases of prescription
16 drugs. If the wholesale distribution activity exceeds the
17 30-percent maximum, the pharmacy must obtain a prescription
18 drug wholesaler's permit.

19 3. The transfer of prescription drugs that appear in
20 any schedule contained in chapter 893 is subject to chapter
21 893 and the federal Comprehensive Drug Abuse Prevention and
22 Control Act of 1970.

23 4. The transfer is between a retail pharmacy and
24 another retail pharmacy, a Modified Class II institutional
25 pharmacy, or a health care practitioner licensed in this state
26 and authorized by law to dispense or prescribe prescription
27 drugs.

28 5. All records of sales of prescription drugs subject
29 to this section must be maintained separate and distinct from
30 other records and comply with the recordkeeping requirements
31 of ss. 499.001-499.081.

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1 Section 139. The Legislature finds that personal
2 identifying information, name, age, diagnosis, address, bank
3 account numbers, and debit and credit card numbers contained
4 in the records relating to an individual's personal health or
5 eligibility for health-related services made or received by
6 the individual's physician and public or private health
7 facility should be held confidential. Furthermore, the
8 Legislature finds that every person has an expectation of and
9 a right to privacy in all matters concerning her or his
10 personal health when medical services are provided. Matters of
11 personal health are traditionally private and confidential
12 concerns between the patient and the health care provider. The
13 private and confidential nature of personal health matters
14 pervades both the public and private sectors. For these
15 reasons, it is the express intent of the Legislature to
16 protect confidential information and the individual's
17 expectations of the right to privacy in all matters regarding
18 her or his personal health and not to have such information
19 exploited for purposes of solicitation or marketing the sale
20 of goods and services.

21 Section 140. Subsection (5) of section 456.057,
22 Florida Statutes, is amended to read:

23 456.057 Ownership and control of patient records;
24 report or copies of records to be furnished.--

25 (5)(a) Except as otherwise provided in this section
26 and in s. 440.13(4)(c), such records may not be furnished to,
27 and the medical condition of a patient may not be discussed
28 with, any person other than the patient or the patient's legal
29 representative or other health care practitioners and
30 providers involved in the care or treatment of the patient,
31 except upon written authorization of the patient. However,

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1 such records may be furnished without written authorization
2 under the following circumstances:

3 1.(a) To any person, firm, or corporation that has
4 procured or furnished such examination or treatment with the
5 patient's consent.

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

10 3.(c) In any civil or criminal action, unless
11 otherwise prohibited by law, upon the issuance of a subpoena
12 from a court of competent jurisdiction and proper notice to
13 the patient or the patient's legal representative by the party
14 seeking such records.

15 4.(d) For statistical and scientific research,
16 provided the information is abstracted in such a way as to
17 protect the identity of the patient or provided written
18 permission is received from the patient or the patient's legal
19 representative.

20 (b) Absent a specific written release or authorization
21 permitting utilization of patient information for solicitation
22 or marketing the sale of goods or services, any use of that
23 information for those purposes is prohibited.

24 (14) Licensees in violation of the provisions of this
25 section shall be disciplined by the appropriate licensing
26 authority.

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

31 Section 141. Subsection (7) of section 395.3025,

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1 Florida Statutes is amended to read:

2 395.3025 Patient and personnel records; copies;
3 examination.--

4 (7)(a) If the content of any record of patient
5 treatment is provided under this section, the recipient, if
6 other than the patient or the patient's representative, may
7 use such information only for the purpose provided and may not
8 further disclose any information to any other person or
9 entity, unless expressly permitted by the written consent of
10 the patient. A general authorization for the release of
11 medical information is not sufficient for this purpose. The
12 content of such patient treatment record is confidential and
13 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
14 I of the State Constitution.

15 (b) Absent a specific written release or authorization
16 permitting utilization of patient information for solicitation
17 or marketing the sale of goods or services, any use of that
18 information for those purposes is prohibited.

19 Section 142. Subsection (1) of section 400.1415,
20 Florida Statutes, is amended to read:

21 400.1415 Patient records; penalties for alteration.--

22 (1) Any person who fraudulently alters, defaces, or
23 falsifies any medical record or releases medical records for
24 the purposes of solicitation or marketing the sale of goods or
25 services absent a specific written release or authorization
26 permitting utilization of patient information, or other
27 nursing home record, or causes or procures any of these
28 offenses to be committed, commits a misdemeanor of the second
29 degree, punishable as provided in s. 775.082 or s. 775.083.

30 Section 143. Section 626.9651, Florida Statutes, is
31 created to read:

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1 626.9651 Privacy.--The department shall adopt rules
2 consistent with other provisions of the Florida Insurance Code
3 to govern the use of a consumer's nonpublic personal financial
4 and health information. These rules must be based on,
5 consistent with, and not more restrictive than the Privacy of
6 Consumer Financial and Health Information Regulation, adopted
7 September 26, 2000, by the National Association of Insurance
8 Commissioners; however, the rules must permit the use and
9 disclosure of nonpublic personal health information for
10 scientific, medical, or public policy research, in accordance
11 with federal law. In addition, these rules must be consistent
12 with, and not more restrictive than, the standards contained
13 in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No.
14 106-102. If the department determines that a health insurer or
15 health maintenance organization is in compliance with, or is
16 actively undertaking compliance with, the consumer privacy
17 protection rules adopted by the United States Department of
18 Health and Human Services, in conformance with the Health
19 Insurance Portability and Affordability Act, that health
20 insurer or health maintenance organization is in compliance
21 with this section.

22 Section 144. Effective upon becoming law, subsections
23 (14), (15), and (16) are added to section 400.141, Florida
24 Statutes, to read:

25 400.141 Administration and management of nursing home
26 facilities.--Every licensed facility shall comply with all
27 applicable standards and rules of the agency and shall:

28 (14) Before November 30 of each year, subject to the
29 availability of an adequate supply of the necessary vaccine,
30 provide for immunizations against influenza viruses to all its
31 consenting residents in accordance with the recommendations of

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1 the U.S. Centers for Disease Control and Prevention, subject
2 to exemptions for medical contraindications and religious or
3 personal beliefs. Subject to these exemptions, any consenting
4 person who becomes a resident of the facility after November
5 30 but before March 31 of the following year must be immunized
6 within 5 working days after becoming a resident. Immunization
7 shall not be provided to any resident who provides
8 documentation that he or she has been immunized as required by
9 this subsection. This subsection does not prohibit a resident
10 from receiving the immunization from his or her personal
11 physician if he or she so chooses. A resident who chooses to
12 receive the immunization from his or her personal physician
13 shall provide proof of immunization to the facility. The
14 agency may adopt and enforce any rules necessary to comply
15 with or implement this subsection.

16 (15) Assess all residents for eligibility for
17 pneumococcal polysaccharide vaccination (PPV) and vaccinate
18 residents when indicated within 60 days after the effective
19 date of this act in accordance with the recommendations of the
20 U.S. Centers for Disease Control and Prevention, subject to
21 exemptions for medical contraindications and religious or
22 personal beliefs. Residents admitted after the effective date
23 of this act shall be assessed within 5 working days of
24 admission and, when indicated, vaccinated within 60 days in
25 accordance with the recommendations of the United States
26 Centers for Disease Control and Prevention, subject to
27 exemptions for medical contradictions and religious or
28 personal beliefs. Immunization shall not be provided to any
29 resident who provides documentation that he or she has been
30 immunized as required by this subsection. This subsection does
31 not prohibit a resident from receiving the immunization from

1 his or her personal physician if he or she so chooses. A
2 resident who chooses to receive the immunization from his or
3 her personal physician shall provide proof of immunization to
4 the facility. The agency may adopt and enforce any rules
5 necessary to comply with or implement this subsection.

6 (16) Annually encourage and promote to its employees
7 the benefits associated with immunizations against influenza
8 viruses in accordance with the recommendations of the U.S.
9 Centers for Disease Control and Prevention. The agency may
10 adopt and enforce any rules necessary to comply with or
11 implement this subsection.

12
13 Facilities that have been awarded a Gold Seal under the
14 program established in s. 400.235 may develop a plan to
15 provide certified nursing assistant training as prescribed by
16 federal regulations and state rules and may apply to the
17 agency for approval of its program.

18 Section 145. There is established the Office of
19 Community Partners within the Department of Health for the
20 purpose of receiving, coordinating, and dispensing federal
21 funds set aside to expand the delivery of social services
22 through eligible private community organizations and programs.
23 The office shall provide policy direction and promote civic
24 initiatives which seek to preserve and strengthen families and
25 communities. The Department of Health, the Department of
26 Children and Family Services, the Department of Juvenile
27 Justice, and the Department of Corrections may request
28 transfer of general revenue funds between agencies, as
29 approved by the Legislative Budget Commission, as necessary to
30 match federal funds received by the Office of Community
31 Partners for these initiatives.

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1 Section 146. Section 627.6474, Florida Statutes, is
2 created to read:

3 627.6474 Provider contracts.--A health insurer shall
4 not require a contracted health care practitioner as defined
5 in s. 456.001(4) to accept the terms of other health care
6 practitioner contracts with the insurer or any other insurer,
7 or health maintenance organization, under common management
8 and control with the insurer, including Medicare and Medicaid
9 practitioner contracts and those authorized by s. 627.6471, s.
10 627.6472, or s. 641.315, except for a practitioner in a group
11 practice as defined in s. 456.053 who must accept the terms of
12 a contract negotiated for the practitioner by the group, as a
13 condition of continuation or renewal of the contract. Any
14 contract provision that violates this section is void. A
15 violation of this section is not subject to the criminal
16 penalty specified in s. 624.15.

17 Section 147. Subsection (11) is added to section
18 627.662, Florida Statutes, to read:

19 627.662 Other provisions applicable.--The following
20 provisions apply to group health insurance, blanket health
21 insurance, and franchise health insurance:

22 (11) Section 627.6474, relating to provider contracts.

23 Section 148. Subsection (10) is added to section
24 641.315, Florida Statutes, to read:

25 641.315 Provider contracts.--

26 (10) A health maintenance organization shall not
27 require a contracted health care practitioner as defined in s.
28 456.001(4) to accept the terms of other health care
29 practitioner contracts with the health maintenance
30 organization or any insurer, or other health maintenance
31 organization, under common management and control with the

1 health maintenance organization, including Medicare and
 2 Medicaid practitioner contracts and those authorized by s.
 3 627.6471, s. 627.6472, or s. 641.315, except for a
 4 practitioner in a group practice as defined in s. 456.053 who
 5 must accept the terms of a contract negotiated for the
 6 practitioner by the group, as a condition of continuation or
 7 renewal of the contract. Any contract provision that violates
 8 this section is void. A violation of this section is not
 9 subject to the criminal penalty specified in s. 624.15.

10 Section 149. The provisions of sections 142-144 of
 11 this act shall take effect July 1, 2001, and shall apply to
 12 contracts entered into or renewed on or after that date.

13 Section 150. Except as otherwise provided herein, this
 14 act shall take effect July 1, 2001.

15
 16
 17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 On page 1, line 2, through page 3, line 24,
 20 remove from the title of the bill: all of said lines

21
 22 and insert in lieu thereof:

23 An act relating to health care; providing
 24 legislative intent and findings with respect to
 25 the Medical Quality Assurance Trust Fund and
 26 function administered by the Department of
 27 Health; requiring the Auditor General to do a
 28 followup Medical Quality Assurance audit and
 29 issue a report to the Legislature; requiring
 30 the Department of Health to reimburse the
 31 Agency for Health Care Administration for

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1 certain costs; requiring the Office of Program
2 Policy Analysis and Government Accountability
3 to study the feasibility of maintaining the
4 Medical Quality Assurance function within a
5 single department and issue a report to the
6 Legislature; amending s. 456.004, F.S.;
7 providing requirements for rules relating to
8 biennial renewal of licenses; amending s.
9 456.025, F.S.; revising requirements relating
10 to the setting and use of fees for the
11 regulation of health care professions and
12 practitioners, including continuing education
13 fees; providing for an electronic continuing
14 education tracking system; repealing s.
15 458.31151, F.S.; repealing obsolete provisions;
16 amending s. 457.107, F.S.; for clarification of
17 acupuncture fees; amending s. 483.807, F.S.;
18 relating to clinical laboratory personnel fees;
19 amending s. 456.011, F.S.; requiring board
20 meetings to be conducted through
21 teleconferencing or other technological means
22 except under certain circumstances; amending s.
23 456.013, F.S.; requiring the department to
24 charge initial license fees; amending s.
25 456.017, F.S.; providing for administration of
26 national examinations and termination of
27 state-administered written examinations;
28 providing for administration of
29 state-administered practical or clinical
30 examinations if paid for in advance by the
31 examination candidates; providing legislative

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1 intent with respect to the use of national
2 examinations; providing for electronic access
3 to and posting of examination scores under
4 certain conditions; providing for the sharing
5 of examinations or examination item banks with
6 certain entities; clarifying circumstances
7 under which candidates may bring a challenge;
8 providing for electronic administration of
9 certain laws and rules examinations; amending
10 s. 456.035, F.S.; providing for electronic
11 notification of a licensee's current mailing
12 address and place of practice; amending s.
13 456.073, F.S.; authorizing a letter of guidance
14 in lieu of a finding of probable cause under
15 certain conditions; amending s. 456.081, F.S.;
16 providing for the posting of newsletters on the
17 department's website; amending s. 456.072,
18 F.S.; revising and providing grounds for
19 discipline of licensees; revising and providing
20 disciplinary actions; amending s. 456.079,
21 F.S.; requiring mitigating or aggravating
22 circumstances to be in the final order to be
23 considered in the imposition of penalties;
24 amending ss. 457.109, 458.320, 458.331,
25 458.345, 458.347, 459.0085, 459.015, 459.022,
26 460.413, 461.013, 462.14, 463.016, 464.018,
27 465.008, 465.016, 466.028, 466.037, 467.203,
28 468.1295, 468.1755, 468.217, 468.365, 468.518,
29 468.719, 468.811, 478.52, 480.046, 483.825,
30 483.901, 484.014, 484.056, 486.125, 490.009,
31 and 491.009, F.S.; revising and conforming

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

1 provisions relating to disciplinary grounds and
2 penalties; repealing s. 483.827, F.S., relating
3 to penalties applicable to clinical
4 laboratories; amending s. 456.065, F.S.;
5 requiring the unlicensed activity fee to be in
6 addition to all other fees collected from each
7 licensee; amending ss. 458.347 and 459.022,
8 F.S.; allowing authorized physician assistants
9 to prescribe any medication not listed on a
10 formulary established by the Council on
11 Physician Assistants; allowing authorized
12 physician assistants to dispense drug samples
13 pursuant to proper prescription; eliminating
14 the formulary committee and revising provisions
15 relating to creation and amendment of the
16 formulary, to conform; amending s. 456.003,
17 F.S.; providing a limitation on the duties of
18 certain boards; providing for the Agency for
19 Health Care Administration to create the Organ
20 Transplant Task Force to study organ
21 transplantation programs; requiring the task
22 force to study and make recommendations on the
23 necessity of the issuance of certificates of
24 need for such programs and funding for organ
25 transplantation; providing a date for the task
26 force to report to the Governor and the
27 Legislature; amending 409.9205, F.S.;
28 transferring positions in the Medicaid Fraud
29 Control Unit of the Department of Legal Affairs
30 to Career Services; amending s. 483.245, F.S.;
31 prohibiting rebate or split-fee arrangements

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

1 with dialysis facilities for patient referrals
2 to clinical laboratories; providing penalties;
3 amending s. 232.435, F.S.; providing training
4 requirements for a first responder and teacher
5 athletic trainer; amending s. 383.14, F.S.;
6 amending screening requirements for postnatal
7 screening; amending s. 395.0197, F.S.; revising
8 provisions relating to hospital and ambulatory
9 surgical center internal risk management
10 programs; modifying requirements for risk
11 management and prevention education and
12 training; restricting participation of
13 unlicensed persons in surgical procedures;
14 requiring ongoing evaluation of surgical
15 procedures and protocols; eliminating an annual
16 report summarizing facility incident reports
17 and disciplinary actions; requiring the Agency
18 for Health Care Administration to publish
19 website summaries of adverse incident reports;
20 requiring facility reporting of allegations of
21 sexual misconduct by health care practitioners;
22 providing certain civil liability for licensed
23 risk managers; prohibiting intimidation of a
24 risk manager; providing a penalty; amending s.
25 395.10972, F.S.; increasing membership on the
26 Health Care Risk Management Advisory Council;
27 amending s. 395.701, F.S.; limiting the
28 financial information the agency may require to
29 determine the amount of hospital annual
30 assessments; amending s. 409.905, F.S.;
31 providing that the Agency for Health Care

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

1 Administration may restrict the provision of
2 mandatory services by mobile providers;
3 amending s. 409.906, F.S.; providing that the
4 agency may restrict or prohibit the provision
5 of services by mobile providers; providing that
6 Medicaid will not provide reimbursement for
7 dental services provided in mobile dental
8 units, except for certain units; amending s.
9 456.013, F.S.; providing a professional
10 continuing education requirement relating to
11 prevention of medical errors; amending s.
12 456.057, F.S.; providing for appointment of a
13 records custodian under certain circumstances;
14 amending s. 456.063, F.S.; requiring licensed
15 health care practitioners to report to the
16 Department of Health any allegations of sexual
17 misconduct; amending s. 456.072, F.S.;
18 providing additional grounds for disciplinary
19 actions; clarifying a penalty involving
20 restriction of professional practice or
21 license; providing additional penalties;
22 requiring assessment of costs related to
23 investigation and prosecution; amending s.
24 456.073, F.S.; requiring the Department of
25 Health to notify the patient or legal
26 representative of the status of a disciplinary
27 case; requiring the department to provide
28 certain information to the complainant;
29 providing time limitations on the filing of
30 administrative complaints against licensees of
31 the department; amending s. 456.074, F.S.;

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

1 providing for an emergency order suspending the
2 license of a practitioner for fraud; amending
3 s. 456.077, F.S.; specifying violations for
4 which the Department of Health or a regulatory
5 board may issue citations; amending s. 456.081,
6 F.S.; requiring the Department of Health and
7 regulatory boards to maintain a website
8 containing specified information; creating s.
9 458.3147, F.S.; providing automatic admission
10 to any medical school in the State University
11 System for military academy students or
12 graduates who qualify for the Medical Corps of
13 the United States military; amending s.
14 458.315, F.S.; providing that a physician
15 practicing under a temporary certificate is
16 immune from civil liability if acting in good
17 faith as a reasonably prudent person and if the
18 injury or damage is not caused by willful
19 misconduct; providing requirements for the
20 Board of Medicine in issuing temporary
21 certificates; amending ss. 458.331 and 459.015,
22 F.S.; conforming language and cross references
23 to changes made by the act; amending s. 641.51,
24 F.S.; revising adverse determination
25 provisions; amending ss. 465.019 and 465.0196,
26 F.S.; requiring institutional pharmacies and
27 special pharmacy permittees that use pharmacy
28 technicians to have a written policy and
29 procedures manual; directing the Department of
30 Health and the Agency for Health Care
31 Administration to review health care

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

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

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

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

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

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

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

1 one state agency; creating s. 456.0375, F.S.;

2 requiring registration of certain clinics;

3 providing requirements, including fees;

4 providing rulemaking authority; requiring

5 medical directors or clinic directors for such

6 clinics and providing their duties and

7 responsibilities; providing an appropriation;

8 amending s. 456.031, F.S.; providing an

9 alternative by which licensees under ch. 466,

10 F.S., relating to dentistry, may comply with a

11 general requirement that they take

12 domestic-violence education courses; amending

13 s. 456.033, F.S.; providing an alternative by

14 which such licensees may comply with a general

15 requirement that they take AIDS/HIV education

16 courses; amending s. 627.419, F.S.; providing

17 for appeals from certain adverse determinations

18 relating to dental service claims; providing

19 applicability; amending s. 468.302, F.S.;

20 revising a provision relating to exemption from

21 certification to use radiation on human beings;

22 amending ss. 468.352, 468.355, 468.357,

23 468.358, and 468.359, F.S.; revising

24 definitions and provisions relating to

25 licensure and use of titles and abbreviations

26 to correct and conform terminology with respect

27 to respiratory therapists and respiratory care

28 practitioners; amending ss. 468.1155 and

29 468.1215, F.S.; revising requirements for

30 licensure to practice speech-language pathology

31 or audiology and for certification of

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

1 speech-language pathology or audiology
2 assistants; amending s. 480.033, F.S.;
3 correcting terminology in the definition of
4 "massage"; amending s. 484.002, F.S.; amending
5 and creating definitions; amending ss. 484.002,
6 484.006, 484.012, F.S.; replacing references to
7 the term "medical doctor" with the term
8 "allopathic or osteopathic physician"; amending
9 s. 484.015, F.S.; revising inspection
10 authority; amending s. 484.0445, F.S.; removing
11 certain provisions relating to the training
12 program for hearing aid specialists; amending
13 s. 484.045, F.S.; revising requirements for
14 licensure as a hearing aid specialist by
15 examination; amending s. 490.012, F.S.;
16 prohibiting the use of certain titles or
17 descriptions relating to the practice of
18 psychology or school psychology unless properly
19 licensed; providing penalties; amending s.
20 490.014, F.S.; revising exemptions from
21 regulation under ch. 490, F.S., relating to
22 psychology; correcting a cross reference;
23 amending s. 491.012, F.S.; revising
24 prohibitions against unlicensed practice of
25 clinical social work, marriage and family
26 therapy, and mental health counseling to
27 provide that practice by registered interns is
28 lawful; amending s. 491.014, F.S.; revising
29 exemptions from licensure under ch. 491, F.S.,
30 relating to clinical, counseling, and
31 psychotherapy services, to prohibit the use by

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

1 certain employees of titles, names, or
2 descriptions protected by the chapter; amending
3 ss. 458.319, 459.008, and 765.102, F.S.;
4 conforming terminology relating to palliative
5 care; amending s. 765.101, F.S.; redefining the
6 term "end-stage condition" with respect to
7 health care advance directives; creating s.
8 765.1025, F.S.; prescribing the content and
9 suitability of palliative care; amending s.
10 765.1103, F.S.; revising provisions relating to
11 compliance with requests for pain management
12 and palliative care; amending s. 765.205, F.S.;
13 prescribing the standards of decisionmaking to
14 be used in certain circumstances by health care
15 surrogates, persons who have durable powers of
16 attorney for health care, and proxy
17 decisionmakers; amending s. 765.401, F.S.;
18 prescribing the standards of decisionmaking to
19 be used in certain circumstances by proxy
20 decisionmakers; requiring the Department of
21 Health to conduct an interim study on specialty
22 certification and provide a report to the
23 Legislature; amending s. 499.012, F.S.;
24 authorizing transfer of prescription drugs
25 between a retail pharmacy and a Modified Class
26 II institutional pharmacy under a retail
27 pharmacy wholesaler's permit; providing
28 legislative intent; amending ss. 395.3025,
29 400.1415, and 456.057, F.S.; prohibiting the
30 use of a patient's medical records for purposes
31 of solicitation and marketing absent a specific

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

1 written release or authorization; providing
2 penalties; creating s. 626.9651, F.S.;
3 requiring the Department of Insurance to adopt
4 rules governing the use of a consumer's
5 nonpublic personal financial and health
6 information; providing standards for the rules;
7 amending s. 400.141, F.S.; prescribing duties
8 of nursing homes with respect to influenza and
9 pneumococcal polysaccharide vaccinations;
10 providing rulemaking authority; establishing
11 the Office of Community Partners within the
12 Department of Health to provide for delivery of
13 social services through eligible private
14 organizations and programs; providing procedure
15 for transfer of general revenue funds to match
16 federal funds received by the office; creating
17 s. 627.6474, F.S.; prohibiting health insurers
18 from requiring certain contracted health care
19 practitioners to accept the terms of other
20 health care contracts as a condition of
21 continuation or renewal; providing exceptions;
22 amending s. 627.662, F.S.; applying this
23 prohibition to group health insurance, blanket
24 health insurance, and franchise health
25 insurance; amending s. 641.315, F.S.; applying
26 this prohibition to health maintenance
27 organizations; providing effective dates.

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