

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

1       except under certain circumstances; amending s.  
2       456.013, F.S.; requiring the department to  
3       charge initial license fees; amending s.  
4       456.017, F.S.; providing for administration of  
5       national examinations and termination of  
6       state-administered written examinations;  
7       providing for administration of  
8       state-administered practical or clinical  
9       examinations if paid for in advance by the  
10      examination candidates; providing legislative  
11      intent with respect to the use of national  
12      examinations; providing for electronic access  
13      to and posting of examination scores under  
14      certain conditions; providing for the sharing  
15      of examinations or examination item banks with  
16      certain entities; clarifying circumstances  
17      under which candidates may bring a challenge;  
18      providing for electronic administration of  
19      certain laws and rules examinations; amending  
20      s. 456.035, F.S.; providing for electronic  
21      notification of a licensee's current mailing  
22      address and place of practice; amending s.  
23      456.073, F.S.; authorizing a letter of guidance  
24      in lieu of a finding of probable cause under  
25      certain conditions; amending s. 456.081, F.S.;  
26      providing for the posting of newsletters on the  
27      department's website; amending s. 766.301,  
28      F.S.; providing additional and clarifying  
29      legislative intent with respect to expenses and  
30      awards for birth-related neurologically injured  
31      infants; providing applicability and purpose;

1 amending s. 766.31, F.S.; revising requirements  
 2 as to what constitutes actual expenses for  
 3 which compensation for birth-related  
 4 neurological injury may be awarded; increasing  
 5 the cap on periodic payments; authorizing  
 6 certain compensation for funeral expenses;  
 7 providing applicability and purpose; amending  
 8 s. 766.302, F.S.; revising the definition of  
 9 "birth-related neurological injury"; providing  
 10 applicability; revising and providing grounds  
 11 for discipline of licensees; revising and  
 12 providing disciplinary actions; amending s.  
 13 456.079, F.S.; requiring mitigating or  
 14 aggravating circumstances to be in the final  
 15 order to be considered in the imposition of  
 16 penalties; amending ss. 457.109, 458.320,  
 17 458.331, 458.345, 458.347, 459.0085, 459.015,  
 18 459.022, 460.413, 461.013, 462.14, 463.016,  
 19 464.018, 465.008, 465.016, 466.028, 466.037,  
 20 467.203, 468.1295, 468.1755, 468.217, 468.365,  
 21 468.518, 468.719, 468.811, 478.52, 480.046,  
 22 483.825, 483.901, 484.014, 484.056, 486.125,  
 23 490.009, and 491.009, F.S.; revising and  
 24 conforming provisions relating to disciplinary  
 25 grounds and penalties; repealing s. 483.827,  
 26 F.S., relating to penalties applicable to  
 27 clinical laboratories; amending s. 456.065,  
 28 F.S.; requiring the unlicensed activity fee to  
 29 be in addition to all other fees collected from  
 30 each licensee; amending ss. 458.347 and  
 31 459.022, F.S.; allowing authorized physician

1 assistants to prescribe any medication not  
 2 listed on a formulary established by the  
 3 Council on Physician Assistants; allowing  
 4 authorized physician assistants to dispense  
 5 drug samples pursuant to proper prescription;  
 6 eliminating the formulary committee and  
 7 revising provisions relating to creation and  
 8 amendment of the formulary, to conform;  
 9 amending s. 456.003, F.S.; providing a  
 10 limitation on the duties of certain boards;  
 11 providing for the Agency for Health Care  
 12 Administration to create the Organ Transplant  
 13 Task Force to study organ transplantation  
 14 programs; requiring the task force to study and  
 15 make recommendations on the necessity of the  
 16 issuance of certificates of need for such  
 17 programs and funding for organ transplantation;  
 18 providing a date for the task force to report  
 19 to the Governor and the Legislature; amending  
 20 409.9205, F.S.; transferring positions in the  
 21 Medicaid Fraud Control Unit of the Department  
 22 of Legal Affairs to Career Services; amending  
 23 s. 483.245, F.S.; prohibiting rebate or  
 24 split-fee arrangements with dialysis facilities  
 25 for patient referrals to clinical laboratories;  
 26 providing penalties; amending s. 232.435, F.S.;  
 27 providing training requirements for a first  
 28 responder and teacher athletic trainer;  
 29 amending s. 383.14, F.S.; amending screening  
 30 requirements for postnatal screening; amending  
 31 s. 395.0197, F.S.; revising provisions relating

1 to hospital and ambulatory surgical center  
2 internal risk management programs; modifying  
3 requirements for risk management and prevention  
4 education and training; restricting  
5 participation of unlicensed persons in surgical  
6 procedures; requiring ongoing evaluation of  
7 surgical procedures and protocols; eliminating  
8 an annual report summarizing facility incident  
9 reports and disciplinary actions; requiring the  
10 Agency for Health Care Administration to  
11 publish website summaries of adverse incident  
12 reports; requiring facility reporting of  
13 allegations of sexual misconduct by health care  
14 practitioners; providing certain civil  
15 liability for licensed risk managers;  
16 prohibiting intimidation of a risk manager;  
17 providing a penalty; amending s. 395.10972,  
18 F.S.; increasing membership on the Health Care  
19 Risk Management Advisory Council; amending s.  
20 395.701, F.S.; limiting the financial  
21 information the agency may require to determine  
22 the amount of hospital annual assessments;  
23 amending s. 409.905, F.S.; providing that the  
24 Agency for Health Care Administration may  
25 restrict the provision of mandatory services by  
26 mobile providers; amending s. 409.906, F.S.;  
27 providing that the agency may restrict or  
28 prohibit the provision of services by mobile  
29 providers; providing that Medicaid will not  
30 provide reimbursement for dental services  
31 provided in mobile dental units, except for

1 certain units; amending s. 456.013, F.S.;  
2 providing a professional continuing education  
3 requirement relating to prevention of medical  
4 errors; amending s. 456.057, F.S.; providing  
5 for appointment of a records custodian under  
6 certain circumstances; amending s. 456.063,  
7 F.S.; requiring licensed health care  
8 practitioners to report to the Department of  
9 Health any allegations of sexual misconduct;  
10 amending s. 456.072, F.S.; providing additional  
11 grounds for disciplinary actions; clarifying a  
12 penalty involving restriction of professional  
13 practice or license; providing additional  
14 penalties; requiring assessment of costs  
15 related to investigation and prosecution;  
16 amending s. 456.073, F.S.; requiring the  
17 Department of Health to notify the patient or  
18 legal representative of the status of a  
19 disciplinary case; requiring the department to  
20 provide certain information to the complainant;  
21 providing time limitations on the filing of  
22 administrative complaints against licensees of  
23 the department; amending s. 456.074, F.S.;  
24 providing for an emergency order suspending the  
25 license of a practitioner for fraud; amending  
26 s. 456.077, F.S.; specifying violations for  
27 which the Department of Health or a regulatory  
28 board may issue citations; amending s. 456.081,  
29 F.S.; requiring the Department of Health and  
30 regulatory boards to maintain a website  
31 containing specified information; creating s.

1 458.3147, F.S.; providing automatic admission  
2 to any medical school in the State University  
3 System for military academy students or  
4 graduates who qualify for the Medical Corps of  
5 the United States military; amending s.  
6 458.315, F.S.; providing requirements for the  
7 Board of Medicine in issuing temporary  
8 certificates; amending ss. 458.331 and 459.015,  
9 F.S.; conforming language and cross references  
10 to changes made by the act; amending s. 641.51,  
11 F.S.; revising adverse determination  
12 provisions; amending ss. 465.019 and 465.0196,  
13 F.S.; requiring institutional pharmacies and  
14 special pharmacy permittees that use pharmacy  
15 technicians to have a written policy and  
16 procedures manual; directing the Department of  
17 Health and the Agency for Health Care  
18 Administration to review health care  
19 practitioner and facility reporting  
20 requirements; requiring a report to the  
21 Legislature; amending s. 468.1755, F.S.;  
22 providing an additional ground for disciplinary  
23 action against a nursing home administrator;  
24 reenacting ss. 468.1695(3) and 468.1735, F.S.,  
25 to incorporate said amendment in references;  
26 reenacting s. 484.056(1)(a), F.S., relating to  
27 disciplinary action against hearing aid  
28 specialists, to incorporate the amendment to s.  
29 456.072(1), in a reference; amending s.  
30 766.101, F.S.; providing that a continuous  
31 quality improvement committee of a licensed

1 pharmacy is a medical review committee for  
 2 purposes of immunity from liability, and  
 3 reenacting ss. 440.105(1)(a) and 626.989(6),  
 4 F.S., to incorporate said amendment in  
 5 references; amending s. 766.1115, F.S.;  
 6 conforming language and cross references to  
 7 changes made by the act; amending s. 456.047,  
 8 F.S.; providing intent; revising and providing  
 9 definitions; revising duties of the Department  
 10 of Health relating to file maintenance;  
 11 providing that primary source data verified by  
 12 the department or its designee may be relied  
 13 upon to meet accreditation purposes; amending  
 14 s. 232.61, F.S.; requiring the Florida High  
 15 School Activities Association to adopt bylaws  
 16 which require students participating in  
 17 interscholastic athletic competition or who are  
 18 candidates for an interscholastic athletic team  
 19 to satisfactorily pass a medical evaluation  
 20 prior to participating in interscholastic  
 21 athletic competition or engaging in practice  
 22 with an interscholastic athletic team;  
 23 providing requirements with respect to such  
 24 evaluation; amending s. 240.4075, F.S.;  
 25 transferring the Nursing Student Loan  
 26 Forgiveness Program from the Department of  
 27 Education to the Department of Health;  
 28 including public schools, family practice  
 29 teaching hospitals, and specialty hospitals for  
 30 children as eligible facilities under the  
 31 program; exempting such facilities from the



1 fund-matching requirements of the program;  
 2 amending s. 240.4076, F.S.; transferring the  
 3 nursing scholarship program from the Department  
 4 of Education to the Department of Health;  
 5 providing requirements under the program for  
 6 students seeking to qualify for a nursing  
 7 faculty position and receive credit for work in  
 8 such a position; including nursing homes,  
 9 hospitals, public schools, colleges of nursing,  
 10 and community college nursing programs as  
 11 eligible facilities under the program;  
 12 transferring powers, duties, functions, rules,  
 13 records, personnel, property, and  
 14 appropriations and other funds relating to the  
 15 Nursing Student Loan Forgiveness Program and  
 16 the nursing scholarship program from the  
 17 Department of Education to the Department of  
 18 Health; amending s. 464.005, F.S.; providing  
 19 for future relocation of the headquarters of  
 20 the Board of Nursing; amending s. 464.008,  
 21 F.S.; revising education requirements for  
 22 licensure by examination; amending s. 464.009,  
 23 F.S.; revising requirements for licensure by  
 24 endorsement; requiring submission of  
 25 fingerprints for a criminal history check and a  
 26 fee to cover the costs of such check; providing  
 27 for an electronic applicant notification  
 28 process; creating s. 464.0195, F.S.; creating  
 29 the Florida Center for Nursing and providing  
 30 its goals; creating s. 464.0196, F.S.;  
 31 providing for a board of directors; providing

1 for appointment of board members; providing for  
 2 staggered terms; providing powers and duties;  
 3 authorizing per diem and travel expenses;  
 4 creating s. 464.0197, F.S.; declaring state  
 5 budget support for the center; prohibiting the  
 6 Board of Nursing from developing any rule  
 7 relating to faculty/student clinical ratios  
 8 until a specified time; requiring the Board of  
 9 Nursing and the Department of Education to  
 10 submit to the Legislature an implementation  
 11 plan detailing the impact and cost of any such  
 12 proposed rule change; amending s. 464.0205,  
 13 F.S.; deleting the application and processing  
 14 fee for applicants for a retired volunteer  
 15 nurse certificate; requiring study by Office of  
 16 Program Policy Analysis and Government  
 17 Accountability of the feasibility of  
 18 maintaining all of Medical Quality Assurance in  
 19 one state agency; creating s. 456.0375, F.S.;  
 20 requiring registration of certain clinics;  
 21 providing requirements, including fees;  
 22 providing rulemaking authority; requiring  
 23 medical directors or clinic directors for such  
 24 clinics and providing their duties and  
 25 responsibilities; providing an appropriation;  
 26 amending s. 456.031, F.S.; providing an  
 27 alternative by which licensees under ch. 466,  
 28 F.S., relating to dentistry, may comply with a  
 29 general requirement that they take  
 30 domestic-violence education courses; amending  
 31 s. 456.033, F.S.; providing an alternative by

1 which such licensees may comply with a general  
 2 requirement that they take AIDS/HIV education  
 3 courses; amending s. 627.419, F.S.; providing  
 4 for appeals from certain adverse determinations  
 5 relating to dental service claims; providing  
 6 applicability; amending s. 468.302, F.S.;  
 7 revising a provision relating to exemption from  
 8 certification to use radiation on human beings;  
 9 amending ss. 468.352, 468.355, 468.357,  
 10 468.358, and 468.359, F.S.; revising  
 11 definitions and provisions relating to  
 12 licensure and use of titles and abbreviations  
 13 to correct and conform terminology with respect  
 14 to respiratory therapists and respiratory care  
 15 practitioners; amending ss. 468.1155 and  
 16 468.1215, F.S.; revising requirements for  
 17 licensure to practice speech-language pathology  
 18 or audiology and for certification of  
 19 speech-language pathology or audiology  
 20 assistants; amending s. 480.033, F.S.;  
 21 correcting terminology in the definition of  
 22 "massage"; amending s. 484.002, F.S.; amending  
 23 and creating definitions; amending ss. 484.002,  
 24 484.006, 484.012, F.S.; replacing references to  
 25 the term "medical doctor" with the term  
 26 "allopathic or osteopathic physician"; amending  
 27 s. 484.015, F.S.; revising inspection  
 28 authority; amending s. 484.0445, F.S.; removing  
 29 certain provisions relating to the training  
 30 program for hearing aid specialists; amending  
 31 s. 484.045, F.S.; revising requirements for

1 licensure as a hearing aid specialist by  
 2 examination; amending s. 490.012, F.S.;  
 3 prohibiting the use of certain titles or  
 4 descriptions relating to the practice of  
 5 psychology or school psychology unless properly  
 6 licensed; providing penalties; amending s.  
 7 490.014, F.S.; revising exemptions from  
 8 regulation under ch. 490, F.S., relating to  
 9 psychology; correcting a cross reference;  
 10 amending s. 491.012, F.S.; revising  
 11 prohibitions against unlicensed practice of  
 12 clinical social work, marriage and family  
 13 therapy, and mental health counseling to  
 14 provide that practice by registered interns is  
 15 lawful; amending s. 491.014, F.S.; revising  
 16 exemptions from licensure under ch. 491, F.S.,  
 17 relating to clinical, counseling, and  
 18 psychotherapy services, to prohibit the use by  
 19 certain employees of titles, names, or  
 20 descriptions protected by the chapter; amending  
 21 ss. 458.319, 459.008, and 765.102, F.S.;  
 22 conforming terminology relating to palliative  
 23 care; amending s. 765.101, F.S.; redefining the  
 24 term "end-stage condition" with respect to  
 25 health care advance directives; creating s.  
 26 765.1025, F.S.; prescribing the content and  
 27 suitability of palliative care; amending s.  
 28 765.1103, F.S.; revising provisions relating to  
 29 compliance with requests for pain management  
 30 and palliative care; amending s. 765.205, F.S.;  
 31 prescribing the standards of decisionmaking to

1 be used in certain circumstances by health care  
2 surrogates, persons who have durable powers of  
3 attorney for health care, and proxy  
4 decisionmakers; amending s. 765.401, F.S.;  
5 prescribing the standards of decisionmaking to  
6 be used in certain circumstances by proxy  
7 decisionmakers; requiring the Department of  
8 Health to conduct an interim study on specialty  
9 certification and provide a report to the  
10 Legislature; amending s. 499.012, F.S.;  
11 authorizing transfer of prescription drugs  
12 between a retail pharmacy and a Modified Class  
13 II institutional pharmacy under a retail  
14 pharmacy wholesaler's permit; providing  
15 legislative intent; amending ss. 395.3025,  
16 400.1415, and 456.057, F.S.; prohibiting the  
17 use of a patient's medical records for purposes  
18 of solicitation and marketing absent a specific  
19 written release or authorization; providing  
20 penalties; creating s. 626.9651, F.S.;  
21 requiring the Department of Insurance to adopt  
22 rules governing the use of a consumer's  
23 nonpublic personal financial and health  
24 information; providing standards for the rules;  
25 amending s. 400.141, F.S.; prescribing duties  
26 of nursing homes with respect to influenza and  
27 pneumococcal polysaccharide vaccinations;  
28 providing rulemaking authority; establishing  
29 the Office of Community Partners within the  
30 Department of Health to provide for delivery of  
31 social services through eligible private

1 organizations and programs; providing procedure  
2 for transfer of general revenue funds to match  
3 federal funds received by the office; creating  
4 s. 627.6474, F.S.; prohibiting health insurers  
5 from requiring certain contracted health care  
6 practitioners to accept the terms of other  
7 health care contracts as a condition of  
8 continuation or renewal; providing exceptions;  
9 amending s. 627.662, F.S.; applying this  
10 prohibition to group health insurance, blanket  
11 health insurance, and franchise health  
12 insurance; amending s. 641.315, F.S.; applying  
13 this prohibition to health maintenance  
14 organizations; providing effective dates.  
15

16 Be It Enacted by the Legislature of the State of Florida:  
17

18 Section 1. (1) Subsection (3) is added to section  
19 766.301, Florida Statutes, to read:

20 766.301 Legislative findings and intent.--

21 (3) In order to maintain the actuarial soundness of  
22 the compensation scheme for birth-related neurological  
23 injuries as established in ss. 766.301-766.316, the  
24 Legislature hereby clarifies its original intent with respect  
25 to the distinction between the payment of actual expenses for  
26 medical necessities, which is authorized in s. 766.31(1)(a),  
27 and the award of up to \$125,000 for the parents or legal  
28 guardians of neurologically injured infants, which is  
29 authorized in s. 766.31(1)(b). It has always been the intent  
30 of the Legislature that the term "actual expenses," as used in  
31 s. 766.31(1)(a), means only out-of-pocket, monetary

1 expenditures for the professionally rendered care of a  
2 neurologically injured infant, as opposed to payments for the  
3 time spent by a parent or other family member in providing  
4 care to an eligible infant, and that s. 766.31(1)(b) has been  
5 and remains the exclusive source of funds for parents or legal  
6 guardians irrespective of the time, activities, and services  
7 they devote to the care and welfare of an eligible  
8 neurologically injured infant.

9 (2)(a) The addition of subsection (3) to section  
10 766.301, Florida Statutes, by this section shall take effect  
11 upon this act becoming a law and shall apply to all claims  
12 under the Florida Birth-Related Neurological Injury  
13 Compensation Plan which date from the effective date of  
14 chapter 88-1, Laws of Florida.

15 (b) The purpose of the addition of subsection (3) to  
16 section 766.301, Florida Statutes, by this section is to  
17 clarify legislative intent with respect to the term "actual  
18 expenses" as used in paragraph (a) of subsection (1) of  
19 section 766.31, Florida Statutes, and the term "award" as used  
20 in paragraph (b) of subsection (1) of section 766.31, Florida  
21 Statutes.

22 Section 2. (1) Paragraphs (a) and (b) of subsection  
23 (1) of section 766.31, Florida Statutes, are amended to read:

24 766.31 Administrative law judge awards for  
25 birth-related neurological injuries; notice of award.--

26 (1) Upon determining that an infant has sustained a  
27 birth-related neurological injury and that obstetrical  
28 services were delivered by a participating physician at the  
29 birth, the administrative law judge shall make an award  
30 providing compensation for the following items relative to  
31 such injury:

1 (a) Actual expenses for medically necessary and  
2 reasonable medical and hospital costs for rehabilitative and  
3 training, nonfamilial residential, and custodial care and  
4 service, for medically necessary drugs, special equipment, and  
5 facilities, and for related travel. However, such expenses  
6 shall not include:

7 1. Expenses for items or services that the infant has  
8 received, or is entitled to receive, under the laws of any  
9 state or the Federal Government, except to the extent such  
10 exclusion may be prohibited by federal law.

11 2. Expenses for items or services that the infant has  
12 received, or is contractually entitled to receive, from any  
13 prepaid health plan, health maintenance organization, or other  
14 private insuring entity.

15 3. Expenses for which the infant has received  
16 reimbursement, or for which the infant is entitled to receive  
17 reimbursement, under the laws of any state or the Federal  
18 Government, except to the extent such exclusion may be  
19 prohibited by federal law.

20 4. Expenses for which the infant has received  
21 reimbursement, or for which the infant is contractually  
22 entitled to receive reimbursement, pursuant to the provisions  
23 of any health or sickness insurance policy or other private  
24 insurance program.

25 5. Compensation for the time, services, or activities  
26 performed by the parents or legal guardians of the infant.

27  
28 Expenses included under this paragraph shall be limited to  
29 reasonable charges prevailing in the same community for  
30 similar treatment of injured persons when such treatment is  
31 paid for by the injured person.



1 (b) Periodic payments of an award to the parents or  
2 legal guardians of the infant found to have sustained a  
3 birth-related neurological injury, which award shall not  
4 exceed ~~\$125,000~~~~\$100,000~~. However, at the discretion of the  
5 administrative law judge, such award may be made in a lump  
6 sum. An award made under this paragraph shall be the exclusive  
7 source of funds from the plan to the parents or legal  
8 guardians of an eligible neurologically injured infant, and  
9 compensation shall not be provided under any other provision  
10 of the plan for the time, services, or activities performed by  
11 the parents or legal guardians of the infant.

12 (2)(a) The amendment of paragraphs (a) and (b) of  
13 subsection (1) of section 766.31, Florida Statutes, by this  
14 section shall take effect upon this act becoming a law and  
15 shall apply to all claims under the Florida Birth-Related  
16 Neurological Injury Compensation Plan which date from the  
17 effective date of chapter 88-1, Laws of Florida.

18 (b) The purpose of the amendment of paragraphs (a) and  
19 (b) of subsection (1) of section 766.31, Florida Statutes, by  
20 this section is to clarify legislative intent with respect to  
21 the term "actual expenses" as used in paragraph (a) of  
22 subsection (1) of section 766.31, Florida Statutes, and the  
23 term "award" as used in paragraph (a) of subsection (1) of  
24 section 766.31, Florida Statutes.

25 Section 3. (1) Subsection (2) of section 766.302,  
26 Florida Statutes, is amended to read:

27 766.302 Definitions; ss. 766.301-766.316.--As used in  
28 ss. 766.301-766.316, the term:

29 (2) "Birth-related neurological injury" means injury  
30 to the brain or spinal cord of a live infant weighing at least  
31 2,500 grams at birth, in the case of a single gestation, or a

1 live infant weighing at least 2,000 grams at birth, in the  
2 case of a multiple gestation, caused by oxygen deprivation or  
3 mechanical injury occurring in the course of labor, delivery,  
4 or resuscitation in the immediate postdelivery period in a  
5 hospital, which renders the infant permanently and  
6 substantially mentally and physically impaired. This  
7 definition shall apply to live births only and shall not  
8 include disability or death caused by genetic or congenital  
9 abnormality.

10 (2) The amendment of subsection (2) of section  
11 766.302, Florida Statutes, by this section shall take effect  
12 July 1, 2001, and shall apply to all births occurring on or  
13 after that date.

14 Section 4. (1) Paragraph (b) of subsection (1) of  
15 section 766.31, Florida Statutes, as amended by this act, is  
16 amended to read:

17 766.31 Administrative law judge awards for  
18 birth-related neurological injuries; notice of award.--

19 (1) Upon determining that an infant has sustained a  
20 birth-related neurological injury and that obstetrical  
21 services were delivered by a participating physician at the  
22 birth, the administrative law judge shall make an award  
23 providing compensation for the following items relative to  
24 such injury:

25 (b)1. Periodic payments of an award to the parents or  
26 legal guardians of the infant found to have sustained a  
27 birth-related neurological injury, which award shall not  
28 exceed \$125,000. However, at the discretion of the  
29 administrative law judge, such award may be made in a lump  
30 sum. An award made under this paragraph shall be the exclusive  
31 source of funds from the plan to the parents or legal

1 guardians of an eligible neurologically injured infant, and  
2 compensation shall not be provided under any other provision  
3 of the plan for the time, services, or activities performed by  
4 the parents or legal guardians of the infant.

5 2. Payment for funeral expenses not to exceed \$1,500.

6 (2) The amendment of paragraph (b) of subsection (1)  
7 of section 766.31, Florida Statutes, by this section shall  
8 take effect July 1, 2001, and shall apply to all births  
9 occurring on or after that date.

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

22 Section 6. The Auditor General shall conduct a  
23 followup audit to the Medical Quality Assurance Operational  
24 Audit Report Number 01-063 to determine if the Department of  
25 Health has implemented the recommendations of that report. The  
26 Auditor General shall complete the followup audit and issue a  
27 report to the President of the Senate and the Speaker of the  
28 House of Representatives no later than January 31, 2002.

29 Section 7. The contract between the Department of  
30 Health and the Agency for Health Care Administration pursuant  
31 to section 20.43(3), Florida Statutes, is not subject to the

1 provisions of section 216.346, Florida Statutes. The  
2 Department of Health shall reimburse the Agency for Health  
3 Care Administration for the agency's actual direct costs and  
4 the agency's indirect costs incurred as a result of the  
5 contract, subject to appropriated funds. The agency shall  
6 provide to the department documentation, explanation, and  
7 justification of all direct and indirect costs incurred, by  
8 budget entity.

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

16           Section 9. Subsection (1) of section 456.004, Florida  
17 Statutes, is amended, and subsection (10) is added to that  
18 section, to read:

19           456.004 Department; powers and duties.--The  
20 department, for the professions under its jurisdiction, shall:

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

31

1           (10) Set an examination fee that includes all costs to  
2 develop, purchase, validate, administer, and defend the  
3 examination and is an amount certain to cover all  
4 administrative costs plus the actual per-applicant cost of the  
5 examination.

6           Section 10. Section 456.025, Florida Statutes, is  
7 amended to read:

8           456.025 Fees; receipts; disposition.--

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

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

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

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

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

29           (e) Shall be similar to fees imposed on similar  
30 licensure types;

31

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

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

6           (h) Shall be subject to challenge pursuant to chapter  
7 120.

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

18           (2)(1) Each board within the jurisdiction of the  
19 department, or the department when there is no board, shall  
20 determine by rule the amount of license fees for the  
21 profession it regulates, based upon long-range estimates  
22 prepared by the department of the revenue required to  
23 implement laws relating to the regulation of professions by  
24 the department and the board. Each board, or the department  
25 if there is no board, shall ensure that license fees are  
26 adequate to cover all anticipated costs and to maintain a  
27 reasonable cash balance, as determined by rule of the agency,  
28 with advice of the applicable board. If sufficient action is  
29 not taken by a board within 1 year after notification by the  
30 department that license fees are projected to be inadequate,  
31 the department shall set license fees on behalf of the

1 applicable board to cover anticipated costs and to maintain  
 2 the required cash balance. The department shall include  
 3 recommended fee cap increases in its annual report to the  
 4 Legislature. Further, it is the legislative intent that no  
 5 regulated profession operate with a negative cash balance. The  
 6 department may provide by rule for advancing sufficient funds  
 7 to any profession operating with a negative cash balance. The  
 8 advancement may be for a period not to exceed 2 consecutive  
 9 years, and the regulated profession must pay interest.

10 Interest shall be calculated at the current rate earned on  
 11 investments of a trust fund used by the department to  
 12 implement this chapter. Interest earned shall be allocated to  
 13 the various funds in accordance with the allocation of  
 14 investment earnings during the period of the advance.

15 (3)~~(2)~~ Each board, or the department if there is no  
 16 board, may charge a fee not to exceed \$25, as determined by  
 17 rule, for the issuance of a wall certificate pursuant to s.  
 18 456.013(2) requested by a licensee who was licensed prior to  
 19 July 1, 1998, or for the issuance of a duplicate wall  
 20 certificate requested by any licensee.

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

30 (5) If the cash balance of the trust fund at the end  
 31 of any fiscal year exceeds the total appropriation provided

1 for the regulation of the health care professions in the prior  
 2 fiscal year, the boards, in consultation with the department,  
 3 may lower the license renewal fees.

4 ~~(6)(4)~~ Each board ~~authorized to approve continuing~~  
 5 ~~education providers, or the department if there is no board,~~  
 6 shall ~~may~~ establish, by rule, a fee not to exceed \$250 for  
 7 anyone seeking approval to provide continuing education  
 8 courses or programs and shall ~~may~~ establish by rule a biennial  
 9 renewal fee not to exceed \$250 for the renewal of providership  
 10 of such courses. The fees collected from continuing education  
 11 providers shall be used for the purposes of reviewing course  
 12 provider applications, monitoring the integrity of the courses  
 13 provided, covering legal expenses incurred as a result of not  
 14 granting or renewing a providership, and developing and  
 15 maintaining an electronic continuing education tracking  
 16 system. The department shall implement an electronic  
 17 continuing education tracking system for each new biennial  
 18 renewal cycle for which electronic renewals are implemented  
 19 after the effective date of this act and shall integrate such  
 20 system into the licensure and renewal system. All approved  
 21 continuing education providers shall provide information on  
 22 course attendance to the department necessary to implement the  
 23 electronic tracking system. The department shall, by rule,  
 24 specify the form and procedures by which the information is to  
 25 be submitted. ~~This subsection does not apply to continuing~~  
 26 ~~education courses or providers approved by the board under~~  
 27 ~~chapter 465.~~

28 ~~(7)(5)~~ All moneys collected by the department from  
 29 fees or fines or from costs awarded to the agency by a court  
 30 shall be paid into a trust fund used by the department to  
 31 implement this chapter. The Legislature shall appropriate



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

1 October 1 of each year, the department shall provide each  
2 board an annual report of revenue and direct and allocated  
3 expenses related to the operation of that profession. The  
4 board shall use these reports and the department's adopted  
5 long-range plan to determine the amount of license fees. A  
6 condensed version of this information, with the department's  
7 recommendations, shall be included in the annual report to the  
8 Legislature prepared under s. 456.026.

9 (8)~~(6)~~ The department shall provide a condensed  
10 management report of budgets, finances, performance  
11 statistics, and recommendations to each board at least once a  
12 quarter. The department shall identify and include in such  
13 presentations any changes, or projected changes, made to the  
14 board's budget since the last presentation.

15 (9)~~(7)~~ If a duplicate license is required or requested  
16 by the licensee, the board or, if there is no board, the  
17 department may charge a fee as determined by rule not to  
18 exceed \$25 before issuance of the duplicate license.

19 (10)~~(8)~~ The department or the appropriate board shall  
20 charge a fee not to exceed \$25 for the certification of a  
21 public record. The fee shall be determined by rule of the  
22 department. The department or the appropriate board shall  
23 assess a fee for duplicating a public record as provided in s.  
24 119.07(1)(a) and (b).

25 Section 11. Subsection (1) of section 457.107, Florida  
26 Statutes, is amended to read:

27 457.107 Renewal of licenses; continuing education.--

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

31

1           Section 12. Section 458.31151, Florida Statutes, is  
2 repealed.

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

5           483.807 Fees; establishment; disposition.--

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

19           Section 14. Subsections (1), (3), and (4) of section  
20 456.011, Florida Statutes, are amended to read:

21           456.011 Boards; organization; meetings; compensation  
22 and travel expenses.--

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

25           (3) The board shall meet at least once annually and  
26 may meet as often as is necessary. Meetings shall be conducted  
27 through teleconferencing or other technological means, unless  
28 disciplinary hearings involving standard of care, sexual  
29 misconduct, fraud, impairment, or felony convictions;  
30 licensure denial hearings; or controversial rule hearings are  
31 being conducted; or unless otherwise approved in advance of

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

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

31

1           Section 15. Subsection (2) of section 456.013, Florida  
2 Statutes, is amended to read:

3           456.013 Department; general licensing provisions.--

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

20           Section 16. Section 456.017, Florida Statutes, is  
21 amended to read:

22           456.017 Department of Health; examinations.--

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

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

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

30 (c) 1. The board, or the department when there is no  
31 board, shall ~~may~~ approve by rule the use of one or more ~~any~~

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

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

26 3. The board, or the department when there is no  
27 board, may administer a state-developed practical or clinical  
28 examination, as required by the applicable practice act, if  
29 all costs of development, purchase, validation,  
30 administration, review, and defense are paid by the  
31 examination candidate prior to the administration of the

1 examination. If a national practical or clinical examination  
2 is available and certified by the department pursuant to this  
3 section, the board, or the department when there is no board,  
4 may administer the national examination.

5 4. It is the intent of the Legislature to reduce the  
6 costs associated with state examinations and to encourage the  
7 use of national examinations whenever possible.

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

27 (e) If the professional board with jurisdiction over  
28 an examination concurs, the department may, for a fee, share  
29 with any other state's licensing authority or a national  
30 testing entity an examination or examination item bank  
31 developed by or for the department unless prohibited by a



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

10 (f) The department may adopt rules necessary to  
 11 administer this subsection.

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

1 subsection. An applicant may waive in writing the  
2 confidentiality of the applicant's examination grades.  
3 Notwithstanding any other provision of law, only candidates  
4 who fail an examination by less than 10 percent shall be  
5 entitled to challenge the validity of the examination at  
6 hearing.

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

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

27 (5) For examinations developed by the department or a  
28 contracted vendor, each board, or the department when there is  
29 no board, may provide licensure examinations in an applicant's  
30 native language. Notwithstanding any other provision of law,  
31 applicants for examination or reexamination pursuant to this

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

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

24 Section 17. Subsection (1) of section 456.035, Florida  
25 Statutes, is amended to read:

26 456.035 Address of record.--

27 (1) Each licensee of the department is solely  
28 responsible for notifying the department in writing of the  
29 licensee's current mailing address and place of practice, as  
30 defined by rule of the board or the department if there is no  
31 board. Electronic notification shall be allowed by the

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

7 Section 18. Subsections (2), (4), and (10) of section  
8 456.073, Florida Statutes, are amended to read:

9 456.073 Disciplinary proceedings.--Disciplinary  
10 proceedings for each board shall be within the jurisdiction of  
11 the department.

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

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

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

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

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

1 the investigation as it deems necessary; all costs thereof  
 2 shall be paid from a trust fund used by the department to  
 3 implement this chapter. All proceedings of the probable cause  
 4 panel are exempt from s. 120.525.

5 (10) The complaint and all information obtained  
 6 pursuant to the investigation by the department are  
 7 confidential and exempt from s. 119.07(1) until 10 days after  
 8 probable cause has been found to exist by the probable cause  
 9 panel or by the department, or until the regulated  
 10 professional or subject of the investigation waives his or her  
 11 privilege of confidentiality, whichever occurs first. Upon  
 12 completion of the investigation and a recommendation by the  
 13 department to find probable cause, and pursuant to a written  
 14 request by the subject or the subject's attorney, the  
 15 department shall provide the subject an opportunity to inspect  
 16 the investigative file or, at the subject's expense, forward  
 17 to the subject a copy of the investigative file.

18 Notwithstanding s. 456.057, the subject may inspect or receive  
 19 a copy of any expert witness report or patient record  
 20 connected with the investigation if the subject agrees in  
 21 writing to maintain the confidentiality of any information  
 22 received under this subsection until 10 days after probable  
 23 cause is found and to maintain the confidentiality of patient  
 24 records pursuant to s. 456.057. The subject may file a written  
 25 response to the information contained in the investigative  
 26 file. Such response must be filed within 20 days of mailing by  
 27 the department, unless an extension of time has been granted  
 28 by the department. This subsection does not prohibit the  
 29 department from providing such information to any law  
 30 enforcement agency or to any other regulatory agency.

31



1 Section 19. Section 456.081, Florida Statutes, is  
2 amended to read:

3 456.081 Publication of information.--The department  
4 and the boards shall have the authority to advise licensees  
5 periodically, through the publication of a newsletter on the  
6 department's website, about information that the department or  
7 the board determines is of interest to the industry. Unless  
8 otherwise prohibited by law, the department and the boards  
9 shall publish a summary of final orders resulting in  
10 disciplinary action ~~fin~~~~es,~~ ~~suspensions,~~ ~~or revocations,~~ and  
11 any other information the department or the board determines  
12 is of interest to the public.

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

15 456.079 Disciplinary guidelines.--

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

24 Section 21. Subsections (1) and (2) of section  
25 457.109, Florida Statutes, are amended to read:

26 457.109 Disciplinary actions; grounds; action by the  
27 board.--

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

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

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

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

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

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

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

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

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

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 reports or records shall include only those  
31 which are signed in the capacity as a licensed acupuncturist.

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

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

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

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

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

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

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

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

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

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

30 (s) Violating ~~any provision of this chapter, a rule of~~  
 31 ~~the department, or~~ a lawful order of the board department

1 previously entered in a disciplinary hearing or failing to  
2 comply with a lawfully issued subpoena of the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

5           Section 22. Subsection (6) of section 458.320, Florida  
6 Statutes, is amended to read:

7           458.320 Financial responsibility.--

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

14           Section 23. Subsections (1) and (2) of section  
15 458.331, Florida Statutes, are amended to read:

16           458.331 Grounds for disciplinary action; action by the  
17 board and department.--

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

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

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

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

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

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

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

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

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

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

27 (i) Paying or receiving any commission, bonus,  
28 kickback, or rebate, or engaging in any split-fee arrangement  
29 in any form whatsoever with a physician, organization, agency,  
30 or person, either directly or indirectly, for patients  
31 referred to providers of health care goods and services,

1 including, but not limited to, hospitals, nursing homes,  
2 clinical laboratories, ambulatory surgical centers, or  
3 pharmacies. The provisions of this paragraph shall not be  
4 construed to prevent a physician from receiving a fee for  
5 professional consultation services.

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

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

14 (l) Soliciting patients, either personally or through  
15 an agent, through the use of fraud, intimidation, undue  
16 influence, or a form 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 (m) Failing to keep legible, as defined by department  
20 rule in consultation with the board, medical records that  
21 identify the licensed physician or the physician extender and  
22 supervising physician by name and professional title who is or  
23 are responsible for rendering, ordering, supervising, or  
24 billing for each diagnostic or treatment procedure and that  
25 justify the course of treatment of the patient, including, but  
26 not limited to, patient histories; examination results; test  
27 results; records of drugs prescribed, dispensed, or  
28 administered; and reports of consultations and  
29 hospitalizations.

30 (n) Exercising influence on the patient or client in  
31 such a manner as to exploit the patient or client for



1 financial gain of the licensee or of a third party, which  
2 shall include, but not be limited to, the promoting or selling  
3 of services, goods, appliances, or drugs.

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

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

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

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

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

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

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

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

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

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

28 (w) 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.

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

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

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

12          (aa) Presigning blank prescription forms.

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

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

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

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

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

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

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

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

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

21 (hh) Improperly interfering with an investigation or  
22 with any disciplinary proceeding.

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

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

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

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

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

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

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

29 ~~(a) Refusal to certify, or certification with~~  
30 ~~restrictions, to the department an application for licensure,~~  
31 ~~certification, or registration.~~

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

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

27           Section 24. Subsection (2) of section 458.345, Florida  
28 Statutes, is amended to read:

29           458.345 Registration of resident physicians, interns,  
30 and fellows; list of hospital employees; prescribing of  
31 medicinal drugs; penalty.--

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

8           Section 25. Paragraph (g) of subsection (7) of section  
9 458.347, Florida Statutes, is amended to read:

10           458.347 Physician assistants.--

11           (7) PHYSICIAN ASSISTANT LICENSURE.--

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

18           Section 26. Subsection (6) of section 459.0085,  
19 Florida Statutes, is amended to read:

20           459.0085 Financial responsibility.--

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

27           Section 27. Subsections (1) and (2) of section  
28 459.015, Florida Statutes, are amended to read:

29           459.015 Grounds for disciplinary action; action by the  
30 board and department.--

31



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 specified in~~  
4 ~~subsection (2) may be taken:~~

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

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

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

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

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

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

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

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

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

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

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

29 (k) Refusing to provide health care based on a  
30 patient's participation in pending or past litigation or  
31 participation in any disciplinary action conducted pursuant to

1 this chapter, unless such litigation or disciplinary action  
2 directly involves the osteopathic physician requested to  
3 provide services.

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

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

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

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

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

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

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

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

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

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

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

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

31

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

3 (ee) Presigning blank prescription forms.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~(h) Corrective action.~~

31

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

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

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

14           Section 28. Paragraph (f) of subsection (7) of section  
15 459.022, Florida Statutes, is amended to read:

16           459.022 Physician assistants.--

17           (7) PHYSICIAN ASSISTANT LICENSURE.--

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

24           Section 29. Subsections (1) and (2) of section  
25 460.413, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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

28 (h) Aiding, assisting, procuring, or advising any  
29 unlicensed person to practice chiropractic medicine contrary  
30 to this chapter or to a rule of the department or the board.  
31

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

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

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

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

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

28 (n) Exercising influence on the patient or client in  
29 such a manner as to exploit the patient or client for  
30 financial gain of the licensee or of a third party which shall  
31

1 include, but not be limited to, the promotion or sale of  
2 services, goods or appliances, or drugs.

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

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

10 (q) Being unable to practice chiropractic medicine  
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, upon a  
15 finding by the secretary of the department, or his or her  
16 designee, or the probable cause panel of the board that  
17 probable cause exists to believe that the licensee is unable  
18 to practice the profession because of reasons stated in this  
19 paragraph, the department shall have the authority to compel a  
20 licensee to submit to a mental or physical examination by a  
21 physician designated by the department. If the licensee  
22 refuses to comply with the department's order, the department  
23 may file a petition for enforcement in the circuit court of  
24 the circuit in which the licensee resides or does business.  
25 The department shall be entitled to the summary procedure  
26 provided in s. 51.011. The record of proceedings to obtain a  
27 compelled mental or physical examination shall not be used  
28 against a licensee in any other proceedings. A chiropractic  
29 physician affected under this paragraph shall at reasonable  
30 intervals be afforded an opportunity to demonstrate that she  
31

1 or he can resume the competent practice of chiropractic  
2 medicine with reasonable skill and safety to patients.

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

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

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

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

31

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

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

10           (x) Submitting to any third-party payor a claim for a  
11 service or treatment which was not actually provided to a  
12 patient.

13           (y) Failing to preserve identity of funds and property  
14 of a patient. As provided by rule of the board, money or other  
15 property entrusted to a chiropractic physician for a specific  
16 purpose, including advances for costs and expenses of  
17 examination or treatment, is to be held in trust and must be  
18 applied only to that purpose. Money and other property of  
19 patients coming into the hands of a chiropractic physician are  
20 not subject to counterclaim or setoff for chiropractic  
21 physician's fees, and a refusal to account for and deliver  
22 over such money and property upon demand shall be deemed a  
23 conversion. This is not to preclude the retention of money or  
24 other property upon which the chiropractic physician has a  
25 valid lien for services or to preclude the payment of agreed  
26 fees from the proceeds of transactions for examinations or  
27 treatments. Controversies as to the amount of the fees are  
28 not grounds for disciplinary proceedings unless the amount  
29 demanded is clearly excessive or extortionate, or the demand  
30 is fraudulent. All funds of patients paid to a chiropractic  
31 physician, other than advances for costs and expenses, shall



1 be deposited in one or more identifiable bank accounts  
2 maintained in the state in which the chiropractic physician's  
3 office is situated, and no funds belonging to the chiropractic  
4 physician shall be deposited therein except as follows:

5         1. Funds reasonably sufficient to pay bank charges may  
6 be deposited therein.

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

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

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

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

4 (bb) Advertising a fee or charge for a service or  
5 treatment which is different from the fee or charge the  
6 licensee submits to third-party payors for that service or  
7 treatment.

8 (cc) Advertising any reduced or discounted fees for  
9 services or treatments, or advertising any free services or  
10 treatments, without prominently stating in the advertisement  
11 the usual fee of the licensee for the service or treatment  
12 which is the subject of the discount, rebate, or free  
13 offering.

14 (dd) Using acupuncture without being certified  
15 pursuant to s. 460.403(9)(f).

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

25 (ff) Violating any provision of this chapter or  
26 chapter 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.

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 ~~\$10,000 for each count or separate offense.~~

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

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

17 ~~(g) Imposition of costs of the investigation and~~  
18 ~~prosecution.~~

19 ~~(h) Requirement that the chiropractic physician~~  
20 ~~undergo remedial education.~~

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

22 ~~(j) Corrective action.~~

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

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

1 with compliance with orders issued under this subsection are  
2 the obligation of the chiropractic physician.

3 Section 30. Subsections (1) and (2) of section  
4 461.013, Florida Statutes, are amended to read:

5 461.013 Grounds for disciplinary action; action by the  
6 board; investigations by department.--

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

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

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

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

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

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

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

31

1 (g) Aiding, assisting, procuring, permitting, or  
2 advising any unlicensed person to practice podiatric medicine  
3 contrary to this chapter or to rule of the department or the  
4 board.

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

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

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

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

23 (l) Failing to keep written medical records justifying  
24 the course of treatment of the patient, including, but not  
25 limited to, patient histories, examination results, and test  
26 results.

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

1 advertising on any prescription form of a community pharmacy  
2 unless the form shall also state "This prescription may be  
3 filled at any pharmacy of your choice."

4 (n) Performing professional services which have not  
5 been duly authorized by the patient or client or her or his  
6 legal representative except as provided in ss. 743.064,  
7 766.103, and 768.13.

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

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

25 (q) Prescribing, ordering, dispensing, administering,  
26 supplying, selling, or giving any amphetamine or  
27 sympathomimetic amine drug or compound designated as a  
28 Schedule II controlled substance pursuant to chapter 893.

29 (r) Being unable to practice podiatric medicine with  
30 reasonable skill and safety to patients by reason of illness  
31 or use of alcohol, drugs, narcotics, chemicals, or any other

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

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

1 similar conditions and circumstances" shall not be construed  
2 so as to require more than one instance, event, or act.

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

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

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

16 (w) ~~Violating any provision of this chapter or chapter~~  
17 ~~456, any rule of the board or department, or~~ a lawful order of  
18 the board or department previously entered in a disciplinary  
19 hearing or failing to comply with a lawfully issued subpoena  
20 of the board or department.

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

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



1 products listed above may be dispensed by the pharmacist with  
2 the presumption that the prescription is for legitimate  
3 medical use.

4 (z) Fraud, deceit, or misconduct in the practice of  
5 podiatric medicine.

6 (aa) Failing to report to the department any licensee  
7 under chapter 458 or chapter 459 who the podiatric physician  
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 podiatric physician  
13 also provides services.

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

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

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

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

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

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

1           ~~(d) Imposition of an administrative fine not to exceed~~  
2 ~~\$10,000 for each count or separate offense.~~

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

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

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

12           Section 31. Subsections (1) and (2) of section 462.14,  
13 Florida Statutes, are amended to read:

14           462.14 Grounds for disciplinary action; action by the  
15 department.--

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 specified in~~  
19 ~~subsection (2) may be taken:~~

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

23           (o) Exercising influence on the patient or client in  
24 such a manner as to exploit the patient or client for the  
25 financial gain of the licensee or of a third party, which  
26 shall include, but not be limited to, the promoting or selling  
27 of services, goods, appliances, or drugs and the promoting or  
28 advertising on any prescription form of a community pharmacy  
29 unless the form also states "This prescription may be filled  
30 at any pharmacy of your choice."  
31

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

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

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

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

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

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

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

24 (v) 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 she or he is not competent to perform.

28 (w) 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.

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

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

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

11           (aa) Presigning blank prescription forms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~(f) Placement of the naturopathic physician on~~  
31 ~~probation for a period of time and subject to such conditions~~



1 ~~as the department may specify, including, but not limited to,~~  
2 ~~requiring the naturopathic physician to submit to treatment,~~  
3 ~~to attend continuing education courses, to submit to~~  
4 ~~reexamination, or to work under the supervision of another~~  
5 ~~naturopathic physician.~~

6 Section 32. Subsections (1) and (2) of section  
7 463.016, Florida Statutes, are amended to read:

8 463.016 Grounds for disciplinary action; action by the  
9 board.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (m) Gross or repeated malpractice.

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

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

31 A licensed practitioner affected under this paragraph shall at

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

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

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

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

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

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

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

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

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

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

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

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

8           Section 33. Subsections (1) and (2) of section  
9 464.018, Florida Statutes, are amended to read:

10           464.018 Disciplinary actions.--

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

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

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

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

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

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

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

31

1           3. A violation of chapter 817, relating to fraudulent  
2 practices.

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

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

7           6. A violation of chapter 827, relating to child  
8 abuse.

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

11           8. A violation of chapter 39, relating to child abuse,  
12 abandonment, and neglect.

13           (e) Having been found guilty of, regardless of  
14 adjudication, or entered a plea of nolo contendere or guilty  
15 to, any offense prohibited under s. 435.03 or under any  
16 similar statute of another jurisdiction; or having committed  
17 an act which constitutes domestic violence as defined in s.  
18 741.28.

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

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

27           (h) Unprofessional conduct, which shall include, but  
28 not be limited to, any departure from, or the failure to  
29 conform to, the minimal standards of acceptable and prevailing  
30 nursing practice, in which case actual injury need not be  
31 established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10           Section 34. Subsections (3) and (4) of section  
11 465.008, Florida Statutes, are amended to read:

12           465.008 Renewal of license.--

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

16           (3)~~(4)~~ Any person licensed under this chapter for 50  
17 years or more is exempt from the payment of the renewal or  
18 delinquent fee, and the department shall issue a lifetime  
19 license to such a person.

20           Section 35. Subsections (1) and (2) of section  
21 465.016, Florida Statutes, are amended to read:

22           465.016 Disciplinary actions.--

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

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

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

31



1 (c) Permitting any person not licensed as a pharmacist  
2 in this state or not registered as an intern in this state, or  
3 permitting a registered intern who is not acting under the  
4 direct and immediate personal supervision of a licensed  
5 pharmacist, to fill, compound, or dispense any prescriptions  
6 in a pharmacy owned and operated by such pharmacist or in a  
7 pharmacy where such pharmacist is employed or on duty.

8 (d) Being unfit or incompetent to practice pharmacy by  
9 reason of:

10 1. Habitual intoxication.

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

13 3. Any abnormal physical or mental condition which  
14 threatens the safety of persons to whom she or he might sell  
15 or dispense prescriptions, drugs, or medical supplies or for  
16 whom she or he might manufacture, prepare, or package, or  
17 supervise the manufacturing, preparation, or packaging of,  
18 prescriptions, drugs, or medical supplies.

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

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

1           (g) Using in the compounding of a prescription, or  
2 furnishing upon prescription, an ingredient or article  
3 different in any manner from the ingredient or article  
4 prescribed, except as authorized in s. 465.019(6) or s.  
5 465.025.

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

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

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

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

31

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

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

21           (n) Violating a rule of the board or department or  
22 violating an order of the board or department previously  
23 entered in a disciplinary hearing.

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

1 (p) Failing to notify the Board of Pharmacy in writing  
2 within 20 days of the commencement or cessation of the  
3 practice of the profession of pharmacy in Florida when such  
4 commencement or cessation of the practice of the profession of  
5 pharmacy in Florida was a result of a pending or completed  
6 disciplinary action or investigation in another jurisdiction.

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

9 (r) 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 ~~\$5,000 for each count or separate offense.~~

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

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

31

1           Section 36. Subsections (1) and (2) of section  
2 466.028, Florida Statutes, are amended to read:

3           466.028 Grounds for disciplinary action; action by the  
4 board.--

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

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

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

17           (c) Being convicted or found guilty of or entering a  
18 plea of nolo contendere to, regardless of adjudication, a  
19 crime in any jurisdiction which relates to the practice of  
20 dentistry or dental hygiene. A plea of nolo contendere shall  
21 create a rebuttable presumption of guilt to the underlying  
22 criminal charges.

23           (d) Advertising goods or services in a manner which is  
24 fraudulent, false, deceptive, or misleading in form or content  
25 contrary to s. 466.019 or rules of the board adopted pursuant  
26 thereto.

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

29           (f) Failing to report to the department any person who  
30 the licensee knows, or has reason to believe, is clearly in  
31

1 violation of this chapter or of the rules of the department or  
2 the board.

3 (g) Aiding, assisting, procuring, or advising any  
4 unlicensed person to practice dentistry or dental hygiene  
5 contrary to this chapter or to a rule of the department or the  
6 board.

7 (h) Being employed by any corporation, organization,  
8 group, or person other than a dentist or a professional  
9 corporation or limited liability company composed of dentists  
10 to practice dentistry.

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

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

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

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

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

28 (n) Failing to make available to a patient or client,  
29 or to her or his legal representative or to the department if  
30 authorized in writing by the patient, copies of documents in  
31

1 the possession or under control of the licensee which relate  
2 to the patient or client.

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

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

18 (q) Prescribing, procuring, dispensing, or  
19 administering any medicinal drug appearing on any schedule set  
20 forth in chapter 893, by a dentist to herself or himself,  
21 except those prescribed, dispensed, or administered to the  
22 dentist by another practitioner authorized to prescribe them.

23 (r) Prescribing, procuring, ordering, dispensing,  
24 administering, supplying, selling, or giving any drug which is  
25 a Schedule II amphetamine or a Schedule II sympathomimetic  
26 amine drug or a compound thereof, pursuant to chapter 893, to  
27 or for any person except for the clinical investigation of the  
28 effects of such drugs or compounds when an investigative  
29 protocol therefor is submitted to, and reviewed and approved  
30 by, the board before such investigation is begun.

31

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

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

27           (u) Failure to provide and maintain reasonable  
28 sanitary facilities and conditions.

29           (v) Failure to provide adequate radiation safeguards.

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



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

4 (x) Being guilty of incompetence or negligence by  
5 failing to meet the minimum standards of performance in  
6 diagnosis and treatment when measured against generally  
7 prevailing peer performance, including, but not limited to,  
8 the undertaking of diagnosis and treatment for which the  
9 dentist is not qualified by training or experience or being  
10 guilty of dental malpractice. For purposes of this paragraph,  
11 it shall be legally presumed that a dentist is not guilty of  
12 incompetence or negligence by declining to treat an individual  
13 if, in the dentist's professional judgment, the dentist or a  
14 member of her or his clinical staff is not qualified by  
15 training and experience, or the dentist's treatment facility  
16 is not clinically satisfactory or properly equipped to treat  
17 the unique characteristics and health status of the dental  
18 patient, provided the dentist refers the patient to a  
19 qualified dentist or facility for appropriate treatment. As  
20 used in this paragraph, "dental malpractice" includes, but is  
21 not limited to, three or more claims within the previous  
22 5-year period which resulted in indemnity being paid, or any  
23 single indemnity paid in excess of \$5,000 in a judgment or  
24 settlement, as a result of negligent conduct on the part of  
25 the dentist.

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

30  
31

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

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

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

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

17           (dd) Presigning blank prescription or laboratory work  
18 order forms.

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

29           (ff) Operating or causing to be operated a dental  
30 office in such a manner as to result in dental treatment that  
31 is below minimum acceptable standards of performance for the

1 community. This includes, but is not limited to, the use of  
2 substandard materials or equipment, the imposition of time  
3 limitations within which dental procedures are to be  
4 performed, or the failure to maintain patient records as  
5 required by this chapter.

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

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

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

18 (jj) Advertising specialty services in violation of  
19 this chapter.

20 (kk) Allowing any person other than another dentist or  
21 a professional corporation or limited liability company  
22 composed of dentists to direct, control, or interfere with a  
23 dentist's clinical judgment; however, this paragraph may not  
24 be construed to limit a patient's right of informed consent.  
25 To direct, control, or interfere with a dentist's clinical  
26 judgment may not be interpreted to mean dental services  
27 contractually excluded, the application of alternative  
28 benefits that may be appropriate given the dentist's  
29 prescribed course of treatment, or the application of  
30 contractual provisions and scope of coverage determinations in  
31 comparison with a dentist's prescribed treatment on behalf of

1 a covered person by an insurer, health maintenance  
2 organization, or a prepaid limited health service  
3 organization.

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

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

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

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

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

17 (c) ~~Imposition of an administrative fine not to exceed~~  
18 ~~\$3,000 for each count or separate offense.~~

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

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

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

27 Section 37. Section 466.037, Florida Statutes, is  
28 amended to read:

29 466.037 Suspension and revocation; administrative  
30 fine.--The department may suspend or revoke the certificate of  
31 any dental laboratory registered under s. 466.032, for failing

1 to comply with the provisions of this chapter or rules adopted  
2 by the department under this chapter. The department may  
3 impose an administrative fine ~~not to exceed \$500 for each~~  
4 ~~count or separate offense.~~

5 Section 38. Subsections (1) and (2) of section  
6 467.203, Florida Statutes, are amended to read:

7 467.203 Disciplinary actions; penalties.--

8 (1) The following acts constitute ~~shall be~~ grounds for  
9 denial of a license or disciplinary action, as specified in s.  
10 456.072(2)disciplinary action as set forth in this section:

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

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

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

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

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

31

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

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

14 (h) Failing to report to the department any person who  
15 the licensee knows is in violation of this chapter or of the  
16 rules of the department.

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

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

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

- 1           ~~(a) Refusal to approve an application for licensure.~~  
2           ~~(b) Revocation or suspension of a license.~~  
3           ~~(c) Imposition of an administrative fine not to exceed~~  
4 ~~\$1,000 for each count or separate offense.~~  
5           ~~(d) Issuance of a reprimand.~~  
6           ~~(e) Placement of the midwife on probation for such~~  
7 ~~period of time and subject to such conditions as the~~  
8 ~~department may specify, including requiring the midwife to~~  
9 ~~submit to treatment; undertake further relevant education or~~  
10 ~~training; take an examination; or work under the supervision~~  
11 ~~of another licensed midwife, a physician, or a nurse midwife~~  
12 ~~licensed under part I of chapter 464.~~

13           Section 39. Subsections (1) and (2) of section  
14 468.1295, Florida Statutes, are amended to read:

15           468.1295 Disciplinary proceedings.--

16           (1) The following acts constitute grounds for denial  
17 of a license or disciplinary action, as specified in s.  
18 456.072(2)~~both disciplinary actions as set forth in~~  
19 ~~subsection (2) and cease and desist or other related actions~~  
20 ~~by the department as set forth in s. 456.065:~~

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

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

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

31

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

9           (e) Advertising goods or services in a manner which is  
10 fraudulent, false, deceptive, or misleading in form or  
11 content.

12           (f) Being proven guilty of fraud or deceit or of  
13 negligence, incompetency, or misconduct in the practice of  
14 speech-language pathology or audiology.

15           (g) Violating a lawful order of the board or  
16 department previously entered in a disciplinary hearing, or  
17 failing to comply with a lawfully issued subpoena of the board  
18 or department.

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

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

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

29           (k) Failing to submit to the board on an annual basis,  
30 or such other basis as may be provided by rule, certification  
31



1 of testing and calibration of such equipment as designated by  
2 the board and on the form approved by the board.

3 (l) Aiding, assisting, procuring, employing, or  
4 advising any licensee or business entity to practice  
5 speech-language pathology or audiology contrary to this part,  
6 chapter 456, or any rule adopted pursuant thereto.

7 ~~(m) Violating any provision of this part or chapter~~  
8 ~~456 or any rule adopted pursuant thereto.~~

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

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

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

26 (p)~~(q)~~ Stating or implying that the use of any hearing  
27 aid will improve or preserve hearing or prevent or retard the  
28 progression of a hearing impairment or that it will have any  
29 similar or opposite effect.

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

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

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

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

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

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

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

23       (x)~~(y)~~ Aiding, assisting, procuring, or employing any  
24 unlicensed person to practice speech-language pathology or  
25 audiology.

26       (y)~~(z)~~ Delegating or contracting for the performance  
27 of professional responsibilities by a person when the licensee  
28 delegating or contracting for performance of such  
29 responsibilities knows, or has reason to know, such person is  
30 not qualified by training, experience, and authorization to  
31 perform them.

1            (z)~~(aa)~~ Committing any act upon a patient or client  
 2 which would constitute sexual battery or which would  
 3 constitute sexual misconduct as defined pursuant to s.  
 4 468.1296.

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

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

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

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

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

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

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

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

24           ~~(g) Corrective action.~~

25           Section 40. Subsections (1) and (2) of section  
26 468.1755, Florida Statutes, are amended to read:

27           468.1755 Disciplinary proceedings.--

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

1 (a) Violation of any provision of s. 456.072(1) or s.  
2 468.1745(1).

3 (b) Attempting to procure a license to practice  
4 nursing home administration by bribery, by fraudulent  
5 misrepresentation, or through an error of the department or  
6 the board.

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

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

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

24 (f) Authorizing the discharge or transfer of a  
25 resident for a reason other than those provided in ss. 400.022  
26 and 400.0255.

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

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

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

3           (j)~~(j)~~ Violation of a lawful order of the board or  
4 department previously entered in a disciplinary hearing or  
5 failing to comply with a lawfully issued subpoena of the board  
6 or department.

7           (k)~~(k)~~ Practicing with a revoked, suspended, inactive,  
8 or delinquent license.

9           (l)~~(l)~~ Repeatedly acting in a manner inconsistent with  
10 the health, safety, or welfare of the patients of the facility  
11 in which he or she is the administrator.

12           (m)~~(m)~~ Being unable to practice nursing home  
13 administration with reasonable skill and safety to patients by  
14 reason of illness, drunkenness, use of drugs, narcotics,  
15 chemicals, or any other material or substance or as a result  
16 of any mental or physical condition. In enforcing this  
17 paragraph, upon a finding of the secretary or his or her  
18 designee that probable cause exists to believe that the  
19 licensee is unable to serve as a nursing home administrator  
20 due to the reasons stated in this paragraph, the department  
21 shall have the authority to issue an order to compel the  
22 licensee to submit to a mental or physical examination by a  
23 physician designated by the department. If the licensee  
24 refuses to comply with such order, the department's order  
25 directing such examination may be enforced by filing a  
26 petition for enforcement in the circuit court where the  
27 licensee resides or serves as a nursing home administrator.  
28 The licensee against whom the petition is filed shall not be  
29 named or identified by initials in any public court records or  
30 documents, and the proceedings shall be closed to the public.  
31 The department shall be entitled to the summary procedure

1 provided in s. 51.011. A licensee affected under this  
2 paragraph shall have the opportunity, at reasonable intervals,  
3 to demonstrate that he or she can resume the competent  
4 practice of nursing home administration with reasonable skill  
5 and safety to patients.

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

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

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

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

20 (q) Violating any provision of this chapter or chapter  
21 456, or any rules adopted pursuant thereto.

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

28 ~~administrator guilty of any of the grounds set forth in~~  
29 ~~subsection (1), it may enter an order imposing one or more of~~  
30 ~~the following penalties:~~

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

- 1           ~~(b) Revocation or suspension of a license.~~  
2           ~~(c) Imposition of an administrative fine not to exceed~~  
3 ~~\$1,000 for each count or separate offense.~~  
4           ~~(d) Issuance of a reprimand.~~  
5           ~~(e) Placement of the licensee on probation for a~~  
6 ~~period of time and subject to such conditions as the board may~~  
7 ~~specify, including requiring the licensee to attend continuing~~  
8 ~~education courses or to work under the supervision of another~~  
9 ~~licensee.~~  
10          ~~(f) Restriction of the authorized scope of practice.~~

11           Section 41. Section 468.217, Florida Statutes, is  
12 amended to read:

13           468.217 Denial of or refusal to renew license;  
14 suspension and revocation of license and other disciplinary  
15 measures.--

16           (1) The following acts constitute grounds for denial  
17 of a license or disciplinary action, as specified in s.  
18 456.072(2)~~The board may deny or refuse to renew a license,~~  
19 ~~suspend or revoke a license, issue a reprimand, impose a fine,~~  
20 ~~or impose probationary conditions upon a licensee, when the~~  
21 ~~licensee or applicant for license has been guilty of~~  
22 ~~unprofessional conduct which has endangered, or is likely to~~  
23 ~~endanger, the health, welfare, or safety of the public. Such~~  
24 ~~unprofessional conduct includes:~~

25           (a) Attempting to obtain, obtaining, or renewing a  
26 license to practice occupational therapy by bribery, by  
27 fraudulent misrepresentation, or through an error of the  
28 department or the board.

29           (b) Having a license to practice occupational therapy  
30 revoked, suspended, or otherwise acted against, including the  
31



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

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

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

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

12 (f) 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 of the board.

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

18 (h) Failing to perform any statutory or legal  
19 obligation placed upon a licensed occupational therapist or  
20 occupational therapy assistant.

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

28 (j) Paying or receiving any commission, bonus,  
29 kickback, or rebate to or from, or engaging in any split-fee  
30 arrangement in any form whatsoever with, a physician,  
31 organization, agency, or person, either directly or

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

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

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

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

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

29 (o) Exercising influence on the patient or client in  
30 such a manner as to exploit the patient or client for  
31 financial gain of the licensee or of a third party which

1 includes, but is not limited to, the promoting or selling of  
2 services, goods, appliances, or drugs.

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

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

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

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

20 (t) Being unable to practice occupational therapy with  
21 reasonable skill and safety to patients by reason of illness  
22 or use of alcohol, drugs, narcotics, chemicals, or any other  
23 type of material or as a result of any mental or physical  
24 condition. In enforcing this paragraph, the department shall  
25 have, upon probable cause, authority to compel an occupational  
26 therapist or occupational therapy assistant to submit to a  
27 mental or physical examination by physicians designated by the  
28 department. The failure of an occupational therapist or  
29 occupational therapy assistant to submit to such examination  
30 when so directed constitutes an admission of the allegations  
31 against him or her, upon which a default and final order may

1 be entered without the taking of testimony or presentation of  
2 evidence, unless the failure was due to circumstances beyond  
3 his or her control. An occupational therapist or occupational  
4 therapy assistant affected under this paragraph shall at  
5 reasonable intervals be afforded an opportunity to demonstrate  
6 that he or she can resume the competent practice of  
7 occupational therapy with reasonable skill and safety to  
8 patients. In any proceeding under this paragraph, neither the  
9 record of proceedings nor the orders entered by the board  
10 shall be used against an occupational therapist or  
11 occupational therapy assistant in any other proceeding.

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

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

22 (w) 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 his or her services.

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

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

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

10 Section 42. Subsections (1) and (2) of section  
11 468.365, Florida Statutes, are amended to read:

12 468.365 Disciplinary grounds and actions.--

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

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

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

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

1 respiratory care services or to the ability to deliver such  
2 services.

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

10 (e) Circulating false, misleading, or deceptive  
11 advertising.

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

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

21 (h) Willfully failing to report any violation of this  
22 part.

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

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

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

30 (k)(l) Permitting, aiding, assisting, procuring, or  
31 advising any person who is not licensed pursuant to this part,

1 contrary to this part or to any rule of the department or the  
2 board.

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

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

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

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

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

31

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

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

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

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

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

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

31



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

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 43. 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

1 issued by the Department of Health during its period of  
2 regulatory control over this part.

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

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

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

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

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

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

30 (f) Making or filing a report or record that the  
31 licensee knows to be false, willfully failing to file a report

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

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

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

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

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

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

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

1 (m) Advertising, by or on behalf of a licensee under  
2 this part, any method of assessment or treatment which is  
3 experimental or without generally accepted scientific  
4 validation.

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

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

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

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

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

17 (c) ~~Imposition of an administrative fine not to exceed~~  
18 ~~\$1,000 for each violation;~~

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

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

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

28 Section 44. Section 468.719, Florida Statutes, is  
29 amended to read:

30 468.719 Disciplinary actions.--

31

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

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

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

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

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

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

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

24           (f) 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 person guilty of any of~~

1 ~~the acts set forth in subsection (1), the board may enter an~~  
2 ~~order imposing one or more of the penalties provided in s.~~  
3 ~~456.072.~~

4 Section 45. Section 468.811, Florida Statutes, is  
5 amended to read:

6 468.811 Disciplinary proceedings.--

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

13 (a) Attempting to procure a license by fraudulent  
14 misrepresentation.

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

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

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

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

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

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

9 (g)~~(h)~~ Practicing with a revoked, suspended, or  
10 inactive license.

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

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

20 (j) Violating any provision of this chapter or chapter  
21 456, or any rules adopted pursuant thereto.

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

30 Section 46. Subsections (1) and (2) of section 478.52,  
31 Florida Statutes, are amended to read:



1           478.52 Disciplinary proceedings.--

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

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

8           (b) Having a license or other authority to deliver  
9 electrolysis services revoked, suspended, or otherwise acted  
10 against, including denial of licensure, in another  
11 jurisdiction.

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

16           (d) Willfully making or filing a false report or  
17 record, willfully failing to file a report or record required  
18 for electrologists, or willfully impeding or obstructing the  
19 filing of a report or record required by this act or inducing  
20 another person to do so.

21           (e) Circulating false, misleading, or deceptive  
22 advertising.

23           (f) Unprofessional conduct, including any departure  
24 from, or failure to conform to, acceptable standards related  
25 to the delivery of electrolysis services.

26           (g) Engaging or attempting to engage in the illegal  
27 possession, sale, or distribution of any illegal or controlled  
28 substance.

29           (h) Willfully failing to report any known violation of  
30 this chapter.

31

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

4 (j) Engaging in the delivery of electrolysis services  
5 without an active license.

6 (k) Employing an unlicensed person to practice  
7 electrology.

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

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

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

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

18 (p) Judicially determined mental incompetency.

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

21 (r) Being unable to practice electrology with  
22 reasonable skill and safety because of a mental or physical  
23 condition or illness, or the use of alcohol, controlled  
24 substances, or any other substance which impairs one's ability  
25 to practice.

26 1. The department may, upon probable cause, compel a  
27 licensee to submit to a mental or physical examination by  
28 physicians designated by the department. The cost of an  
29 examination shall be borne by the licensee, and her or his  
30 failure to submit to such an examination constitutes an  
31 admission of the allegations against her or him, consequent

1 upon which a default and a final order may be entered without  
2 the taking of testimony or presentation of evidence, unless  
3 the failure was due to circumstances beyond her or his  
4 control.

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

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

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

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

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

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

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

28 456.072(1).~~When the board finds any person guilty of any of~~  
29 ~~the grounds set forth in subsection (1), including conduct~~  
30 ~~that would constitute a substantial violation of subsection~~  
31

1 ~~(1) which occurred prior to licensure, it may enter an order~~  
2 ~~imposing one or more of the following penalties:~~

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

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

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

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

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

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

14 Section 47. Subsections (1) and (2) of section  
15 480.046, Florida Statutes, are amended to read:

16 480.046 Grounds for disciplinary action by the  
17 board.--

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

20 456.072(2)~~which disciplinary actions specified in subsection~~  
21 ~~(2) may be taken against a massage therapist or massage~~  
22 ~~establishment licensed under this act:~~

23 (a) Attempting to procure a license to practice  
24 massage by bribery or fraudulent misrepresentation.

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

29 (c) Being convicted or found guilty, regardless of  
30 adjudication, of a crime in any jurisdiction which directly  
31 relates to the practice of massage or to the ability to

1 practice massage. Any plea of nolo contendere shall be  
2 considered a conviction for purposes of this chapter.

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

4 (e) Aiding, assisting, procuring, or advising any  
5 unlicensed person to practice massage contrary to the  
6 provisions of this chapter or to a rule of the department or  
7 the board.

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

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

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

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

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

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

14 (l) Refusing to permit the department to inspect the  
15 business premises of the licensee during regular business  
16 hours.

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

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

26 (o) 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

1 who is found guilty of violating any provision of s.  
2 ~~456.072(1).When the board finds any person guilty of any of~~  
3 ~~the grounds set forth in subsection (1), it may enter an order~~  
4 ~~imposing one or more of the following penalties:~~  
5       ~~(a) Refusal to license an applicant.~~  
6       ~~(b) Revocation or suspension of a license.~~  
7       ~~(c) Issuance of a reprimand or censure.~~  
8       ~~(d) Imposition of an administrative fine not to exceed~~  
9 ~~\$1,000 for each count or separate offense.~~

10       Section 48. Section 483.825, Florida Statutes, is  
11 amended to read:

12       483.825 Grounds for disciplinary action.--

13       (1) The following acts constitute grounds for denial  
14 of a license or disciplinary action, as specified in s.  
15 ~~456.072(2)which disciplinary actions specified in s. 483.827~~  
16 ~~may be taken against applicants, registrants, and licensees~~  
17 ~~under this part:~~

18       (a)(1) Attempting to obtain, obtaining, or renewing a  
19 license or registration under this part by bribery, by  
20 fraudulent misrepresentation, or through an error of the  
21 department or the board.

22       (b)(2) Engaging in or attempting to engage in, or  
23 representing herself or himself as entitled to perform, any  
24 clinical laboratory procedure or category of procedures not  
25 authorized pursuant to her or his license.

26       (c)(3) Demonstrating incompetence or making consistent  
27 errors in the performance of clinical laboratory examinations  
28 or procedures or erroneous reporting.

29       (d)(4) Performing a test and rendering a report  
30 thereon to a person not authorized by law to receive such  
31 services.

1        (e)~~(5)~~ Has been convicted or found guilty of, or  
2 entered a plea of nolo contendere to, regardless of  
3 adjudication, a crime in any jurisdiction which directly  
4 relates to the activities of clinical laboratory personnel or  
5 involves moral turpitude or fraudulent or dishonest dealing.  
6 The record of a conviction certified or authenticated in such  
7 form as to be admissible in evidence under the laws of the  
8 state shall be admissible as prima facie evidence of such  
9 guilt.

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

12        (g)~~(7)~~ ~~Violating or~~ Aiding and abetting in the  
13 violation of any provision of this part or the rules adopted  
14 hereunder.

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

17        (i)~~(9)~~ Knowingly advertising false services or  
18 credentials.

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

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



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

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

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

28           (o)~~(15)~~ Failing to report to the department a person  
29 or other licensee who the licensee knows is in violation of  
30 this chapter or the rules of the department or board adopted  
31 hereunder.

1           (p)~~(16)~~ Making or filing a report which the licensee  
 2 knows to be false, intentionally or negligently failing to  
 3 file a report or record required by state or federal law,  
 4 willfully impeding or obstructing such filing or inducing  
 5 another person to do so, including, but not limited to,  
 6 impeding an agent of the state from obtaining a report or  
 7 record for investigative purposes. Such reports or records  
 8 shall include only those generated in the capacity as a  
 9 licensed clinical laboratory personnel.

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

20           (r)~~(18)~~ Exercising influence on a patient or client in  
 21 such a manner as to exploit the patient or client for the  
 22 financial gain of the licensee or other third party, which  
 23 shall include, but not be limited to, the promoting, selling,  
 24 or withholding of services, goods, appliances, referrals, or  
 25 drugs.

26           (s)~~(19)~~ Practicing or offering to practice beyond the  
 27 scope permitted by law or rule, or accepting or performing  
 28 professional services or responsibilities which the licensee  
 29 knows or has reason to know that he or she is not competent to  
 30 perform.

31

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

4        ~~(u)(21)~~ Improperly interfering with an investigation  
5 or any disciplinary proceeding.

6        ~~(v)(22)~~ Engaging in or attempting to engage in sexual  
7 misconduct, causing undue embarrassment or using disparaging  
8 language or language of a sexual nature towards a patient,  
9 exploiting superior/subordinate, professional/patient,  
10 instructor/student relationships for personal gain, sexual  
11 gratification, or advantage.

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

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

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

23        (a) The severity of the violation, including the  
24 probability that death or serious harm to the health or safety  
25 of any person will result or has resulted, the severity of the  
26 actual or potential harm, and the extent to which the  
27 provisions of this part were violated.

28        (b) Actions taken by the licensee to correct the  
29 violation or to remedy complaints.

30        (c) Any previous violation by the licensee.

31

1           (d) The financial benefit to the licensee of  
2 committing or continuing the violation.

3           Section 49. Section 483.827, Florida Statutes, is  
4 repealed.

5           Section 50. Subsection (6) of section 483.901, Florida  
6 Statutes, is amended to read:

7           483.901 Medical physicists; definitions; licensure.--

8           (6) LICENSE REQUIRED.--An individual may not engage in  
9 the practice of medical physics, including the specialties of  
10 diagnostic radiological physics, therapeutic radiological  
11 physics, medical nuclear radiological physics, or medical  
12 health physics, without a license issued by the department for  
13 the appropriate specialty.

14           (a) The department shall adopt rules to administer  
15 this section which specify license application and renewal  
16 fees, continuing education requirements, and standards for  
17 practicing medical physics. The council shall recommend to  
18 the department continuing education requirements that shall be  
19 a condition of license renewal. The department shall require  
20 a minimum of 24 hours per biennium of continuing education  
21 offered by an organization recommended by the council and  
22 approved by the department. The department, upon  
23 recommendation of the council, may adopt rules to specify  
24 continuing education requirements for persons who hold a  
25 license in more than one specialty.

26           (b) In order to apply for a medical physicist license  
27 in one or more specialties, a person must file an individual  
28 application for each specialty with the department. The  
29 application must be on a form prescribed by the department and  
30 must be accompanied by a nonrefundable application fee for  
31 each specialty.

1 (c) The department may issue a license to an eligible  
2 applicant if the applicant meets all license requirements. At  
3 any time before the department issues a license, the applicant  
4 may request in writing that the application be withdrawn. To  
5 reapply, the applicant must submit a new application and an  
6 additional nonrefundable application fee and must meet all  
7 current licensure requirements.

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

10 (e) On receipt of an application and fee as specified  
11 in this section, the department may issue a license to  
12 practice medical physics in this state on or after October 1,  
13 1997, to a person who is board certified in the medical  
14 physics specialty in which the applicant applies to practice  
15 by the American Board of Radiology for diagnostic radiological  
16 physics, therapeutic radiological physics, or medical nuclear  
17 radiological physics; by the American Board of Medical Physics  
18 for diagnostic radiological physics, therapeutic radiological  
19 physics, or medical nuclear radiological physics; or by the  
20 American Board of Health Physics or an equivalent certifying  
21 body approved by the department.

22 (f) A licensee shall:

23 1. Display the license in a place accessible to the  
24 public; and

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

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

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

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

6           3. Being convicted or found guilty of, or entering a  
7 plea of nolo contendere to, regardless of adjudication, a  
8 crime in any jurisdiction which relates to the practice of, or  
9 the ability to practice, the profession of medical physics.

10          4. Willfully failing to file a report or record  
11 required for medical physics or willfully impeding or  
12 obstructing the filing of a report or record required by this  
13 section or inducing another person to do so.

14          5. Making misleading, deceptive, or fraudulent  
15 representations in or related to the practice of medical  
16 physics.

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

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

21          7.8. Failing to perform any statutory or legal  
22 obligation placed upon a licensee.

23          ~~8.9.~~ Aiding, assisting, procuring, employing, or  
24 advising any unlicensed person to practice medical physics  
25 contrary to this section or any rule adopted thereunder.

26          ~~9.10.~~ Delegating or contracting for the performance of  
27 professional responsibilities by a person when the licensee  
28 delegating or contracting such responsibilities knows, or has  
29 reason to know, such person is not qualified by training,  
30 experience, and authorization to perform them.

31

1           ~~10.11.~~ Practicing or offering to practice beyond the  
2 scope permitted by law or accepting and performing  
3 professional responsibilities the licensee knows, or has  
4 reason to know, the licensee is not competent to perform.

5           ~~11.12.~~ Gross or repeated malpractice or the inability  
6 to practice medical physics with reasonable skill and safety.

7           ~~12.13.~~ Judicially determined mental incompetency.

8           ~~13.14.~~ Being unable to practice medical physics with  
9 reasonable skill and safety because of a mental or physical  
10 condition or illness or the use of alcohol, controlled  
11 substances, or any other substance which impairs one's ability  
12 to practice.

13           a. The department may, upon probable cause, compel a  
14 licensee to submit to a mental or physical examination by  
15 physicians designated by the department. The cost of an  
16 examination shall be borne by the licensee, and the licensee's  
17 failure to submit to such an examination constitutes an  
18 admission of the allegations against the licensee, consequent  
19 upon which a default and a final order may be entered without  
20 the taking of testimony or presentation of evidence, unless  
21 the failure was due to circumstances beyond the licensee's  
22 control.

23           b. A licensee who is disciplined under this  
24 subparagraph shall, at reasonable intervals, be afforded an  
25 opportunity to demonstrate that the licensee can resume the  
26 practice of medical physics with reasonable skill and safety.

27           c. With respect to any proceeding under this  
28 subparagraph, the record of proceedings or the orders entered  
29 by the department may not be used against a licensee in any  
30 other proceeding.

31

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

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

8 456.072(1).When the department finds any person guilty of any  
9 of the grounds set forth in paragraph (g), including conduct  
10 that would constitute a substantial violation of paragraph (g)  
11 which occurred prior to licensure, it may enter an order  
12 imposing one or more of the following penalties:

13           1. ~~Deny the application for licensure.~~

14           2. ~~Revoke or suspend the license.~~

15           3. ~~Impose an administrative fine for each count or~~  
16 ~~separate offense.~~

17           4. ~~Place the licensee on probation for a specified~~  
18 ~~time and subject the licensee to such conditions as the~~  
19 ~~department determines necessary, including requiring~~  
20 ~~treatment, continuing education courses, or working under the~~  
21 ~~monitoring or supervision of another licensee.~~

22           5. ~~Restrict a licensee's practice.~~

23           6. ~~Issue a reprimand to the licensee.~~

24           (i) The department may not issue or reinstate a  
25 license to a person it has deemed unqualified until it is  
26 satisfied that such person has complied with the terms and  
27 conditions of the final order and that the licensee can safely  
28 practice medical physics.

29           (j) Upon receipt of a complete application and the fee  
30 set forth by rule, the department may issue a  
31 physicist-in-training certificate to a person qualified to



1 practice medical physics under direct supervision. The  
2 department may establish by rule requirements for initial  
3 certification and renewal of a physicist-in-training  
4 certificate.

5 Section 51. Subsections (1) and (2) of section  
6 484.014, Florida Statutes, are amended to read:

7 484.014 Disciplinary actions.--

8 (1) The following acts constitute ~~relating to the~~  
9 ~~practice of opticianry shall be~~ grounds for denial of a  
10 license or disciplinary action, as specified in s. 456.072(2)  
11 ~~both disciplinary action against an optician as set forth in~~  
12 ~~this section and cease and desist or other related action by~~  
13 ~~the department as set forth in s. 456.065 against any person~~  
14 ~~operating an optical establishment who engages in, aids, or~~  
15 ~~abets any such violation:~~

16 (a) Procuring or attempting to procure a license by  
17 misrepresentation, bribery, or fraud or through an error of  
18 the department or the board.

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

22 (c) Making or filing a report or record which the  
23 licensee knows to be false, intentionally or negligently  
24 failing to file a report or record required by federal or  
25 state law, willfully impeding or obstructing such filing, or  
26 inducing another person to do so. Such reports or records  
27 shall include only those which the person is required to make  
28 or file as an optician.

29 (d) Failing to make fee or price information readily  
30 available by providing such information upon request or upon  
31 the presentation of a prescription.

1 (e) Advertising goods or services in a manner which is  
2 fraudulent, false, deceptive, or misleading in form or  
3 content.

4 (f) Fraud or deceit, or negligence, incompetency, or  
5 misconduct, in the authorized practice of opticianry.

6 ~~(g) Violation or repeated violation of this part or of~~  
7 ~~chapter 456 or any rules promulgated pursuant thereto.~~

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

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

14 (i)~~(j)~~ Violation of any provision of s. 484.012.

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

19 (k)~~(l)~~ Willfully submitting to any third-party payor a  
20 claim for services which were not provided to a patient.

21 (l)~~(m)~~ Failing to keep written prescription files.

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

25 (n)~~(o)~~ Exercising influence on a client in such a  
26 manner as to exploit the client for financial gain of the  
27 licensee or of a third party.

28 (o)~~(p)~~ Gross or repeated malpractice.

29 (p)~~(q)~~ Permitting any person not licensed as an  
30 optician in this state to fit or dispense any lenses,  
31

1 spectacles, eyeglasses, or other optical devices which are  
2 part of the practice of opticianry.

3 (q)~~(r)~~ Being convicted or found guilty of, or entering  
4 a plea of nolo contendere to, regardless of adjudication, in a  
5 court of this state or other jurisdiction, a crime which  
6 relates to the ability to practice opticianry or to the  
7 practice of opticianry.

8 (r)~~(s)~~ Having been disciplined by a regulatory agency  
9 in another state for any offense that would constitute a  
10 violation of Florida law or rules regulating opticianry.

11 (s)~~(t)~~ Being unable to practice opticianry with  
12 reasonable skill and safety by reason of illness or use of  
13 drugs, narcotics, chemicals, or any other type of material or  
14 as a result of any mental or physical condition. An optician  
15 affected under this paragraph shall at reasonable intervals be  
16 afforded an opportunity to demonstrate that she or he can  
17 resume the competent practice of opticianry with reasonable  
18 skill and safety to her or his customers.

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

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

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

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

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

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

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

9           Section 52. Subsections (1) and (2) of section  
10 484.056, Florida Statutes, are amended to read:

11           484.056 Disciplinary proceedings.--

12           (1) The following acts constitute relating to the  
13 ~~practice of dispensing hearing aids shall be grounds for~~  
14 denial of a license or disciplinary action, as specified in s.  
15 456.072(2)~~both disciplinary action against a hearing aid~~  
16 ~~specialist as set forth in this section and cease and desist~~  
17 ~~or other related action by the department as set forth in s.~~  
18 ~~456.065 against any person owning or operating a hearing aid~~  
19 ~~establishment who engages in, aids, or abets any such~~  
20 ~~violation:~~

21           (a) Violation of any provision of s. 456.072(1), s.  
22 484.0512, or s. 484.053.

23           (b) Attempting to procure a license to dispense  
24 hearing aids by bribery, by fraudulent misrepresentations, or  
25 through an error of the department or the board.

26           (c) Having a license to dispense hearing aids revoked,  
27 suspended, or otherwise acted against, including the denial of  
28 licensure, by the licensing authority of another state,  
29 territory, or country.

30           (d) Being convicted or found guilty of, or entering a  
31 plea of nolo contendere to, regardless of adjudication, a

1 crime in any jurisdiction which directly relates to the  
2 practice of dispensing hearing aids or the ability to practice  
3 dispensing hearing aids, including violations of any federal  
4 laws or regulations regarding hearing aids.

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

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

16 (g) Proof that the licensee is guilty of fraud or  
17 deceit or of negligence, incompetency, or misconduct in the  
18 practice of dispensing hearing aids.

19 ~~(h) Violation or repeated violation of this part or of~~  
20 ~~chapter 456, or any rules promulgated pursuant thereto.~~

21 (h)~~(i)~~ Violation of a lawful order of the board or  
22 department previously entered in a disciplinary hearing or  
23 failure to comply with a lawfully issued subpoena of the board  
24 or department.

25 (i)~~(j)~~ Practicing with a revoked, suspended, inactive,  
26 or delinquent license.

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

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

4           (l)~~(m)~~ Misrepresentation of professional services  
5 available in the fitting, sale, adjustment, service, or repair  
6 of a hearing aid, or use of the terms "doctor," "clinic,"  
7 "clinical," "medical audiologist," "clinical audiologist,"  
8 "research audiologist," or "audiologic" or any other term or  
9 title which might connote the availability of professional  
10 services when such use is not accurate.

11           (m)~~(n)~~ Representation, advertisement, or implication  
12 that a hearing aid or its repair is guaranteed without  
13 providing full disclosure of the identity of the guarantor;  
14 the nature, extent, and duration of the guarantee; and the  
15 existence of conditions or limitations imposed upon the  
16 guarantee.

17           (n)~~(o)~~ Representing, directly or by implication, that  
18 a hearing aid utilizing bone conduction has certain specified  
19 features, such as the absence of anything in the ear or  
20 leading to the ear, or the like, without disclosing clearly  
21 and conspicuously that the instrument operates on the bone  
22 conduction principle and that in many cases of hearing loss  
23 this type of instrument may not be suitable.

24           (o)~~(p)~~ Making any predictions or prognostications as  
25 to the future course of a hearing impairment, either in  
26 general terms or with reference to an individual person.

27           (p)~~(q)~~ Stating or implying that the use of any hearing  
28 aid will improve or preserve hearing or prevent or retard the  
29 progression of a hearing impairment or that it will have any  
30 similar or opposite effect.

31

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

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

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

12           ~~(t)(u)~~ Failure to submit to the board on an annual  
13 basis, or such other basis as may be provided by rule,  
14 certification of testing and calibration of audiometric  
15 testing equipment on the form approved by the board.

16           ~~(u)(v)~~ Failing to provide all information as described  
17 in s. 484.051(1).

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

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

23           (2)(a) The board may enter an order denying licensure  
24 or imposing any of the penalties in s. 456.072(2) against any  
25 applicant for licensure or licensee who is found guilty of  
26 violating any provision of subsection (1) of this section or  
27 who is found guilty of violating any provision of s.  
28 456.072(1).~~Except as provided in paragraph (b), when the~~  
29 ~~board finds any hearing aid specialist to be 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:~~

- 1 ~~1. Denial of an application for licensure.~~
- 2 ~~2. Revocation or suspension of a license.~~
- 3 ~~3. Imposition of an administrative fine not to exceed~~
- 4 ~~\$1,000 for each count or separate offense.~~
- 5 ~~4. Issuance of a reprimand.~~
- 6 ~~5. Placing the hearing aid specialist on probation for~~
- 7 ~~a period of time and subject to such conditions as the board~~
- 8 ~~may specify, including requiring the hearing aid specialist to~~
- 9 ~~attend continuing education courses or to work under the~~
- 10 ~~supervision of another hearing aid specialist.~~

11 ~~6. Restricting the authorized scope of practice.~~

12 (b) The board shall revoke the license of any hearing  
13 aid specialist found guilty of canvassing as described in this  
14 section.

15 Section 53. Subsections (1) and (2) of section  
16 486.125, Florida Statutes, are amended to read:

17 486.125 Refusal, revocation, or suspension of license;  
18 administrative fines and other disciplinary measures.--

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

23 (a) Being unable to practice physical 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.

28 1. In enforcing this paragraph, upon a finding of the  
29 secretary or the secretary's designee that probable cause  
30 exists to believe that the licensee is unable to practice  
31 physical therapy due to the reasons stated in this paragraph,



1 the department shall have the authority to compel a physical  
2 therapist or physical therapist assistant to submit to a  
3 mental or physical examination by a physician designated by  
4 the department. If the licensee refuses to comply with such  
5 order, the department's order directing such examination may  
6 be enforced by filing a petition for enforcement in the  
7 circuit court where the licensee resides or serves as a  
8 physical therapy practitioner. The licensee against whom the  
9 petition is filed shall not be named or identified by initials  
10 in any public court records or documents, and the proceedings  
11 shall be closed to the public. The department shall be  
12 entitled to the summary procedure provided in s. 51.011.

13         2. A physical therapist or physical therapist  
14 assistant whose license is suspended or revoked pursuant to  
15 this subsection shall, at reasonable intervals, be given an  
16 opportunity to demonstrate that she or he can resume the  
17 competent practice of physical therapy with reasonable skill  
18 and safety to patients.

19         3. Neither the record of proceeding nor the orders  
20 entered by the board in any proceeding under this subsection  
21 may be used against a physical therapist or physical therapist  
22 assistant in any other proceeding.

23             (b) Having committed fraud in the practice of physical  
24 therapy or deceit in obtaining a license as a physical  
25 therapist or as a physical therapist assistant.

26             (c) Being convicted or found guilty regardless of  
27 adjudication, of a crime in any jurisdiction which directly  
28 relates to the practice of physical therapy or to the ability  
29 to practice physical therapy. The entry of any plea of nolo  
30 contendere shall be considered a conviction for purpose of  
31 this chapter.

1           (d) Having treated or undertaken to treat human  
2 ailments by means other than by physical therapy, as defined  
3 in this chapter.

4           (e) Failing to maintain acceptable standards of  
5 physical therapy practice as set forth by the board in rules  
6 adopted pursuant to this chapter.

7           (f) Engaging directly or indirectly in the dividing,  
8 transferring, assigning, rebating, or refunding of fees  
9 received for professional services, or having been found to  
10 profit by means of a credit or other valuable consideration,  
11 such as an unearned commission, discount, or gratuity, with  
12 any person referring a patient or with any relative or  
13 business associate of the referring person. Nothing in this  
14 chapter shall be construed to prohibit the members of any  
15 regularly and properly organized business entity which is  
16 comprised of physical therapists and which is recognized under  
17 the laws of this state from making any division of their total  
18 fees among themselves as they determine necessary.

19           (g) Having a license revoked or suspended; having had  
20 other disciplinary action taken against her or him; or having  
21 had her or his application for a license refused, revoked, or  
22 suspended by the licensing authority of another state,  
23 territory, or country.

24           (h) Violating ~~any provision of this chapter, a rule of~~  
25 ~~the board or department, or~~ a lawful order of the board or  
26 department previously entered in a disciplinary hearing.

27           (i) Making or filing a report or record which the  
28 licensee knows to be false. Such reports or records shall  
29 include only those which are signed in the capacity of a  
30 physical therapist.

31

1 (j) Practicing or offering to practice beyond the  
2 scope permitted by law or accepting and performing  
3 professional responsibilities which the licensee knows or has  
4 reason to know that she or he is not competent to perform,  
5 including, but not limited to, specific spinal manipulation.

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

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

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

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

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

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

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

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

31

1           ~~(g) Recovery of actual costs of investigation and~~  
2 ~~prosecution.~~

3           Section 54. Section 490.009, Florida Statutes, is  
4 amended to read:

5           490.009 Discipline.--

6           ~~(1) When the department or, in the case of~~  
7 ~~psychologists, the board finds that an applicant, provisional~~  
8 ~~licensee, or licensee whom it regulates under this chapter has~~  
9 ~~committed any of the acts set forth in subsection (2), it may~~  
10 ~~issue an order imposing one or more of the following~~  
11 ~~penalties:~~

12           ~~(a) Denial of an application for licensure, either~~  
13 ~~temporarily or permanently.~~

14           ~~(b) Revocation of an application for licensure, either~~  
15 ~~temporarily or permanently.~~

16           ~~(c) Suspension for a period of up to 5 years or~~  
17 ~~revocation of a license, after hearing.~~

18           ~~(d) Immediate suspension of a license pursuant to s.~~  
19 ~~120.60(6).~~

20           ~~(e) Imposition of an administrative fine not to exceed~~  
21 ~~\$5,000 for each count or separate offense.~~

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

23           ~~(g) Placement of an applicant or licensee on probation~~  
24 ~~for a period of time and subject to conditions specified by~~  
25 ~~the department or, in the case of psychologists, by the board,~~  
26 ~~including, but not limited to, requiring the applicant or~~  
27 ~~licensee to submit to treatment, to attend continuing~~  
28 ~~education courses, to submit to reexamination, or to work~~  
29 ~~under the supervision of a designated licensee.~~

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

31

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

6           (a) Attempting to obtain, obtaining, or renewing a  
7 license under this chapter by bribery or fraudulent  
8 misrepresentation or through an error of the board or  
9 department.

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

14           (c) Being convicted or found guilty, regardless of  
15 adjudication, of a crime in any jurisdiction which directly  
16 relates to the practice of his or her profession or the  
17 ability to practice his or her profession. A plea of nolo  
18 contendere creates a rebuttable presumption of guilt of the  
19 underlying criminal charges. However, the board shall allow  
20 the person who is the subject of the disciplinary proceeding  
21 to present any evidence relevant to the underlying charges and  
22 circumstances surrounding the plea.

23           (d) False, deceptive, or misleading advertising or  
24 obtaining a fee or other thing of value on the representation  
25 that beneficial results from any treatment will be guaranteed.

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

28           (f) Maintaining a professional association with any  
29 person who the applicant or licensee knows, or has reason to  
30 believe, is in violation of this chapter or of a rule of the  
31

1 department or, in the case of psychologists, of the department  
2 or the board.

3 (g) Knowingly aiding, assisting, procuring, or  
4 advising any nonlicensed person to hold himself or herself out  
5 as licensed under this chapter.

6 (h) Failing to perform any statutory or legal  
7 obligation placed upon a person licensed under this chapter.

8 (i) Willfully making or filing a false report or  
9 record; failing to file a report or record required by state  
10 or federal law; willfully impeding or obstructing the filing  
11 of a report or record; or inducing another person to make or  
12 file a false report or record or to impede or obstruct the  
13 filing of a report or record. Such report or record includes  
14 only a report or record which requires the signature of a  
15 person licensed under this chapter.

16 (j) Paying a kickback, rebate, bonus, or other  
17 remuneration for receiving a patient or client, or receiving a  
18 kickback, rebate, bonus, or other remuneration for referring a  
19 patient or client to another provider of mental health care  
20 services or to a provider of health care services or goods;  
21 referring a patient or client to oneself for services on a  
22 fee-paid basis when those services are already being paid for  
23 by some other public or private entity; or entering into a  
24 reciprocal referral agreement.

25 (k) Committing any act upon a patient or client which  
26 would constitute sexual battery or which would constitute  
27 sexual misconduct as defined in s. 490.0111.

28 (l) Making misleading, deceptive, untrue, or  
29 fraudulent representations in the practice of any profession  
30 licensed under this chapter.

31

1           (m) Soliciting patients or clients personally, or  
2 through an agent, through the use of fraud, intimidation,  
3 undue influence, or a form of overreaching or vexatious  
4 conduct.

5           (n) Failing to make available to a patient or client,  
6 upon written request, copies of test results, reports, or  
7 documents in the possession or under the control of the  
8 licensee which have been prepared for and paid for by the  
9 patient or client.

10           (o) Failing to respond within 30 days to a written  
11 communication from the department concerning any investigation  
12 by the department or to make available any relevant records  
13 with respect to any investigation about the licensee's conduct  
14 or background.

15           (p) Being unable to practice the profession for which  
16 he or she is licensed under this chapter with reasonable skill  
17 or competence as a result of any mental or physical condition  
18 or by reason of illness; drunkenness; or excessive use of  
19 drugs, narcotics, chemicals, or any other substance. In  
20 enforcing this paragraph, upon a finding by the secretary, the  
21 secretary's designee, or the board that probable cause exists  
22 to believe that the licensee is unable to practice the  
23 profession because of the reasons stated in this paragraph,  
24 the department shall have the authority to compel a licensee  
25 to submit to a mental or physical examination by psychologists  
26 or physicians designated by the department or board. If the  
27 licensee refuses to comply with the department's order, the  
28 department may file a petition for enforcement in the circuit  
29 court of the circuit in which the licensee resides or does  
30 business. The licensee shall not be named or identified by  
31 initials in the petition or in any other public court records

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

8 ~~(q) Violating provisions of this chapter, or of~~  
9 ~~chapter 456, or any rules adopted pursuant thereto.~~

10 (q)~~(r)~~ Performing any treatment or prescribing any  
11 therapy which, by the prevailing standards of the mental  
12 health professions in the community, would constitute  
13 experimentation on human subjects, without first obtaining  
14 full, informed, and written consent.

15 (r)~~(s)~~ Failing to meet the minimum standards of  
16 performance in professional activities when measured against  
17 generally prevailing peer performance, including the  
18 undertaking of activities for which the licensee is not  
19 qualified by training or experience.

20 (s)~~(t)~~ Delegating professional responsibilities to a  
21 person whom the licensee knows or has reason to know is not  
22 qualified by training or experience to perform such  
23 responsibilities.

24 (t)~~(u)~~ Violating a rule relating to the regulation of  
25 the profession or a lawful order of the department previously  
26 entered in a disciplinary hearing.

27 (u)~~(v)~~ Failing to maintain in confidence a  
28 communication made by a patient or client in the context of  
29 such services, except as provided in s. 490.0147.

30  
31



1        ~~(v)~~~~(w)~~ Making public statements which are derived from  
2 test data, client contacts, or behavioral research and which  
3 identify or damage research subjects or clients.

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

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

12        Section 55. Section 491.009, Florida Statutes, is  
13 amended to read:

14        491.009 Discipline.--

15        ~~(1) When the department or the board finds that an~~  
16 ~~applicant, licensee, provisional licensee, registered intern,~~  
17 ~~or certificateholder whom it regulates under this chapter has~~  
18 ~~committed any of the acts set forth in subsection (2), it may~~  
19 ~~issue an order imposing one or more of the following~~  
20 ~~penalties:~~

21        ~~(a) Denial of an application for licensure,~~  
22 ~~registration, or certification, either temporarily or~~  
23 ~~permanently.~~

24        ~~(b) Revocation of an application for licensure,~~  
25 ~~registration, or certification, either temporarily or~~  
26 ~~permanently.~~

27        ~~(c) Suspension for a period of up to 5 years or~~  
28 ~~revocation of a license, registration, or certificate, after~~  
29 ~~hearing.~~

30        ~~(d) Immediate suspension of a license, registration,~~  
31 ~~or certificate pursuant to s. 120.60(6).~~

- 1           ~~(e) Imposition of an administrative fine not to exceed~~  
2 ~~\$1,000 for each count or separate offense.~~
- 3           ~~(f) Issuance of a public reprimand.~~
- 4           ~~(g) Placement of an applicant, licensee, registered~~  
5 ~~intern, or certificateholder on probation for a period of time~~  
6 ~~and subject to such conditions as the board may specify,~~  
7 ~~including, but not limited to, requiring the applicant,~~  
8 ~~licensee, registered intern, or certificateholder to submit to~~  
9 ~~treatment, to attend continuing education courses, to submit~~  
10 ~~to reexamination, or to work under the supervision of a~~  
11 ~~designated licensee or certificateholder.~~
- 12           ~~(h) Restriction of practice.~~
- 13           ~~(1)(2) The following acts constitute of a licensee,~~  
14 ~~provisional licensee, registered intern, certificateholder, or~~  
15 ~~applicant are grounds for denial of a license or disciplinary~~  
16 ~~action, as specified in s. 456.072(2) which the disciplinary~~  
17 ~~actions listed in subsection (1) may be taken:~~
- 18           (a) Attempting to obtain, obtaining, or renewing a  
19 license, registration, or certificate under this chapter by  
20 bribery or fraudulent misrepresentation or through an error of  
21 the board or the department.
- 22           (b) Having a license, registration, or certificate to  
23 practice a comparable profession revoked, suspended, or  
24 otherwise acted against, including the denial of certification  
25 or licensure by another state, territory, or country.
- 26           (c) Being convicted or found guilty of, regardless of  
27 adjudication, or having entered a plea of nolo contendere to,  
28 a crime in any jurisdiction which directly relates to the  
29 practice of his or her profession or the ability to practice  
30 his or her profession. However, in the case of a plea of nolo  
31 contendere, the board shall allow the person who is the

1 subject of the disciplinary proceeding to present evidence in  
2 mitigation relevant to the underlying charges and  
3 circumstances surrounding the plea.

4 (d) False, deceptive, or misleading advertising or  
5 obtaining a fee or other thing of value on the representation  
6 that beneficial results from any treatment will be guaranteed.

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

9 (f) Maintaining a professional association with any  
10 person who the applicant, licensee, registered intern, or  
11 certificateholder knows, or has reason to believe, is in  
12 violation of this chapter or of a rule of the department or  
13 the board.

14 (g) Knowingly aiding, assisting, procuring, or  
15 advising any nonlicensed, nonregistered, or noncertified  
16 person to hold himself or herself out as licensed, registered,  
17 or certified under this chapter.

18 (h) Failing to perform any statutory or legal  
19 obligation placed upon a person licensed, registered, or  
20 certified under this chapter.

21 (i) Willfully making or filing a false report or  
22 record; failing to file a report or record required by state  
23 or federal law; willfully impeding or obstructing the filing  
24 of a report or record; or inducing another person to make or  
25 file a false report or record or to impede or obstruct the  
26 filing of a report or record. Such report or record includes  
27 only a report or record which requires the signature of a  
28 person licensed, registered, or certified under this chapter.

29 (j) Paying a kickback, rebate, bonus, or other  
30 remuneration for receiving a patient or client, or receiving a  
31 kickback, rebate, bonus, or other remuneration for referring a

1 patient or client to another provider of mental health care  
2 services or to a provider of health care services or goods;  
3 referring a patient or client to oneself for services on a  
4 fee-paid basis when those services are already being paid for  
5 by some other public or private entity; or entering into a  
6 reciprocal referral agreement.

7 (k) Committing any act upon a patient or client which  
8 would constitute sexual battery or which would constitute  
9 sexual misconduct as defined pursuant to s. 491.0111.

10 (l) Making misleading, deceptive, untrue, or  
11 fraudulent representations in the practice of any profession  
12 licensed, registered, or certified under this chapter.

13 (m) Soliciting patients or clients personally, or  
14 through an agent, through the use of fraud, intimidation,  
15 undue influence, or a form of overreaching or vexatious  
16 conduct.

17 (n) Failing to make available to a patient or client,  
18 upon written request, copies of tests, reports, or documents  
19 in the possession or under the control of the licensee,  
20 registered intern, or certificateholder which have been  
21 prepared for and paid for by the patient or client.

22 (o) Failing to respond within 30 days to a written  
23 communication from the department or the board concerning any  
24 investigation by the department or the board, or failing to  
25 make available any relevant records with respect to any  
26 investigation about the licensee's, registered intern's, or  
27 certificateholder's conduct or background.

28 (p) Being unable to practice the profession for which  
29 he or she is licensed, registered, or certified under this  
30 chapter with reasonable skill or competence as a result of any  
31 mental or physical condition or by reason of illness;

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

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

30 (q)(r) Performing any treatment or prescribing any  
31 therapy which, by the prevailing standards of the mental

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

4 ~~(r)(s)~~ Failing to meet the minimum standards of  
5 performance in professional activities when measured against  
6 generally prevailing peer performance, including the  
7 undertaking of activities for which the licensee, registered  
8 intern, or certificateholder is not qualified by training or  
9 experience.

10 ~~(s)(t)~~ Delegating professional responsibilities to a  
11 person whom the licensee, registered intern, or  
12 certificateholder knows or has reason to know is not qualified  
13 by training or experience to perform such responsibilities.

14 ~~(t)(u)~~ Violating a rule relating to the regulation of  
15 the profession or a lawful order of the department or the  
16 board previously entered in a disciplinary hearing.

17 ~~(u)(v)~~ Failure of the licensee, registered intern, or  
18 certificateholder to maintain in confidence a communication  
19 made by a patient or client in the context of such services,  
20 except as provided in s. 491.0147.

21 ~~(v)(w)~~ Making public statements which are derived from  
22 test data, client contacts, or behavioral research and which  
23 identify or damage research subjects or clients.

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

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

1           Section 56. Subsection (3) of section 456.065, Florida  
2 Statutes, is amended to read:

3           456.065 Unlicensed practice of a health care  
4 profession; intent; cease and desist notice; penalties;  
5 enforcement; citations; fees; allocation and disposition of  
6 moneys collected.--

7           (3) Because all enforcement costs should be covered by  
8 professions regulated by the department, the department shall  
9 impose, upon initial licensure and each licensure renewal, a  
10 special fee of \$5 per licensee to fund efforts to combat  
11 unlicensed activity. Such fee shall be in addition to all  
12 other fees collected from each licensee. ~~The board, with  
13 concurrence of the department, or the department when there is  
14 no board, may earmark \$5 of the current licensure fee for this  
15 purpose, if such board, or profession regulated by the  
16 department, is not in a deficit and has a reasonable cash  
17 balance.~~The department shall make direct charges to the  
18 Medical Quality Assurance Trust Fund by profession. The  
19 department shall seek board advice regarding enforcement  
20 methods and strategies. The department shall directly credit  
21 the Medical Quality Assurance Trust Fund, by profession, with  
22 the revenues received from the department's efforts to enforce  
23 licensure provisions. The department shall include all  
24 financial and statistical data resulting from unlicensed  
25 activity enforcement as a separate category in the quarterly  
26 management report provided for in s. 456.025. For an  
27 unlicensed activity account, a balance which remains at the  
28 end of a renewal cycle may, with concurrence of the applicable  
29 board and the department, be transferred to the operating fund  
30 account of that profession. The department shall also use

31

1 these funds to inform and educate consumers generally on the  
2 importance of using licensed health care practitioners.

3 Section 57. Effective October 1, 2001, paragraphs (e)  
4 and (f) of subsection (4) of section 458.347, Florida  
5 Statutes, are amended to read:

6 458.347 Physician assistants.--

7 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

8 (e) A supervisory physician may delegate to a fully  
9 licensed physician assistant the authority to prescribe any  
10 medication used in the supervisory physician's practice unless  
11 if such medication is listed on the formulary created pursuant  
12 to paragraph (f). A fully licensed physician assistant may  
13 only prescribe such medication under the following  
14 circumstances:

15 1. A physician assistant must clearly identify to the  
16 patient that he or she is a physician assistant. Furthermore,  
17 the physician assistant must inform the patient that the  
18 patient has the right to see the physician prior to any  
19 prescription being prescribed by the physician assistant.

20 2. The supervisory physician must notify the  
21 department of his or her intent to delegate, on a  
22 department-approved form, before delegating such authority and  
23 notify the department of any change in prescriptive privileges  
24 of the physician assistant.

25 3. The physician assistant must file with the  
26 department, before commencing to prescribe, evidence that he  
27 or she has completed a continuing medical education course of  
28 at least 3 classroom hours in prescriptive practice, conducted  
29 by an accredited program approved by the boards, which course  
30 covers the limitations, responsibilities, and privileges  
31 involved in prescribing medicinal drugs, or evidence that he



1 or she has received education comparable to the continuing  
2 education course as part of an accredited physician assistant  
3 training program.

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

8 5. The physician assistant must file with the  
9 department a signed affidavit that he or she has completed a  
10 minimum of 10 continuing medical education hours in the  
11 specialty practice in which the physician assistant has  
12 prescriptive privileges with each licensure renewal  
13 application.

14 6. The department shall issue a license and a  
15 prescriber number to the physician assistant granting  
16 authority for the prescribing of medicinal drugs authorized  
17 within this paragraph upon completion of the foregoing  
18 requirements.

19 7. The prescription must be written in a form that  
20 complies with chapter 499 and must contain, in addition to the  
21 supervisory physician's name, address, and telephone number,  
22 the physician assistant's prescriber number. Unless it is a  
23 drug sample dispensed by the physician assistant, the  
24 prescription must be filled in a pharmacy permitted under  
25 chapter 465 and must be dispensed in that pharmacy by a  
26 pharmacist licensed under chapter 465. The appearance of the  
27 prescriber number creates a presumption that the physician  
28 assistant is authorized to prescribe the medicinal drug and  
29 the prescription is valid.

30 8. The physician assistant must note the prescription  
31 in the appropriate medical record, and the supervisory

1 physician must review and sign each notation. For dispensing  
 2 purposes only, the failure of the supervisory physician to  
 3 comply with these requirements does not affect the validity of  
 4 the prescription.

5 9. This paragraph does not prohibit a supervisory  
 6 physician from delegating to a physician assistant the  
 7 authority to order medication for a hospitalized patient of  
 8 the supervisory physician.

9  
 10 This paragraph does not apply to facilities licensed pursuant  
 11 to chapter 395.

12 ~~(f)1. There is created a five-member committee~~  
 13 ~~appointed by the Secretary of Health. The committee must be~~  
 14 ~~composed of one fully licensed physician assistant licensed~~  
 15 ~~pursuant to this section or s. 459.022, two physicians~~  
 16 ~~licensed pursuant to this chapter, one of whom supervises a~~  
 17 ~~fully licensed physician assistant, one osteopathic physician~~  
 18 ~~licensed pursuant to chapter 459, and one pharmacist licensed~~  
 19 ~~pursuant to chapter 465 who is not licensed pursuant to this~~  
 20 ~~chapter or chapter 459. The council committee shall establish~~  
 21 ~~a formulary of medicinal drugs that for which a fully licensed~~  
 22 ~~physician assistant, licensed under this section or s.~~  
 23 ~~459.022, may not prescribe. The formulary must ~~may not~~ include~~  
 24 ~~controlled substances as defined in chapter 893,~~  
 25 ~~antineoplastics, antipsychotics, radiopharmaceuticals, general~~  
 26 ~~anesthetics and or radiographic contrast materials, and all or~~  
 27 ~~any parenteral preparations except insulin and epinephrine.~~

28 2. In establishing the formulary, the council shall  
 29 consult with a pharmacist licensed under chapter 465, but not  
 30 licensed under this chapter or chapter 459, who shall be  
 31 selected by the Secretary of Health.

1           ~~3.2.~~ Only the council ~~committee~~ shall add to, delete  
2 from, or modify the formulary. Any person who requests an  
3 addition, deletion, or modification of a medicinal drug listed  
4 on such formulary has the burden of proof to show cause why  
5 such addition, deletion, or modification should be made.

6           ~~4.3.~~ The boards shall adopt the formulary required by  
7 this paragraph, and each addition, deletion, or modification  
8 to the formulary, by rule. Notwithstanding any provision of  
9 chapter 120 to the contrary, the formulary rule shall be  
10 effective 60 days after the date it is filed with the  
11 Secretary of State. Upon adoption of the formulary, the  
12 department shall mail a copy of such formulary to each fully  
13 licensed physician assistant, licensed under this section or  
14 s. 459.022, and to each pharmacy licensed by the state. The  
15 boards shall establish, by rule, a fee not to exceed \$200 to  
16 fund the provisions of this paragraph and paragraph (e).

17           Section 58. Effective October 1, 2001, subsection (4)  
18 and paragraph (c) of subsection (9) of section 459.022,  
19 Florida Statutes, are amended to read:

20           459.022 Physician assistants.--

21           (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--

22           (a) The boards shall adopt, by rule, the general  
23 principles that supervising physicians must use in developing  
24 the scope of practice of a physician assistant under direct  
25 supervision and under indirect supervision. These principles  
26 shall recognize the diversity of both specialty and practice  
27 settings in which physician assistants are used.

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

31

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

4 (d) A supervisory physician may delegate to a licensed  
5 physician assistant, pursuant to a written protocol, the  
6 authority to act according to s. 154.04(1)(c). Such delegated  
7 authority is limited to the supervising physician's practice  
8 in connection with a county health department as defined and  
9 established pursuant to chapter 154. The boards shall adopt  
10 rules governing the supervision of physician assistants by  
11 physicians in county health departments.

12 (e) A supervisory physician may delegate to a fully  
13 licensed physician assistant the authority to prescribe any  
14 medication used in the supervisory physician's practice unless  
15 if such medication is listed on the formulary created pursuant  
16 to s. 458.347. A fully licensed physician assistant may only  
17 prescribe such medication under the following circumstances:

18 1. A physician assistant must clearly identify to the  
19 patient that she or he is a physician assistant. Furthermore,  
20 the physician assistant must inform the patient that the  
21 patient has the right to see the physician prior to any  
22 prescription being prescribed by the physician assistant.

23 2. The supervisory physician must notify the  
24 department of her or his intent to delegate, on a  
25 department-approved form, before delegating such authority and  
26 notify the department of any change in prescriptive privileges  
27 of the physician assistant.

28 3. The physician assistant must file with the  
29 department, before commencing to prescribe, evidence that she  
30 or he has completed a continuing medical education course of  
31 at least 3 classroom hours in prescriptive practice, conducted

1 by an accredited program approved by the boards, which course  
2 covers the limitations, responsibilities, and privileges  
3 involved in prescribing medicinal drugs, or evidence that she  
4 or he has received education comparable to the continuing  
5 education course as part of an accredited physician assistant  
6 training program.

7 4. The physician assistant must file with the  
8 department, before commencing to prescribe, evidence that the  
9 physician assistant has a minimum of 3 months of clinical  
10 experience in the specialty area of the supervising physician.

11 5. The physician assistant must file with the  
12 department a signed affidavit that she or he has completed a  
13 minimum of 10 continuing medical education hours in the  
14 specialty practice in which the physician assistant has  
15 prescriptive privileges with each licensure renewal  
16 application.

17 6. The department shall issue a license and a  
18 prescriber number to the physician assistant granting  
19 authority for the prescribing of medicinal drugs authorized  
20 within this paragraph upon completion of the foregoing  
21 requirements.

22 7. The prescription must be written in a form that  
23 complies with chapter 499 and must contain, in addition to the  
24 supervisory physician's name, address, and telephone number,  
25 the physician assistant's prescriber number. Unless it is a  
26 drug sample dispensed by the physician assistant, the  
27 prescription must be filled in a pharmacy permitted under  
28 chapter 465, and must be dispensed in that pharmacy by a  
29 pharmacist licensed under chapter 465. The appearance of the  
30 prescriber number creates a presumption that the physician  
31

1 assistant is authorized to prescribe the medicinal drug and  
2 the prescription is valid.

3 8. The physician assistant must note the prescription  
4 in the appropriate medical record, and the supervisory  
5 physician must review and sign each notation. For dispensing  
6 purposes only, the failure of the supervisory physician to  
7 comply with these requirements does not affect the validity of  
8 the prescription.

9 9. This paragraph does not prohibit a supervisory  
10 physician from delegating to a physician assistant the  
11 authority to order medication for a hospitalized patient of  
12 the supervisory physician.

13  
14 This paragraph does not apply to facilities licensed pursuant  
15 to chapter 395.

16 ~~(f)1. There is created a five-member committee~~  
17 ~~appointed by the Secretary of Health. The committee must be~~  
18 ~~composed of one fully licensed physician assistant licensed~~  
19 ~~pursuant to this section or s. 458.347, two physicians~~  
20 ~~licensed pursuant to chapter 458, one of whom supervises a~~  
21 ~~fully licensed physician assistant, one osteopathic physician~~  
22 ~~licensed pursuant to this chapter, and one pharmacist licensed~~  
23 ~~pursuant to chapter 465 who is not licensed pursuant to this~~  
24 ~~chapter or chapter 458. The committee shall establish a~~  
25 ~~formulary of medicinal drugs for which a fully licensed~~  
26 ~~physician assistant may prescribe. The formulary may not~~  
27 ~~include controlled substances as defined in chapter 893,~~  
28 ~~antineoplastics, antipsychotics, radiopharmaceuticals, general~~  
29 ~~anesthetics or radiographic contrast materials, or any~~  
30 ~~parenteral preparations except insulin and epinephrine.~~

31

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

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

17           (9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on  
18 Physician Assistants is created within the department.

19           (c) The council shall:

20           1. Recommend to the department the licensure of  
21 physician assistants.

22           2. Develop all rules regulating the use of physician  
23 assistants by physicians under chapter 458 and this chapter,  
24 except for rules relating to the formulary developed under s.  
25 458.347~~(4)~~~~(f)~~. The council shall also develop rules to ensure  
26 that the continuity of supervision is maintained in each  
27 practice setting. The boards shall consider adopting a  
28 proposed rule developed by the council at the regularly  
29 scheduled meeting immediately following the submission of the  
30 proposed rule by the council. A proposed rule submitted by  
31 the council may not be adopted by either board unless both

1 boards have accepted and approved the identical language  
2 contained in the proposed rule. The language of all proposed  
3 rules submitted by the council must be approved by both boards  
4 pursuant to each respective board's guidelines and standards  
5 regarding the adoption of proposed rules. If either board  
6 rejects the council's proposed rule, that board must specify  
7 its objection to the council with particularity and include  
8 any recommendations it may have for the modification of the  
9 proposed rule.

10 3. Make recommendations to the boards regarding all  
11 matters relating to physician assistants.

12 4. Address concerns and problems of practicing  
13 physician assistants in order to improve safety in the  
14 clinical practices of licensed physician assistants.

15 Section 59. Subsection (6) is added to section  
16 456.003, Florida Statutes, to read:

17 456.003 Legislative intent; requirements.--

18 (6) Unless expressly and specifically granted in  
19 statute, the duties conferred on the boards do not include the  
20 enlargement, modification, or contravention of the lawful  
21 scope of practice of the profession regulated by the boards.  
22 This subsection shall not prohibit the boards, or the  
23 department when there is no board, from taking disciplinary  
24 action or issuing a declaratory statement.

25 Section 60. (1)(a) The Agency for Health Care  
26 Administration shall create an Organ Transplant Task Force  
27 within the Agency for Health Care Administration, which task  
28 force must be funded by existing agency funds.

29 (b) Task force participants shall be responsible for  
30 only the expenses that they generate individually through  
31



1 participation. The agency shall be responsible for expenses  
2 incidental to the production of any required data or reports.

3 (2) The task force shall consist of up to 15 members.

4 The task force chairperson shall be selected by majority vote  
5 of a quorum present. Eight members shall constitute a quorum.

6 The membership shall include, but not be limited to, a balance  
7 of members representing the Agency for Health Care

8 Administration, health care facilities that have existing  
9 organ transplantation programs, individual organ transplant

10 health care practitioners, pediatric organ transplantation

11 programs, organ procurement agencies, and organ transplant

12 recipients or family members.

13 (3) The task force shall meet for the purpose of

14 studying and making recommendations regarding current and

15 future supply of organs in relation to the number of existing  
16 organ transplantation programs and the future necessity of the

17 issuance of a certificate of need for proposed organ

18 transplantation programs. At a minimum, the task force shall

19 submit a report to the Legislature which includes a summary of

20 the methods of allocation and distribution of organs; a list

21 of facilities performing multiple organ transplants and the

22 number being performed; the number of Medicaid and charity

23 care patients who have received organ transplants by existing

24 organ transplant programs; suggested mechanisms for funding

25 organ transplants, which shall include, but need not be

26 limited to, an organ transplant trust fund for the treatment

27 of Medicaid and charity patients; the impact of trends in

28 health care delivery and financing on organ transplantation;

29 and the number of certificates of need applications reviewed

30 by the Agency for Health Care Administration in the last 5

31

1 years, including the number approved or denied and the number  
2 litigated.

3 (4) The task force shall meet at the call of the  
4 chairperson. The task force shall submit a report to the  
5 Governor, the President of the Senate, and the Speaker of the  
6 House of Representatives by January 15, 2002. The task force  
7 is abolished effective December 31, 2002.

8 Section 61. Section 409.9205, Florida Statutes, is  
9 amended to read:

10 409.9205 Medicaid Fraud Control Unit; ~~law enforcement~~  
11 ~~officers.~~--

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

15 (2) All investigators employed by the Medicaid Fraud  
16 Control Unit who have been certified under s. 943.1395 are law  
17 enforcement officers of the state. Such investigators have  
18 the authority to conduct criminal investigations, bear arms,  
19 make arrests, and apply for, serve, and execute search  
20 warrants, arrest warrants, capias, and other process  
21 throughout the state pertaining to Medicaid fraud as described  
22 in this chapter. The Attorney General shall provide  
23 reasonable notice of criminal investigations conducted by the  
24 Medicaid Fraud Control Unit to, and coordinate those  
25 investigations with, the sheriffs of the respective counties.  
26 ~~Investigators employed by the Medicaid Fraud Control Unit are~~  
27 ~~not eligible for membership in the Special Risk Class of the~~  
28 ~~Florida Retirement System under s. 121.0515.~~

29 Section 62. Subsection (1) of section 483.245, Florida  
30 Statutes, is amended to read:

31 483.245 Rebates prohibited; penalties.--

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

7 Section 63. Subsection (3) of section 232.435, Florida  
8 Statutes, is amended to read:

9 232.435 Extracurricular athletic activities; athletic  
10 trainers.--

11 (3)~~(a)~~ To the extent practicable, a school district  
12 program should include the following employment classification  
13 and advancement scheme:

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

23 ~~1. Teacher apprentice trainer I.--To qualify as a~~  
24 ~~teacher apprentice trainer I, a person must possess a~~  
25 ~~professional, temporary, part-time, adjunct, or substitute~~  
26 ~~certificate pursuant to s. 231.17, be certified in first aid~~  
27 ~~and cardiopulmonary resuscitation, and have earned a minimum~~  
28 ~~of 6 semester hours or the equivalent number of inservice~~  
29 ~~education points in the basic prevention and care of athletic~~  
30 ~~injuries.~~

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

9           2.3. Teacher athletic trainer.--To qualify as a  
10 teacher athletic trainer, a person must possess a  
11 professional, temporary, part-time, adjunct, or substitute  
12 certificate pursuant to s. 232.17, and be licensed as required  
13 by part XIII of chapter 468 ~~meet the requirements of teacher~~  
14 ~~apprentice trainer II, be certified by the Department of~~  
15 ~~Education or a nationally recognized athletic trainer~~  
16 ~~association, and perform one or more of the following~~  
17 ~~functions: preventing athletic injuries; recognizing,~~  
18 ~~evaluating, managing, treating, and rehabilitating athletic~~  
19 ~~injuries; administering an athletic training program; and~~  
20 ~~educating and counseling athletes.~~

21           ~~(b) If a school district uses the services of an~~  
22 ~~athletic trainer who is not a teacher athletic trainer or a~~  
23 ~~teacher apprentice trainer within the requirements of this~~  
24 ~~section, such athletic trainer must be licensed as required by~~  
25 ~~part XIII of chapter 468.~~

26           Section 64. Paragraph (b) of subsection (1) of section  
27 383.14, Florida Statutes, is amended to read:

28           383.14 Screening for metabolic disorders, other  
29 hereditary and congenital disorders, and environmental risk  
30 factors.--

31

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

25           (b) Postnatal screening.--A risk factor analysis using  
26 the department's designated risk assessment instrument shall  
27 also be conducted as part of the medical screening process  
28 upon the birth of a child and submitted to the department's  
29 Office of Vital Statistics for recording and other purposes  
30 provided for in this chapter. The department's screening  
31 process for risk assessment shall include a scoring mechanism

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

26 Section 65. Section 395.0197, Florida Statutes, is  
27 amended to read:

28 395.0197 Internal risk management program.--

29 (1) Every licensed facility shall, as a part of its  
30 administrative functions, establish an internal risk

31

1 management program that includes all of the following  
2 components:

3 (a) The investigation and analysis of the frequency  
4 and causes of general categories and specific types of adverse  
5 incidents to patients.

6 (b) The development of appropriate measures to  
7 minimize the risk of adverse incidents to patients, including,  
8 but not limited to:

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

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

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

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

26 a. Live visual observation;

27 b. Electronic observation; or

28 c. Any other reasonable measure taken to ensure  
29 patient protection and privacy.

30 3. A prohibition against an unlicensed person from  
31 assisting or participating in any surgical procedure unless

1 the facility has authorized the person to do so following a  
2 competency assessment, and such assistance or participation is  
3 done under the direct and immediate supervision of a licensed  
4 physician and is not otherwise an activity that may only be  
5 performed by a licensed health care practitioner.

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

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

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

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



1 corporate ownership or the risk management programs are in  
2 rural hospitals.

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

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

31

1 Once identified, procedures shall be adjusted to correct the  
2 problem areas.

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

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

- 10 1. Death;
- 11 2. Brain or spinal damage;
- 12 3. Permanent disfigurement;
- 13 4. Fracture or dislocation of bones or joints;
- 14 5. A resulting limitation of neurological, physical,  
15 or sensory function which continues after discharge from the  
16 facility;
- 17 6. Any condition that required specialized medical  
18 attention or surgical intervention resulting from nonemergency  
19 medical intervention, other than an emergency medical  
20 condition, to which the patient has not given his or her  
21 informed consent; or

22 7. Any condition that required the transfer of the  
23 patient, within or outside the facility, to a unit providing a  
24 more acute level of care due to the adverse incident, rather  
25 than the patient's condition prior to the adverse incident;

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

30 (c) Required the surgical repair of damage resulting  
31 to a patient from a planned surgical procedure, where the

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

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

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

10 1. The total number of adverse incidents.

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

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

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

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

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)

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;

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

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

1           (d) Report to the Department of Health every  
2 allegation of sexual misconduct, as defined in chapter 456 and  
3 the respective practice act, by a licensed health care  
4 practitioner that involves a patient.

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

8           (a) Notify the local police; and

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

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

24           ~~(12)(11)~~ A person who, with malice or with intent to  
25 discredit or harm a licensed facility or any person, makes a  
26 false allegation of sexual misconduct against a member of a  
27 licensed facility's personnel is guilty of a misdemeanor of  
28 the second degree, punishable as provided in s. 775.082 or s.  
29 775.083.

30           ~~(13)(12)~~ In addition to any penalty imposed pursuant  
31 to this section, the agency shall require a written plan of



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

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

1 against whom probable cause has been found, any such records  
2 which form the basis of the determination of probable cause,  
3 except that, with respect to medical review committee records,  
4 s. 766.101 controls.

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

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

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

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

1 unless the licensed risk manager or facility acted in bad  
2 faith or with malice in providing such information.

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

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

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

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

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

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

27 Section 66. Section 395.10972, Florida Statutes, is  
28 amended to read:

29 395.10972 Health Care Risk Manager Advisory  
30 Council.--The Secretary of Health Care Administration may  
31 appoint a seven-member ~~five-member~~ advisory council to advise

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

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

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

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

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

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

21 Section 67. Paragraph (b) of subsection (2) of section  
22 395.701, Florida Statutes, is amended to read:

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

27 (2)

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

1 experience of the hospital as reported to the agency. While  
 2 prior year report worksheets may be reconciled to the  
 3 hospital's audited financial statements, no additional audited  
 4 financial components may be required for the purposes of  
 5 determining the amount of the assessment imposed pursuant to  
 6 this section other than those in effect on July 1, 2000.

7 Within 6 months after the end of each hospital fiscal year,  
 8 the agency shall certify the amount of the assessment for each  
 9 hospital. The assessment shall be payable to and collected by  
 10 the agency in equal quarterly amounts, on or before the first  
 11 day of each calendar quarter, beginning with the first full  
 12 calendar quarter that occurs after the agency certifies the  
 13 amount of the assessment for each hospital. All moneys  
 14 collected pursuant to this subsection shall be deposited into  
 15 the Public Medical Assistance Trust Fund.

16 Section 68. Section 409.905, Florida Statutes, is  
 17 amended to read:

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

1 the availability of moneys and any limitations or directions  
2 provided for in the General Appropriations Act or chapter 216.

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

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

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

1 drugs and supplies; and necessary medical care and followup.  
2 Each recipient participating in the family planning portion of  
3 the Medicaid program must be provided freedom to choose any  
4 alternative method of family planning, as required by federal  
5 law.

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

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

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

1 services; reduction or elimination of covered days of service;  
2 adjusting reimbursement ceilings for variable costs; adjusting  
3 reimbursement ceilings for fixed and property costs; and  
4 implementing target rates of increase.

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

31



1 (c) Agency for Health Care Administration shall adjust  
2 a hospital's current inpatient per diem rate to reflect the  
3 cost of serving the Medicaid population at that institution  
4 if:

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

9 2. The hospital's Medicaid per diem rate is at least  
10 25 percent below the Medicaid per patient cost for that year.

11  
12 No later than November 1, 2000, the agency must provide  
13 estimated costs for any adjustment in a hospital inpatient per  
14 diem pursuant to this paragraph to the Executive Office of the  
15 Governor, the House of Representatives General Appropriations  
16 Committee, and the Senate Budget Committee. Before the agency  
17 implements a change in a hospital's inpatient per diem rate  
18 pursuant to this paragraph, the Legislature must have  
19 specifically appropriated sufficient funds in the 2001-2002  
20 General Appropriations Act to support the increase in cost as  
21 estimated by the agency. This paragraph is repealed on July 1,  
22 2001.

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

1 age 21, in which case the only limitation is medical  
2 necessity.

3 (7) INDEPENDENT LABORATORY SERVICES.--The agency shall  
4 pay for medically necessary diagnostic laboratory procedures  
5 ordered by a licensed physician or other licensed practitioner  
6 of the healing arts which are provided for a recipient in a  
7 laboratory that meets the requirements for Medicare  
8 participation and is licensed under chapter 483, if required.

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

24 (9) PHYSICIAN SERVICES.--The agency shall pay for  
25 covered services and procedures rendered to a recipient by, or  
26 under the personal supervision of, a person licensed under  
27 state law to practice medicine or osteopathic medicine. These  
28 services may be furnished in the physician's office, the  
29 Medicaid recipient's home, a hospital, a nursing facility, or  
30 elsewhere, but shall be medically necessary for the treatment  
31 of an injury, illness, or disease within the scope of the

1 practice of medicine or osteopathic medicine as defined by  
2 state law. The agency shall not pay for services that are  
3 clinically unproven, experimental, or for purely cosmetic  
4 purposes.

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

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

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

31

1           Section 69. Section 409.906, Florida Statutes, is  
2 amended to read:

3           409.906 Optional Medicaid services.--Subject to  
4 specific appropriations, the agency may make payments for  
5 services which are optional to the state under Title XIX of  
6 the Social Security Act and are furnished by Medicaid  
7 providers to recipients who are determined to be eligible on  
8 the dates on which the services were provided. Any optional  
9 service that is provided shall be provided only when medically  
10 necessary and in accordance with state and federal law.

11 Optional services rendered by providers in mobile units to  
12 Medicaid recipients may be restricted or prohibited by the  
13 agency.Nothing in this section shall be construed to prevent  
14 or limit the agency from adjusting fees, reimbursement rates,  
15 lengths of stay, number of visits, or number of services, or  
16 making any other adjustments necessary to comply with the  
17 availability of moneys and any limitations or directions  
18 provided for in the General Appropriations Act or chapter 216.  
19 If necessary to safeguard the state's systems of providing  
20 services to elderly and disabled persons and subject to the  
21 notice and review provisions of s. 216.177, the Governor may  
22 direct the Agency for Health Care Administration to amend the  
23 Medicaid state plan to delete the optional Medicaid service  
24 known as "Intermediate Care Facilities for the Developmentally  
25 Disabled." Optional services may include:

26           (1) ADULT DENTURE SERVICES.--The agency may pay for  
27 dentures, the procedures required to seat dentures, and the  
28 repair and reline of dentures, provided by or under the  
29 direction of a licensed dentist, for a recipient who is age 21  
30 or older. However, Medicaid will not provide reimbursement for  
31

1 dental services provided in a mobile dental unit, except for a  
2 mobile dental unit:

3 (a) Owned by, operated by, or having a contractual  
4 agreement with the Department of Health and complying with  
5 Medicaid's county health department clinic services program  
6 specifications as a county health department clinic services  
7 provider.

8 (b) Owned by, operated by, or having a contractual  
9 arrangement with a federally qualified health center and  
10 complying with Medicaid's federally qualified health center  
11 specifications as a federally qualified health center  
12 provider.

13 (c) Rendering dental services to Medicaid recipients,  
14 21 years of age and older, at nursing facilities.

15 (d) Owned by, operated by, or having a contractual  
16 agreement with a state-approved dental educational  
17 institution.

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

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

28 (4) BIRTH CENTER SERVICES.--The agency may pay for  
29 examinations and delivery, recovery, and newborn assessment,  
30 and related services, provided in a licensed birth center  
31 staffed with licensed physicians, certified nurse midwives,

1 and midwives licensed in accordance with chapter 467, to a  
2 recipient expected to experience a low-risk pregnancy and  
3 delivery.

4 (5) CASE MANAGEMENT SERVICES.--The agency may pay for  
5 primary care case management services rendered to a recipient  
6 pursuant to a federally approved waiver, and targeted case  
7 management services for specific groups of targeted  
8 recipients, for which funding has been provided and which are  
9 rendered pursuant to federal guidelines. The agency is  
10 authorized to limit reimbursement for targeted case management  
11 services in order to comply with any limitations or directions  
12 provided for in the General Appropriations Act.

13 Notwithstanding s. 216.292, the Department of Children and  
14 Family Services may transfer general funds to the Agency for  
15 Health Care Administration to fund state match requirements  
16 exceeding the amount specified in the General Appropriations  
17 Act for targeted case management services.

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

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

1 Providers will be selected through a competitive procurement  
2 or selective contracting process. In addition to other  
3 community mental health providers, the agency shall consider  
4 for enrollment mental health programs licensed under chapter  
5 395 and group practices licensed under chapter 458, chapter  
6 459, chapter 490, or chapter 491. The agency is also  
7 authorized to continue operation of its behavioral health  
8 utilization management program and may develop new services if  
9 these actions are necessary to ensure savings from the  
10 implementation of the utilization management system. The  
11 agency shall coordinate the implementation of this enrollment  
12 process with the Department of Children and Family Services  
13 and the Department of Juvenile Justice. The agency is  
14 authorized to utilize diagnostic criteria in setting  
15 reimbursement rates, to preauthorize certain high-cost or  
16 highly utilized services, to limit or eliminate coverage for  
17 certain services, or to make any other adjustments necessary  
18 to comply with any limitations or directions provided for in  
19 the General Appropriations Act.

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

29 (10) DURABLE MEDICAL EQUIPMENT.--The agency may  
30 authorize and pay for certain durable medical equipment and  
31



1 supplies provided to a Medicaid recipient as medically  
2 necessary.

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

23 (12) HEARING SERVICES.--The agency may pay for hearing  
24 and related services, including hearing evaluations, hearing  
25 aid devices, dispensing of the hearing aid, and related  
26 repairs, if provided to a recipient by a licensed hearing aid  
27 specialist, otolaryngologist, otologist, audiologist, or  
28 physician.

29 (13) HOME AND COMMUNITY-BASED SERVICES.--The agency  
30 may pay for home-based or community-based services that are  
31

1 rendered to a recipient in accordance with a federally  
2 approved waiver program.

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

8 (15) INTERMEDIATE CARE FACILITY FOR THE  
9 DEVELOPMENTALLY DISABLED SERVICES.--The agency may pay for  
10 health-related care and services provided on a 24-hour-a-day  
11 basis by a facility licensed and certified as a Medicaid  
12 Intermediate Care Facility for the Developmentally Disabled,  
13 for a recipient who needs such care because of a developmental  
14 disability.

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

20 (17) OPTOMETRIC SERVICES.--The agency may pay for  
21 services provided to a recipient, including examination,  
22 diagnosis, treatment, and management, related to ocular  
23 pathology, if the services are provided by a licensed  
24 optometrist or physician.

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

31

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

6           (20) PRESCRIBED DRUG SERVICES.--The agency may pay for  
7 medications that are prescribed for a recipient by a physician  
8 or other licensed practitioner of the healing arts authorized  
9 to prescribe medications and that are dispensed to the  
10 recipient by a licensed pharmacist or physician in accordance  
11 with applicable state and federal law.

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

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

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

26           (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The  
27 Agency for Health Care Administration, in consultation with  
28 the Department of Children and Family Services, may establish  
29 a targeted case-management pilot project in those counties  
30 identified by the Department of Children and Family Services  
31 and for the community-based child welfare project in Sarasota

1 and Manatee counties, as authorized under s. 409.1671. These  
2 projects shall be established for the purpose of determining  
3 the impact of targeted case management on the child welfare  
4 program and the earnings from the child welfare program.  
5 Results of the pilot projects shall be reported to the Child  
6 Welfare Estimating Conference and the Social Services  
7 Estimating Conference established under s. 216.136. The number  
8 of projects may not be increased until requested by the  
9 Department of Children and Family Services, recommended by the  
10 Child Welfare Estimating Conference and the Social Services  
11 Estimating Conference, and approved by the Legislature. The  
12 covered group of individuals who are eligible to receive  
13 targeted case management include children who are eligible for  
14 Medicaid; who are between the ages of birth through 21; and  
15 who are under protective supervision or postplacement  
16 supervision, under foster-care supervision, or in shelter care  
17 or foster care. The number of individuals who are eligible to  
18 receive targeted case management shall be limited to the  
19 number for whom the Department of Children and Family Services  
20 has available matching funds to cover the costs. The general  
21 revenue funds required to match the funds for services  
22 provided by the community-based child welfare projects are  
23 limited to funds available for services described under s.  
24 409.1671. The Department of Children and Family Services may  
25 transfer the general revenue matching funds as billed by the  
26 Agency for Health Care Administration.

27           Section 70. Subsections (7) through (11) of section  
28 456.013, Florida Statutes, are renumbered as subsections (8)  
29 through (12), respectively, and a new subsection (7) is added  
30 to said section to read:

31           456.013 Department; general licensing provisions.--

1           (7) The boards, or the department when there is no  
2 board, shall require the completion of a 2-hour course  
3 relating to prevention of medical errors as part of the  
4 licensure and renewal process. The 2-hour course shall count  
5 towards the total number of continuing education hours  
6 required for the profession. The course shall be approved by  
7 the board or department, as appropriate, and shall include a  
8 study of root-cause analysis, error reduction and prevention,  
9 and patient safety. If the course is being offered by a  
10 facility licensed pursuant to chapter 395 for its employees,  
11 the board may approve up to 1 hour of the 2-hour course to be  
12 specifically related to error reduction and prevention methods  
13 used in that facility.

14           Section 71. Subsection (19) is added to section  
15 456.057, Florida Statutes, to read:

16           456.057 Ownership and control of patient records;  
17 report or copies of records to be furnished.--

18           (19) The board, or department when there is no board,  
19 may temporarily or permanently appoint a person or entity as a  
20 custodian of medical records in the event of the death of a  
21 practitioner, the mental or physical incapacitation of the  
22 practitioner, or the abandonment of medical records by a  
23 practitioner. The custodian appointed shall comply with all  
24 provisions of this section, including the release of patient  
25 records.

26           Section 72. Subsection (3) is added to section  
27 456.063, Florida Statutes, to read:

28           456.063 Sexual misconduct; disqualification for  
29 license, certificate, or registration; reports of allegation  
30 of sexual misconduct.--

31

1           (3) Licensed health care practitioners shall report  
2 allegations of sexual misconduct to the department, regardless  
3 of the practice setting in which the alleged sexual misconduct  
4 occurred.

5           Section 73. Paragraphs (c) and (q) of subsection (1)  
6 of section 456.072, Florida Statutes, are amended, paragraphs  
7 (aa), (bb), and (cc) are added to said subsection, paragraphs  
8 (c), (d), and (e) of subsection (2) and subsection (4) are  
9 amended, and paragraphs (i) and (j) are added to subsection  
10 (2) of said section, to read:

11           456.072 Grounds for discipline; penalties;  
12 enforcement.--

13           (1) The following acts shall constitute grounds for  
14 which the disciplinary actions specified in subsection (2) may  
15 be taken:

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

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

26           (aa) Performing or attempting to perform health care  
27 services on the wrong patient, a wrong-site procedure, a wrong  
28 procedure, or an unauthorized procedure or a procedure that is  
29 medically unnecessary or otherwise unrelated to the patient's  
30 diagnosis or medical condition. For the purposes of this  
31

1 paragraph, performing or attempting to perform health care  
2 services includes the preparation of the patient.

3 (bb) Leaving a foreign body in a patient, such as a  
4 sponge, clamp, forceps, surgical needle, or other  
5 paraphernalia commonly used in surgical, examination, or other  
6 diagnostic procedures. For the purposes of this paragraph, it  
7 shall be legally presumed that retention of a foreign body is  
8 not in the best interest of the patient and is not within the  
9 standard of care of the profession, regardless of the intent  
10 of the professional.

11 (cc) Violating any provision of this chapter, the  
12 applicable practice act, or any rules adopted pursuant  
13 thereto.

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

22 (c) Restriction of practice or license, including, but  
23 not limited to, restricting the licensee from practicing in  
24 certain settings, restricting the licensee to work only under  
25 designated conditions or in certain settings, restricting the  
26 licensee from performing or providing designated clinical and  
27 administrative services, restricting the licensee from  
28 practicing more than a designated number of hours, or any  
29 other restriction found to be necessary for the protection of  
30 the public health, safety, and welfare.

31

1 (d) Imposition of an administrative fine not to exceed  
2 \$10,000 for each count or separate offense. If the violation  
3 is for fraud or making a false or fraudulent representation,  
4 the board, or the department if there is no board, must impose  
5 a fine of \$10,000 per count or offense.

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

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

9 (j) Requirement that the practitioner undergo remedial  
10 education.

11  
12 In determining what action is appropriate, the board, or  
13 department when there is no board, must first consider what  
14 sanctions are necessary to protect the public or to compensate  
15 the patient. Only after those sanctions have been imposed may  
16 the disciplining authority consider and include in the order  
17 requirements designed to rehabilitate the practitioner. All  
18 costs associated with compliance with orders issued under this  
19 subsection are the obligation of the practitioner.

20 (4) In addition to any other discipline imposed  
21 through final order, or citation, entered on or after July 1,  
22 2001, pursuant to this section or discipline imposed through  
23 final order, or citation, entered on or after July 1, 2001,  
24 for a violation of any practice act, the board, or the  
25 department when there is no board, shall ~~may~~ assess costs  
26 related to the investigation and prosecution of the case. In  
27 any case where the board or the department imposes a fine or  
28 assessment and the fine or assessment is not paid within a  
29 reasonable time, such reasonable time to be prescribed in the  
30 rules of the board, or the department when there is no board,  
31 or in the order assessing such fines or costs, the department



1 or the Department of Legal Affairs may contract for the  
2 collection of, or bring a civil action to recover, the fine or  
3 assessment.

4 Section 74. Paragraphs (a) and (c) of subsection (9)  
5 of section 456.073, Florida Statutes, are amended, and,  
6 effective upon this act becoming a law, subsection (13) is  
7 added to said section, to read:

8 456.073 Disciplinary proceedings.--Disciplinary  
9 proceedings for each board shall be within the jurisdiction of  
10 the department.

11 (9)(a) The department shall periodically notify the  
12 person who filed the complaint, as well as the patient or the  
13 patient's legal representative, of the status of the  
14 investigation, indicating whether probable cause has been  
15 found and the status of any civil action or administrative  
16 proceeding or appeal.

17 (c) In any disciplinary case for which probable cause  
18 is not found, the department shall so inform the person who  
19 filed the complaint and notify that person that he or she may,  
20 within 60 days, provide any additional information to the  
21 department ~~probable cause panel~~ which may be relevant to the  
22 decision. To facilitate the provision of additional  
23 information, the person who filed the complaint may receive,  
24 upon request, a copy of the department's expert report that  
25 supported the recommendation for closure, if such a report was  
26 relied upon by the department. In no way does this require the  
27 department to procure an expert opinion or report if none was  
28 used. Additionally, the identity of the expert shall remain  
29 confidential.In any administrative proceeding under s.  
30 120.57, the person who filed the disciplinary complaint shall  
31 have the right to present oral or written communication

1 relating to the alleged disciplinary violations or to the  
2 appropriate penalty.

3 (13) Notwithstanding any provision of law to the  
4 contrary, an administrative complaint against a licensee shall  
5 be filed within 6 years after the time of the incident or  
6 occurrence giving rise to the complaint against the licensee.  
7 If such incident or occurrence involved criminal actions,  
8 diversion of controlled substances, sexual misconduct, or  
9 impairment by the licensee, this subsection does not apply to  
10 bar initiation of an investigation or filing of an  
11 administrative complaint beyond the 6-year timeframe. In those  
12 cases covered by this subsection in which it can be shown that  
13 fraud, concealment, or intentional misrepresentation of fact  
14 prevented the discovery of the violation of law, the period of  
15 limitations is extended forward, but in no event to exceed 12  
16 years after the time of the incident or occurrence.

17 Section 75. Subsection (1) of section 456.074, Florida  
18 Statutes, is amended to read:

19 456.074 Certain health care practitioners; immediate  
20 suspension of license.--

21 (1) The department shall issue an emergency order  
22 suspending the license of any person licensed under chapter  
23 458, chapter 459, chapter 460, chapter 461, chapter 462,  
24 chapter 463, chapter 464, chapter 465, chapter 466, or chapter  
25 484 who pleads guilty to, is convicted or found guilty of, or  
26 who enters a plea of nolo contendere to, regardless of  
27 adjudication, a felony under chapter 409, chapter 817, or  
28 chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C.  
29 ss. 1395-1396.

30 Section 76. Subsections (2) and (6) of section  
31 456.077, Florida Statutes, are amended to read:

1           456.077 Authority to issue citations.--

2           (2) The board, or the department if there is no board,  
3 shall adopt rules designating violations for which a citation  
4 may be issued. Such rules shall designate as citation  
5 violations those violations for which there is no substantial  
6 threat to the public health, safety, and welfare. Violations  
7 for which a citation may be issued shall include violations of  
8 continuing education requirements, failure to timely pay  
9 required fees and fines, failure to comply with the  
10 requirements of ss. 381.026 and 381.0261 regarding the  
11 dissemination of information regarding patient rights, failure  
12 to comply with advertising requirements, failure to timely  
13 update practitioner profile and credentialing files, failure  
14 to display signs, licenses, and permits, failure to have  
15 required reference books available, and all other violations  
16 that do not pose a direct and serious threat to the health and  
17 safety of the patient.

18           (6) A board ~~created on or after January 1, 1992,~~ has 6  
19 months in which to enact rules designating violations and  
20 penalties appropriate for citation offenses. Failure to enact  
21 such rules gives the department exclusive authority to adopt  
22 rules as required for implementing this section. A board has  
23 continuous authority to amend its rules adopted pursuant to  
24 this section.

25           Section 77. Section 456.081, Florida Statutes, is  
26 amended to read:

27           456.081 Publication of information.--The department  
28 and the boards shall have the authority to advise licensees  
29 periodically, through the publication of a newsletter, about  
30 information that the department or the board determines is of  
31 interest to the industry. The department and the boards shall

1 maintain a website which contains copies of the newsletter;  
 2 information relating to adverse incident reports without  
 3 identifying the patient, practitioner, or facility in which  
 4 the adverse incident occurred until 10 days after probable  
 5 cause is found, at which time the name of the practitioner and  
 6 facility shall become public as part of the investigative  
 7 file; information about error prevention and safety  
 8 strategies; and information concerning best practices.Unless  
 9 otherwise prohibited by law, the department and the boards  
 10 shall publish on the website a summary of final orders entered  
 11 after July 1, 2001, resulting in disciplinary action ~~finer,~~  
 12 ~~suspensions, or revocations,~~ and any other information the  
 13 department or the board determines is of interest to the  
 14 public. In order to provide useful and timely information at  
 15 minimal cost, the department and boards may consult with, and  
 16 include information provided by, professional associations and  
 17 national organizations.

18 Section 78. Subsection (2) of section 458.315, Florida  
 19 Statutes, is amended to read:

20 458.315 Temporary certificate for practice in areas of  
 21 critical need.--Any physician who is licensed to practice in  
 22 any other state, whose license is currently valid, and who  
 23 pays an application fee of \$300 may be issued a temporary  
 24 certificate to practice in communities of Florida where there  
 25 is a critical need for physicians. A certificate may be  
 26 issued to a physician who will be employed by a county health  
 27 department, correctional facility, community health center  
 28 funded by s. 329, s. 330, or s. 340 of the United States  
 29 Public Health Services Act, or other entity that provides  
 30 health care to indigents and that is approved by the State  
 31

1 Health Officer. The Board of Medicine may issue this  
2 temporary certificate with the following restrictions:

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

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

15 Section 79. Section 458.3147, Florida Statutes, is  
16 created to read:

17 458.3147 Medical school eligibility of military  
18 academy students or graduates.--Any Florida resident who is a  
19 student at or a graduate of any of the United States military  
20 academies who qualifies for assignment to the Medical Corps of  
21 the United States military shall be admitted to any medical  
22 school in the State University System.

23 Section 80. Subsection (9) of section 458.331, Florida  
24 Statutes, is amended to read:

25 458.331 Grounds for disciplinary action; action by the  
26 board and department.--

27 (9) When an investigation of a physician is  
28 undertaken, the department shall promptly furnish to the  
29 physician or the physician's attorney a copy of the complaint  
30 or document which resulted in the initiation of the  
31 investigation. For purposes of this subsection, such

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

21 Section 81. Subsection (9) of section 459.015, Florida  
 22 Statutes, is amended to read:

23 459.015 Grounds for disciplinary action; action by the  
 24 board and department.--

25 (9) When an investigation of an osteopathic physician  
 26 is undertaken, the department shall promptly furnish to the  
 27 osteopathic physician or his or her attorney a copy of the  
 28 complaint or document which resulted in the initiation of the  
 29 investigation. For purposes of this subsection, such documents  
 30 include, but are not limited to: the pertinent portions of an  
 31 annual report submitted to the department pursuant to s.

1 395.0197(6); a report of an adverse incident which is provided  
 2 to the department pursuant to s. 395.0197(8); a report of peer  
 3 review disciplinary action submitted to the department  
 4 pursuant to s. 395.0193(4) or s. 459.016, provided that the  
 5 investigations, proceedings, and records relating to such peer  
 6 review disciplinary action shall continue to retain their  
 7 privileged status even as to the licensee who is the subject  
 8 of the investigation, as provided by ss. 395.0193(8) and  
 9 459.016(3); a report of a closed claim submitted pursuant to  
 10 s. 627.912; a /result notice submitted pursuant to s.  
 11 766.106(2); and a petition brought under the Florida  
 12 Birth-Related Neurological Injury Compensation Plan, pursuant  
 13 to s. 766.305(2). The osteopathic physician may submit a  
 14 written response to the information contained in the complaint  
 15 or document which resulted in the initiation of the  
 16 investigation within 45 days after service to the osteopathic  
 17 physician of the complaint or document. The osteopathic  
 18 physician's written response shall be considered by the  
 19 probable cause panel.

20 Section 82. Effective January 1, 2002, subsection (4)  
 21 of section 641.51, Florida Statutes, is amended to read:

22 641.51 Quality assurance program; second medical  
 23 opinion requirement.--

24 (4) The organization shall ensure that only a  
 25 physician with an active, unencumbered license ~~licensed~~ under  
 26 chapter 458 or chapter 459, ~~or an allopathic or osteopathic~~  
 27 ~~physician with an active, unencumbered license in another~~  
 28 ~~state with similar licensing requirements~~ may render an  
 29 adverse determination regarding a service provided by a  
 30 physician licensed in this state. The organization shall  
 31 submit to the treating provider and the subscriber written

1 notification regarding the organization's adverse  
2 determination within 2 working days after the subscriber or  
3 provider is notified of the adverse determination. The written  
4 notification must include the utilization review criteria or  
5 benefits provisions used in the adverse determination,  
6 identify the physician who rendered the adverse determination,  
7 and be signed by an authorized representative of the  
8 organization or the physician who rendered the adverse  
9 determination. The organization must include with the  
10 notification of an adverse determination information  
11 concerning the appeal process for adverse determinations. This  
12 provision does not create authority for the Board of Medicine  
13 or Board of Osteopathic Medicine to regulate the organization;  
14 however, the Board of Medicine and the Board of Osteopathic  
15 Medicine continue to have jurisdiction over licensees of their  
16 respective boards.

17 Section 83. Subsection (5) of section 465.019, Florida  
18 Statutes, is amended to read:

19 465.019 Institutional pharmacies; permits.--

20 (5) All institutional pharmacies shall be under the  
21 professional supervision of a consultant pharmacist, and the  
22 compounding and dispensing of medicinal drugs shall be done  
23 only by a licensed pharmacist. Every institutional pharmacy  
24 that employs or otherwise utilizes pharmacy technicians shall  
25 have a written policy and procedures manual specifying those  
26 duties, tasks, and functions which a pharmacy technician is  
27 allowed to perform.

28 Section 84. Section 465.0196, Florida Statutes, is  
29 amended to read:

30 465.0196 Special pharmacy permits.--Any person  
31 desiring a permit to operate a pharmacy which does not fall



1 within the definitions set forth in s. 465.003(11)(a)1., 2.,  
 2 and 3. shall apply to the department for a special pharmacy  
 3 permit. If the board certifies that the application complies  
 4 with the applicable laws and rules of the board governing the  
 5 practice of the profession of pharmacy, the department shall  
 6 issue the permit. No permit shall be issued unless a licensed  
 7 pharmacist is designated to undertake the professional  
 8 supervision of the compounding and dispensing of all drugs  
 9 dispensed by the pharmacy. The licensed pharmacist shall be  
 10 responsible for maintaining all drug records and for providing  
 11 for the security of the area in the facility in which the  
 12 compounding, storing, and dispensing of medicinal drugs  
 13 occurs. The permittee shall notify the department within 10  
 14 days of any change of the licensed pharmacist responsible for  
 15 such duties. Every permittee that employs or otherwise  
 16 utilizes pharmacy technicians shall have a written policy and  
 17 procedures manual specifying those duties, tasks, and  
 18 functions which a pharmacy technician is allowed to perform.

19 Section 85. Effective upon this act becoming a law and  
 20 operating retroactively to July 1, 2000, section 22 of Chapter  
 21 2000-256, Laws of Florida, is amended to read:

22 Section 22. The amendments to ss. 395.701 and  
 23 395.7015, Florida Statutes, by this act shall take effect July  
 24 1, 2000 ~~only upon the Agency for Health Care Administration~~  
 25 ~~receiving written confirmation from the federal Health Care~~  
 26 ~~Financing Administration that the changes contained in such~~  
 27 ~~amendments will not adversely affect the use of the remaining~~  
 28 ~~assessments as state match for the state's Medicaid program.~~

29 Section 86. The Department of Health and the Agency  
 30 for Health Care Administration shall conduct a review of all  
 31 statutorily imposed reporting requirements for health care

1 practitioners and health facilities. The department and the  
2 agency shall report back to the Legislature on or before  
3 November 1, 2001, with recommendations and suggested statutory  
4 changes to streamline reporting requirements to avoid  
5 duplicative, overlapping, and unnecessary reports or data  
6 elements.

7 Section 87. Paragraph (r) is added to subsection (1)  
8 of section 468.1755, Florida Statutes, and, for the purpose of  
9 incorporating the amendment to section 456.072(1), Florida  
10 Statutes, in a reference thereto, paragraph (a) of subsection  
11 (1) of said section is reenacted, to read:

12 468.1755 Disciplinary proceedings.--

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

15 (a) Violation of any provision of s. 456.072(1) or s.  
16 468.1745(1).

17 (r) Failing to implement an ongoing quality assurance  
18 program directed by an interdisciplinary team that meets at  
19 least every other month.

20 (2) When the board finds any nursing home  
21 administrator guilty of any of the grounds set forth in  
22 subsection (1), it may enter an order imposing one or more of  
23 the following penalties:

24 (a) Denial of an application for licensure.

25 (b) Revocation or suspension of a license.

26 (c) Imposition of an administrative fine not to exceed  
27 \$1,000 for each count or separate offense.

28 (d) Issuance of a reprimand.

29 (e) Placement of the licensee on probation for a  
30 period of time and subject to such conditions as the board may  
31 specify, including requiring the licensee to attend continuing

1 education courses or to work under the supervision of another  
2 licensee.

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

4 Section 88. For the purpose of incorporating the  
5 amendment to section 468.1755(1), Florida Statutes, in  
6 reference thereto, subsection (3) of section 468.1695, Florida  
7 Statutes, and section 468.1735, Florida Statutes, are  
8 reenacted to read:

9 468.1695 Licensure by examination.--

10 (3) The department shall issue a license to practice  
11 nursing home administration to any applicant who successfully  
12 completes the examination in accordance with this section and  
13 otherwise meets the requirements of this part. The department  
14 shall not issue a license to any applicant who is under  
15 investigation in this state or another jurisdiction for an  
16 offense which would constitute a violation of s. 468.1745 or  
17 s. 468.1755. Upon completion of the investigation, the  
18 provisions of s. 468.1755 shall apply.

19 468.1735 Provisional license.--The board may establish  
20 by rule requirements for issuance of a provisional license. A  
21 provisional license shall be issued only to fill a position of  
22 nursing home administrator that unexpectedly becomes vacant  
23 due to illness, sudden death of the administrator, or  
24 abandonment of position and shall be issued for one single  
25 period as provided by rule not to exceed 6 months. The  
26 department shall not issue a provisional license to any  
27 applicant who is under investigation in this state or another  
28 jurisdiction for an offense which would constitute a violation  
29 of s. 468.1745 or s. 468.1755. Upon completion of the  
30 investigation, the provisions of s. 468.1755 shall apply. The  
31 provisional license may be issued to a person who does not

1 meet all of the licensing requirements established by this  
2 part, but the board shall by rule establish minimal  
3 requirements to ensure protection of the public health,  
4 safety, and welfare. The provisional license shall be issued  
5 to the person who is designated as the responsible person next  
6 in command in the event of the administrator's departure. The  
7 board may set an application fee not to exceed \$500 for a  
8 provisional license.

9 Section 89. For the purpose of incorporating the  
10 amendment to section 456.072(1), Florida Statutes, in a  
11 reference thereto, paragraph (a) of subsection (1) of section  
12 484.056, Florida Statutes, is reenacted to read:

13 484.056 Disciplinary proceedings.--

14 (1) The following acts relating to the practice of  
15 dispensing hearing aids shall be grounds for both disciplinary  
16 action against a hearing aid specialist as set forth in this  
17 section and cease and desist or other related action by the  
18 department as set forth in s. 456.065 against any person  
19 owning or operating a hearing aid establishment who engages  
20 in, aids, or abets any such violation:

21 (a) Violation of any provision of s. 456.072(1), s.  
22 484.0512, or s. 484.053.

23 Section 90. Paragraph (a) of subsection (1), paragraph  
24 (a) of subsection (7), and subsection (8) of section 766.101,  
25 Florida Statutes, are amended to read:

26 766.101 Medical review committee, immunity from  
27 liability.--

28 (1) As used in this section:

29 (a) The term "medical review committee" or "committee"  
30 means:

31

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

4           b. A committee of a physician-hospital organization, a  
5 provider-sponsored organization, or an integrated delivery  
6 system,

7           c. A committee of a state or local professional  
8 society of health care providers,

9           d. A committee of a medical staff of a licensed  
10 hospital or nursing home, provided the medical staff operates  
11 pursuant to written bylaws that have been approved by the  
12 governing board of the hospital or nursing home,

13           e. A committee of the Department of Corrections or the  
14 Correctional Medical Authority as created under s. 945.602, or  
15 employees, agents, or consultants of either the department or  
16 the authority or both,

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

23           g. A committee of a mental health treatment facility  
24 licensed under chapter 394 or a community mental health center  
25 as defined in s. 394.907, provided the quality assurance  
26 program operates pursuant to the guidelines which have been  
27 approved by the governing board of the agency,

28           h. A committee of a substance abuse treatment and  
29 education prevention program licensed under chapter 397  
30 provided the quality assurance program operates pursuant to  
31

1 the guidelines which have been approved by the governing board  
2 of the agency,

3 i. A peer review or utilization review committee  
4 organized under chapter 440, ~~or~~

5 j. A committee of the Department of Health, a county  
6 health department, healthy start coalition, or certified rural  
7 health network, when reviewing quality of care, or employees  
8 of these entities when reviewing mortality records, or

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

11  
12 which committee is formed to evaluate and improve the quality  
13 of health care rendered by providers of health service or to  
14 determine that health services rendered were professionally  
15 indicated or were performed in compliance with the applicable  
16 standard of care or that the cost of health care rendered was  
17 considered reasonable by the providers of professional health  
18 services in the area; or

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

22 (7)(a) It is the intent of the Legislature to  
23 encourage medical review committees to contribute further to  
24 the quality of health care in this state by reviewing  
25 complaints against physicians in the manner described in this  
26 paragraph. Accordingly, the Department of Health ~~Business and~~  
27 ~~Professional Regulation~~ may enter into a letter of agreement  
28 with a professional society of physicians licensed under  
29 chapter 458 or chapter 459, under which agreement the medical  
30 or peer review committees of the professional society will  
31 conduct a review of any complaint or case referred to the

1 society by the department which involves a question as to  
 2 whether a physician's actions represented a breach of the  
 3 prevailing professional standard of care. The prevailing  
 4 professional standard of care is that level of care, skill,  
 5 and treatment which, in light of all relevant surrounding  
 6 circumstances, is recognized as acceptable and appropriate by  
 7 reasonably prudent similar health care providers. The letter  
 8 of agreement must specify that the professional society will  
 9 submit an advisory report to the department within a  
 10 reasonable time following the department's written and  
 11 appropriately supported request to the professional society.  
 12 The advisory report, which is not binding upon the department,  
 13 constitutes the professional opinion of the medical review  
 14 committee and must include:

- 15 1. A statement of relevant factual findings.
- 16 2. The judgment of the committee as to whether the
- 17 physician's actions represented a breach of the prevailing
- 18 professional standard of care.

19 (8) No cause of action of any nature by a person  
 20 licensed pursuant to chapter 458, chapter 459, chapter 461,  
 21 chapter 463, part I of chapter 464, chapter 465, or chapter  
 22 466 shall arise against another person licensed pursuant to  
 23 chapter 458, chapter 459, chapter 461, chapter 463, part I of  
 24 chapter 464, chapter 465, or chapter 466 for furnishing  
 25 information to a duly appointed medical review committee, to  
 26 an internal risk management program established under s.  
 27 395.0197, to the Department of Health or the Agency for Health  
 28 Care Administration ~~Business and Professional Regulation~~, or  
 29 to the appropriate regulatory board if the information  
 30 furnished concerns patient care at a facility licensed  
 31 pursuant to part I of chapter 395 where both persons provide

1 health care services, if the information is not intentionally  
2 fraudulent, and if the information is within the scope of the  
3 functions of the committee, department, or board. However, if  
4 such information is otherwise available from original sources,  
5 it is not immune from discovery or use in a civil action  
6 merely because it was presented during a proceeding of the  
7 committee, department, or board.

8 Section 91. For the purpose of incorporating the  
9 amendment to section 766.101(1)(a), Florida Statutes, in  
10 references thereto, paragraph (a) of subsection (1) of section  
11 440.105, Florida Statutes, and subsection (6) of section  
12 626.989, Florida Statutes, are reenacted to read:

13 440.105 Prohibited activities; reports; penalties;  
14 limitations.--

15 (1)(a) Any insurance carrier, any individual  
16 self-insured, any commercial or group self-insurance fund, any  
17 professional practitioner licensed or regulated by the  
18 Department of Business and Professional Regulation, except as  
19 otherwise provided by law, any medical review committee as  
20 defined in s. 766.101, any private medical review committee,  
21 and any insurer, agent, or other person licensed under the  
22 insurance code, or any employee thereof, having knowledge or  
23 who believes that a fraudulent act or any other act or  
24 practice which, upon conviction, constitutes a felony or  
25 misdemeanor under this chapter is being or has been committed  
26 shall send to the Division of Insurance Fraud, Bureau of  
27 Workers' Compensation Fraud, a report or information pertinent  
28 to such knowledge or belief and such additional information  
29 relative thereto as the bureau may require. The bureau shall  
30 review such information or reports and select such information  
31 or reports as, in its judgment, may require further



1 investigation. It shall then cause an independent examination  
2 of the facts surrounding such information or report to be made  
3 to determine the extent, if any, to which a fraudulent act or  
4 any other act or practice which, upon conviction, constitutes  
5 a felony or a misdemeanor under this chapter is being  
6 committed. The bureau shall report any alleged violations of  
7 law which its investigations disclose to the appropriate  
8 licensing agency and state attorney or other prosecuting  
9 agency having jurisdiction with respect to any such violations  
10 of this chapter. If prosecution by the state attorney or other  
11 prosecuting agency having jurisdiction with respect to such  
12 violation is not begun within 60 days of the bureau's report,  
13 the state attorney or other prosecuting agency having  
14 jurisdiction with respect to such violation shall inform the  
15 bureau of the reasons for the lack of prosecution.

16           626.989 Investigation by department or Division of  
17 Insurance Fraud; compliance; immunity; confidential  
18 information; reports to division; division investigator's  
19 power of arrest.--

20           (6) Any person, other than an insurer, agent, or other  
21 person licensed under the code, or an employee thereof, having  
22 knowledge or who believes that a fraudulent insurance act or  
23 any other act or practice which, upon conviction, constitutes  
24 a felony or a misdemeanor under the code, or under s. 817.234,  
25 is being or has been committed may send to the Division of  
26 Insurance Fraud a report or information pertinent to such  
27 knowledge or belief and such additional information relative  
28 thereto as the department may request. Any professional  
29 practitioner licensed or regulated by the Department of  
30 Business and Professional Regulation, except as otherwise  
31 provided by law, any medical review committee as defined in s.

1 766.101, any private medical review committee, and any  
 2 insurer, agent, or other person licensed under the code, or an  
 3 employee thereof, having knowledge or who believes that a  
 4 fraudulent insurance act or any other act or practice which,  
 5 upon conviction, constitutes a felony or a misdemeanor under  
 6 the code, or under s. 817.234, is being or has been committed  
 7 shall send to the Division of Insurance Fraud a report or  
 8 information pertinent to such knowledge or belief and such  
 9 additional information relative thereto as the department may  
 10 require. The Division of Insurance Fraud shall review such  
 11 information or reports and select such information or reports  
 12 as, in its judgment, may require further investigation. It  
 13 shall then cause an independent examination of the facts  
 14 surrounding such information or report to be made to determine  
 15 the extent, if any, to which a fraudulent insurance act or any  
 16 other act or practice which, upon conviction, constitutes a  
 17 felony or a misdemeanor under the code, or under s. 817.234,  
 18 is being committed. The Division of Insurance Fraud shall  
 19 report any alleged violations of law which its investigations  
 20 disclose to the appropriate licensing agency and state  
 21 attorney or other prosecuting agency having jurisdiction with  
 22 respect to any such violation, as provided in s. 624.310. If  
 23 prosecution by the state attorney or other prosecuting agency  
 24 having jurisdiction with respect to such violation is not  
 25 begun within 60 days of the division's report, the state  
 26 attorney or other prosecuting agency having jurisdiction with  
 27 respect to such violation shall inform the division of the  
 28 reasons for the lack of prosecution.

29 Section 92. Paragraph (c) of subsection (4) of section  
 30 766.1115, Florida Statutes, is amended to read:

31

1           766.1115 Health care providers; creation of agency  
2 relationship with governmental contractors.--

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

16           (c) Adverse incidents and information on treatment  
17 outcomes must be reported by any health care provider to the  
18 governmental contractor if such incidents and information  
19 pertain to a patient treated pursuant to the contract. The  
20 health care provider shall submit the reports required by s.  
21 395.0197 ~~annually submit an adverse incident report that~~  
22 ~~includes all information required by s. 395.0197(6)(a), unless~~  
23 ~~the adverse incident involves a result described by s.~~  
24 ~~395.0197(8), in which case it shall be reported within 15 days~~  
25 ~~after the occurrence of such incident.~~ If an incident involves  
26 a professional licensed by the Department of Health or a  
27 facility licensed by the Agency for Health Care  
28 Administration, the governmental contractor shall submit such  
29 incident reports to the appropriate department or agency,  
30 which shall review each incident and determine whether it  
31 involves conduct by the licensee that is subject to

1 disciplinary action. All patient medical records and any  
2 identifying information contained in adverse incident reports  
3 and treatment outcomes which are obtained by governmental  
4 entities pursuant to this paragraph are confidential and  
5 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
6 I of the State Constitution.

7 Section 93. Section 456.047, Florida Statutes, is  
8 amended to read:

9 456.047 Standardized credentialing for health care  
10 practitioners.--

11 (1) INTENT.--The Legislature recognizes that an  
12 efficient and effective health care practitioner credentialing  
13 program helps to ensure access to quality health care and also  
14 recognizes that health care practitioner credentialing  
15 activities have increased significantly as a result of health  
16 care reform and recent changes in health care delivery and  
17 reimbursement systems. Moreover, the resulting duplication of  
18 health care practitioner credentialing activities is  
19 unnecessarily costly and cumbersome for both the practitioner  
20 and the entity granting practice privileges. Therefore, it is  
21 the intent of this section that a credentials collection  
22 program be established which provides that, once a health care  
23 practitioner's core credentials data are collected, they need  
24 not be collected again, except for corrections, updates, and  
25 modifications thereto. Furthermore, it is the intent of the  
26 Legislature that the department and all entities and  
27 practitioners work cooperatively to ensure the integrity and  
28 accuracy of the program. Participation under this section  
29 shall include those individuals licensed under chapter 458,  
30 chapter 459, chapter 460, chapter 461, or s. 464.012. However,  
31 the department shall, with the approval of the applicable

1 board, include other professions under the jurisdiction of the  
2 Division of Medical Quality Assurance in this program,  
3 provided they meet the requirements of s. 456.039 or s.  
4 456.0391.

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

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

15 (b) "Core credentials data" means data that is primary  
16 source verified and includes the following data: ~~current name,~~  
17 ~~any former name, and any alias, any~~ professional education,  
18 professional training, licensure, current Drug Enforcement  
19 Administration certification, ~~social security number,~~  
20 specialty board certification, Educational Commission for  
21 Foreign Medical Graduates certification, and hospital or other  
22 institutional affiliations, evidence of professional liability  
23 coverage or evidence of financial responsibility as required  
24 by s. 458.320, s. 459.0085, or s. 456.048, history of claims,  
25 suits, judgments, or settlements, final disciplinary action  
26 reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8.  
27 The department may by rule designate additional core  
28 credentials data elements, and Medicare or Medicaid sanctions.

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

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

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

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

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

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

19 (h) "Health care entity" means:

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

23 2. Any entity licensed by the Department of Insurance  
24 as a prepaid health care plan or health maintenance  
25 organization or as an insurer to provide coverage for health  
26 care services through a network of providers or similar  
27 organization licensed under chapter 627, chapter 636, chapter  
28 641, or chapter 651; or

29 3. Any accredited medical school in this state.

30 (i) "Health care practitioner" means any person  
31 licensed, or, for credentialing purposes only, any person

1 applying for licensure, under chapter 458, chapter 459,  
2 chapter 460, chapter 461, or s. 464.012 or any person licensed  
3 or applying for licensure under a chapter subsequently made  
4 subject to this section by the department with the approval of  
5 the applicable board, except a person registered or applying  
6 for registration pursuant to s. 458.345 or s. 459.021.

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

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

24 (k) "Primary source verification" means verification  
25 of professional qualifications based on evidence obtained  
26 directly from the issuing source of the applicable  
27 qualification or from any other source deemed as a primary  
28 source for such verification by the department or an  
29 accrediting body approved by the department.

1 (1) "Professional training" means any internship,  
2 residency, or fellowship relating to the profession for which  
3 the health care practitioner is licensed or seeking licensure.

4 (m) "Specialty board certification" means  
5 certification in a specialty issued by a specialty board  
6 recognized by the board in this state that regulates the  
7 profession for which the health care practitioner is licensed  
8 or seeking licensure.

9 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

10 (a) Every health care practitioner shall:

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

15 2. Notify the department within 45 days of any  
16 corrections, updates, or modifications to the core credentials  
17 data either through his or her designated credentials  
18 verification organization or by submitting the data directly.  
19 Corrections, updates, and modifications to the core  
20 credentials data provided the department under this section  
21 shall comply with the updating requirements of s. 456.039(3)  
22 or s. 456.0391(3) related to profiling.

23 (b) The department shall:

24 1. Maintain a complete, current file of applicable  
25 core credentials data on each health care practitioner, which  
26 shall include data provided in accordance with subparagraph  
27 (a)1. and all updates provided in accordance with subparagraph  
28 (a)2.

29 2. Release the core credentials data that is otherwise  
30 confidential or exempt from the provisions of chapter 119 and  
31 s. 24(a), Art. I of the State Constitution and any



1 corrections, updates, and modifications thereto, if authorized  
2 by the health care practitioner.

3           3. Charge a fee to access the core credentials data,  
4 which may not exceed the actual cost, including prorated setup  
5 and operating costs, pursuant to the requirements of chapter  
6 119.

7           4. Develop standardized forms to be used by the health  
8 care practitioner or designated credentials verification  
9 organization for the initial reporting of core credentials  
10 data, for the health care practitioner to authorize the  
11 release of core credentials data, and for the subsequent  
12 reporting of corrections, updates, and modifications thereto.

13           (c) A registered credentials verification organization  
14 may be designated by a health care practitioner to assist the  
15 health care practitioner to comply with the requirements of  
16 subparagraph (a)2. A designated credentials verification  
17 organization shall:

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

20           2. Not provide the health care practitioner's core  
21 credentials data, including all corrections, updates, and  
22 modifications, without the authorization of the practitioner.

23           (d) This section shall not be construed to restrict in  
24 any way the authority of the health care entity to credential  
25 and to approve or deny an application for hospital staff  
26 membership, clinical privileges, or managed care network  
27 participation.

28           (4) DUPLICATION OF DATA PROHIBITED.--

29           (a) A health care entity or credentials verification  
30 organization is prohibited from collecting or attempting to  
31 collect duplicate core credentials data from any health care

1 practitioner if the information is available from the  
 2 department. This section shall not be construed to restrict  
 3 the right of any health care entity or credentials  
 4 verification organization to collect additional information  
 5 from the health care practitioner which is not included in the  
 6 core credentials data file. This section shall not be  
 7 construed to prohibit a health care entity or credentials  
 8 verification organization from obtaining all necessary  
 9 attestation and release form signatures and dates.

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

20 (5) STANDARDS AND REGISTRATION.--Any credentials  
 21 verification organization that does business in this state  
 22 must be fully accredited or certified as a credentials  
 23 verification organization by a national accrediting  
 24 organization as specified in paragraph (2)(a) and must  
 25 register with the department. The department may charge a  
 26 reasonable registration fee, not to exceed an amount  
 27 sufficient to cover its actual expenses in providing and  
 28 enforcing such registration. The department shall establish by  
 29 rule for biennial renewal of such registration. Failure by a  
 30 registered credentials verification organization to maintain  
 31 full accreditation or certification, to provide data as

1 authorized by the health care practitioner, to report to the  
2 department changes, updates, and modifications to a health  
3 care practitioner's records within the time period specified  
4 in subparagraph (3)(a)2., or to comply with the prohibition  
5 against collection of duplicate core credentials data from a  
6 practitioner may result in denial of an application for  
7 renewal of registration or in revocation or suspension of a  
8 registration.

9 (6) PRIMARY SOURCE VERIFIED DATA.--Health care  
10 entities and credentials verification organizations may rely  
11 upon any data that has been primary source verified by the  
12 department or its designee to meet primary source verification  
13 requirements of national accrediting organizations.

14 (7)(6) LIABILITY.--No civil, criminal, or  
15 administrative action may be instituted, and there shall be no  
16 liability, against any registered credentials verification  
17 organization or health care entity on account of its reliance  
18 on any data obtained directly from the department.

19 (8)(7) LIABILITY INSURANCE REQUIREMENTS.--Each  
20 credentials verification organization doing business in this  
21 state shall maintain liability insurance appropriate to meet  
22 the certification or accreditation requirements established in  
23 this section.

24 (9)(8) RULES.--The department shall adopt rules  
25 necessary to develop and implement the standardized core  
26 credentials data collection program established by this  
27 section.

28 Section 94. Section 232.61, Florida Statutes, is  
29 amended to read:

30 232.61 Governing organization for athletics; adoption  
31 of bylaws.--

1           (1) The organization shall adopt bylaws that, unless  
 2 specifically provided by statute, establish eligibility  
 3 requirements for all students who participate in high school  
 4 athletic competition in its member schools. The bylaws  
 5 governing residence and transfer shall allow the student to be  
 6 eligible in the school in which he or she first enrolls each  
 7 school year, or makes himself or herself a candidate for an  
 8 athletic team by engaging in a practice prior to enrolling in  
 9 any member school. The student shall be eligible in that  
 10 school so long as he or she remains enrolled in that school.  
 11 Subsequent eligibility shall be determined and enforced  
 12 through the organization's bylaws.

13           (2) The organization shall ~~also~~ adopt bylaws that  
 14 specifically prohibit the recruiting of students for athletic  
 15 purposes. The bylaws shall prescribe penalties and an appeals  
 16 process for athletic recruiting violations.

17           (3) The organization shall adopt bylaws that require  
 18 all students participating in interscholastic athletic  
 19 competition or who are candidates for an interscholastic  
 20 athletic team to satisfactorily pass a medical evaluation each  
 21 year prior to participating in interscholastic athletic  
 22 competition or engaging in any practice, tryout, workout, or  
 23 other physical activity associated with the student's  
 24 candidacy for an interscholastic athletic team. Such medical  
 25 evaluation can only be administered by a practitioner licensed  
 26 under the provisions of chapter 458, chapter 459, chapter 460,  
 27 or s. 464.012, and in good standing with the practitioner's  
 28 regulatory board. The bylaws shall establish requirements for  
 29 eliciting a student's medical history and performing the  
 30 medical evaluation required under this subsection, which shall  
 31 include minimum standards for the physical capabilities

1 necessary for participation in interscholastic athletic  
2 competition as contained in a uniform preparticipation  
3 physical evaluation form. The evaluation form shall provide  
4 place for the signature of the practitioner performing the  
5 evaluation with an attestation that each examination procedure  
6 listed on the form was performed by the practitioner or by  
7 someone under the direct supervision of the practitioner. The  
8 form shall also contain a place for the practitioner to  
9 indicate if a referral to another practitioner was made in  
10 lieu of completion of a certain examination procedure. The  
11 form shall provide a place for the practitioner to whom the  
12 student was referred to complete the remaining sections and  
13 attest to that portion of the examination. Practitioners  
14 administering medical evaluations pursuant to this section  
15 must know the minimum standards established by the  
16 organization and certify that the student meets the standards.  
17 If the practitioner determines that there are any abnormal  
18 findings in the cardiovascular system, the student may not  
19 participate unless a subsequent EKG or other cardiovascular  
20 assessment indicates that the abnormality will not place the  
21 student at risk during such participation. Results of such  
22 medical evaluation must be provided to the school. No student  
23 shall be eligible to participate in any interscholastic  
24 athletic competition or engage in any practice, tryout,  
25 workout, or other physical activity associated with the  
26 student's candidacy for an interscholastic athletic team until  
27 the results of the medical evaluation verifying that the  
28 student has satisfactorily passed the evaluation have been  
29 received and approved by the school.

30 (4) Notwithstanding the provisions of subsection (3),  
31 a student may participate in interscholastic athletic

1 competition or be a candidate for an interscholastic athletic  
2 team if the parent or guardian of the student objects in  
3 writing to the student undergoing a medical evaluation because  
4 such evaluation is contrary to his or her religious tenets or  
5 practices, provided that no person or entity shall be held  
6 liable for any injury or other damages suffered by such  
7 student.

8 Section 95. Section 240.4075, Florida Statutes, is  
9 amended to read:

10 240.4075 Nursing Student Loan Forgiveness Program.--

11 (1) To encourage qualified personnel to seek  
12 employment in areas of this state in which critical nursing  
13 shortages exist, there is established the Nursing Student Loan  
14 Forgiveness Program. The primary function of the program is  
15 to increase employment and retention of registered nurses and  
16 licensed practical nurses in nursing homes and hospitals in  
17 the state and in state-operated medical and health care  
18 facilities, public schools, birth centers, and federally  
19 sponsored community health centers ~~and teaching hospitals~~ by  
20 making repayments toward loans received by students from  
21 federal or state programs or commercial lending institutions  
22 for the support of postsecondary study in accredited or  
23 approved nursing programs.

24 (2) To be eligible, a candidate must have graduated  
25 from an accredited or approved nursing program and have  
26 received a Florida license as a licensed practical nurse or a  
27 registered nurse or a Florida certificate as an advanced  
28 registered nurse practitioner.

29 (3) Only loans to pay the costs of tuition, books, and  
30 living expenses shall be covered, at an amount not to exceed  
31 \$4,000 for each year of education towards the degree obtained.

1           (4) Receipt of funds pursuant to this program shall be  
2 contingent upon continued proof of employment in the  
3 designated facilities in this state. Loan principal payments  
4 shall be made by the Department of Health ~~Education~~ directly  
5 to the federal or state programs or commercial lending  
6 institutions holding the loan as follows:

7           (a) Twenty-five percent of the loan principal and  
8 accrued interest shall be retired after the first year of  
9 nursing;

10           (b) Fifty percent of the loan principal and accrued  
11 interest shall be retired after the second year of nursing;

12           (c) Seventy-five percent of the loan principal and  
13 accrued interest shall be retired after the third year of  
14 nursing; and

15           (d) The remaining loan principal and accrued interest  
16 shall be retired after the fourth year of nursing.

17  
18 In no case may payment for any nurse exceed \$4,000 in any  
19 12-month period.

20           (5) There is created the Nursing Student Loan  
21 Forgiveness Trust Fund to be administered by the Department of  
22 Health ~~Education~~ pursuant to this section and s. 240.4076 and  
23 department rules. The Comptroller shall authorize  
24 expenditures from the trust fund upon receipt of vouchers  
25 approved by the Department of Health ~~Education~~. All moneys  
26 collected from the private health care industry and other  
27 private sources for the purposes of this section shall be  
28 deposited into the Nursing Student Loan Forgiveness Trust  
29 Fund. Any balance in the trust fund at the end of any fiscal  
30 year shall remain therein and shall be available for carrying  
31 out the purposes of this section and s. 240.4076.

1           (6) In addition to licensing fees imposed under part I  
 2 of chapter 464, there is hereby levied and imposed an  
 3 additional fee of \$5, which fee shall be paid upon licensure  
 4 or renewal of nursing licensure. Revenues collected from the  
 5 fee imposed in this subsection shall be deposited in the  
 6 Nursing Student Loan Forgiveness Trust Fund of the Department  
 7 of ~~Health Education~~ and will be used solely for the purpose of  
 8 carrying out the provisions of this section and s. 240.4076.  
 9 Up to 50 percent of the revenues appropriated to implement  
 10 this subsection may be used for the nursing scholarship  
 11 program established pursuant to s. 240.4076.

12           (7)(a) Funds contained in the Nursing Student Loan  
 13 Forgiveness Trust Fund which are to be used for loan  
 14 forgiveness for those nurses employed by hospitals, birth  
 15 centers, and nursing homes must be matched on a  
 16 dollar-for-dollar basis by contributions from the employing  
 17 institutions, except that this provision shall not apply to  
 18 state-operated medical and health care facilities, public  
 19 schools, county health departments, federally sponsored  
 20 community health centers, or teaching hospitals as defined in  
 21 s. 408.07, family practice teaching hospitals as defined in s.  
 22 395.805, or specialty hospitals for children as used in s.  
 23 409.9119. If in any given fiscal quarter there are  
 24 insufficient funds in the trust fund to grant all eligible  
 25 applicant requests, awards shall be based on the following  
 26 priority of employer: county health departments; federally  
 27 sponsored community health centers; state-operated medical and  
 28 health care facilities; public schools; teaching hospitals as  
 29 defined in s. 408.07; family practice teaching hospitals as  
 30 defined in s. 395.805; specialty hospitals for children as  
 31



1 used in s. 409.9119; and other hospitals, birth centers, and  
2 nursing homes.

3 (b) All Nursing Student Loan Forgiveness Trust Fund  
4 moneys shall be invested pursuant to s. 18.125. Interest  
5 income accruing to that portion of the trust fund not matched  
6 shall increase the total funds available for loan forgiveness  
7 and scholarships. Pledged contributions shall not be eligible  
8 for matching prior to the actual collection of the total  
9 private contribution for the year.

10 (8) The Department of Health ~~Education~~ may solicit  
11 technical assistance relating to the conduct of this program  
12 from the Department of Education ~~Health~~.

13 (9) The Department of Health ~~Education~~ is authorized  
14 to recover from the Nursing Student Loan Forgiveness Trust  
15 Fund its costs for administering the Nursing Student Loan  
16 Forgiveness Program.

17 (10) The Department of Health ~~Education~~ may adopt  
18 rules necessary to administer this program.

19 (11) This section shall be implemented only as  
20 specifically funded.

21 Section 96. Section 240.4076, Florida Statutes, is  
22 amended to read:

23 240.4076 Nursing scholarship program.--

24 (1) There is established within the Department of  
25 Health ~~Education~~ a scholarship program for the purpose of  
26 attracting capable and promising students to the nursing  
27 profession.

28 (2) A scholarship applicant shall be enrolled as a  
29 full-time or part-time student in the upper division of an  
30 approved nursing program leading to the award of a  
31 baccalaureate degree or graduate degree to qualify for a

1 nursing faculty position or as an ~~or any~~ advanced registered  
2 nurse practitioner ~~degree~~ or be enrolled as a full-time or  
3 part-time student in an approved program leading to the award  
4 of an associate degree in nursing ~~or a diploma in nursing~~.

5 (3) A scholarship may be awarded for no more than 2  
6 years, in an amount not to exceed \$8,000 per year. However,  
7 registered nurses pursuing a graduate degree for a faculty  
8 position or to practice as an advanced registered nurse  
9 practitioner ~~degree~~ may receive up to \$12,000 per year.

10 Beginning July 1, 1998, these amounts shall be adjusted by the  
11 amount of increase or decrease in the consumer price index for  
12 urban consumers published by the United States Department of  
13 Commerce.

14 (4) Credit for repayment of a scholarship shall be as  
15 follows:

16 (a) For each full year of scholarship assistance, the  
17 recipient agrees to work for 12 months in a faculty position  
18 in a college of nursing or community college nursing program  
19 in this state or at a health care facility in a medically  
20 underserved area as approved by the Department of Health  
21 ~~Education~~. Scholarship recipients who attend school on a  
22 part-time basis shall have their employment service obligation  
23 prorated in proportion to the amount of scholarship payments  
24 received.

25 (b) Eligible health care facilities include nursing  
26 homes and hospitals in this state, state-operated medical or  
27 health care facilities, public schools, county health  
28 departments, federally sponsored community health centers,  
29 colleges of nursing in universities in this state, and  
30 community college nursing programs in this state ~~or teaching~~  
31 ~~hospitals as defined in s. 408.07~~. The recipient shall be

1 encouraged to complete the service obligation at a single  
 2 employment site. If continuous employment at the same site is  
 3 not feasible, the recipient may apply to the department for a  
 4 transfer to another approved health care facility.

5 (c) Any recipient who does not complete an appropriate  
 6 program of studies or who does not become licensed shall repay  
 7 to the Department of Health Education, on a schedule to be  
 8 determined by the department, the entire amount of the  
 9 scholarship plus 18 percent interest accruing from the date of  
 10 the scholarship payment. Moneys repaid shall be deposited into  
 11 the Nursing Student Loan Forgiveness Trust Fund established in  
 12 s. 240.4075. However, the department may provide additional  
 13 time for repayment if the department finds that circumstances  
 14 beyond the control of the recipient caused or contributed to  
 15 the default.

16 (d) Any recipient who does not accept employment as a  
 17 nurse at an approved health care facility or who does not  
 18 complete 12 months of approved employment for each year of  
 19 scholarship assistance received shall repay to the Department  
 20 of Health Education an amount equal to two times the entire  
 21 amount of the scholarship plus interest accruing from the date  
 22 of the scholarship payment at the maximum allowable interest  
 23 rate permitted by law. Repayment shall be made within 1 year  
 24 of notice that the recipient is considered to be in default.  
 25 However, the department may provide additional time for  
 26 repayment if the department finds that circumstances beyond  
 27 the control of the recipient caused or contributed to the  
 28 default.

29 (5) Scholarship payments shall be transmitted to the  
 30 recipient upon receipt of documentation that the recipient is  
 31 enrolled in an approved nursing program. The Department of

1 Health Education shall develop a formula to prorate payments  
2 to scholarship recipients so as not to exceed the maximum  
3 amount per academic year.

4 (6) The Department of Health Education shall adopt  
5 rules, including rules to address extraordinary circumstances  
6 that may cause a recipient to default on either the school  
7 enrollment or employment contractual agreement, to implement  
8 this section and may solicit technical assistance relating to  
9 the conduct of this program from the Department of Health.

10 (7) The Department of Health Education is authorized  
11 to recover from the Nursing Student Loan Forgiveness Trust  
12 Fund its costs for administering the nursing scholarship  
13 program.

14 Section 97. All powers, duties, and functions, rules,  
15 records, personnel, property, and unexpended balances of  
16 appropriations, allocations, or other funds of the Department  
17 of Education relating to the Nursing Student Loan Forgiveness  
18 Program and the nursing scholarship program are transferred by  
19 a type two transfer, as defined in s. 20.06(2), Florida  
20 Statutes, to the Department of Health.

21 Section 98. Effective July 1, 2003, section 464.005,  
22 Florida Statutes, is amended to read:

23 464.005 Board headquarters.--The board shall maintain  
24 its official headquarters in Tallahassee ~~the city in which it~~  
25 ~~has been domiciled for the past 5 years.~~

26 Section 99. Subsections (1) and (2) of section  
27 464.008, Florida Statutes, are amended to read:

28 464.008 Licensure by examination.--

29 (1) Any person desiring to be licensed as a registered  
30 nurse or licensed practical nurse shall apply to the

31

1 department to take the licensure examination. The department  
2 shall examine each applicant who:

3 (a) Has completed the application form and remitted a  
4 fee set by the board not to exceed \$150 and has remitted an  
5 examination fee set by the board not to exceed \$75 plus the  
6 actual per applicant cost to the department for purchase of  
7 the examination from the National Council of State Boards of  
8 Nursing or a similar national organization.

9 (b) Has provided sufficient information on or after  
10 October 1, 1989, which must be submitted by the department for  
11 a statewide criminal records correspondence check through the  
12 Department of Law Enforcement.

13 (c) Is in good mental and physical health, is a  
14 recipient of a high school diploma or the equivalent, and has  
15 completed the requirements for graduation from an approved  
16 program, or its equivalent as determined by the board, for the  
17 preparation of registered nurses or licensed practical nurses,  
18 whichever is applicable. Courses successfully completed in a  
19 professional nursing program which are at least equivalent to  
20 a practical nursing program may be used to satisfy the  
21 education requirements for licensure as a licensed practical  
22 nurse.

23 (d) Has the ability to communicate in the English  
24 language, which may be determined by an examination given by  
25 the department.

26 (2) Each applicant who passes the examination and  
27 provides proof of meeting the educational requirements  
28 specified in subsection (1)~~graduation from an approved~~  
29 ~~nursing program~~ shall, unless denied pursuant to s. 464.018,  
30 be entitled to licensure as a registered professional nurse or  
31 a licensed practical nurse, whichever is applicable.

1 Section 100. Section 464.009, Florida Statutes, is  
2 amended to read:

3 464.009 Licensure by endorsement.--

4 (1) The department shall issue the appropriate license  
5 by endorsement to practice professional or practical nursing  
6 to an applicant who, upon applying to the department and  
7 remitting a fee set by the board not to exceed \$100,  
8 demonstrates to the board that he or she:

9 (a) Holds a valid license to practice professional or  
10 practical nursing in another state of the United States,  
11 provided that, when the applicant secured his or her original  
12 license, the requirements for licensure were substantially  
13 equivalent to or more stringent than those existing in Florida  
14 at that time; or

15 (b) Meets the qualifications for licensure in s.  
16 464.008 and has successfully completed a state, regional, or  
17 national examination which is substantially equivalent to or  
18 more stringent than the examination given by the department.

19 (2) Such examinations and requirements from other  
20 states shall be presumed to be substantially equivalent to or  
21 more stringent than those in this state. Such presumption  
22 shall not arise until January 1, 1980. However, the board may,  
23 by rule, specify states the examinations and requirements of  
24 which shall not be presumed to be substantially equivalent to  
25 those of this state.

26 (3) The applicant must submit to the department a set  
27 of fingerprints on a form and under procedures specified by  
28 the department, along with a payment in an amount equal to the  
29 costs incurred by the Department of Health for the criminal  
30 background check of the applicant. The Department of Health  
31 shall submit the fingerprints provided by the applicant to the

1 Florida Department of Law Enforcement for a statewide criminal  
2 history check, and the Florida Department of Law Enforcement  
3 shall forward the fingerprints to the Federal Bureau of  
4 Investigation for a national criminal history check of the  
5 applicant. The Department of Health shall review the results  
6 of the criminal history check, issue a license to an applicant  
7 who has met all of the other requirements for licensure and  
8 has no criminal history, and shall refer all applicants with  
9 criminal histories back to the board for determination as to  
10 whether a license should be issued and under what conditions.

11 (4)(3) The department shall not issue a license by  
12 endorsement to any applicant who is under investigation in  
13 another state for an act which would constitute a violation of  
14 this part or chapter 456 until such time as the investigation  
15 is complete, at which time the provisions of s. 464.018 shall  
16 apply.

17 (5) The department shall develop an electronic  
18 applicant notification process and provide electronic  
19 notification when the application has been received and when  
20 background screenings have been completed, and shall issue a  
21 license within 30 days after completion of all required data  
22 collection and verification. This 30-day period to issue a  
23 license shall be tolled if the applicant must appear before  
24 the board due to information provided on the application or  
25 obtained through screening and data collection and  
26 verification procedures.

27 Section 101. Section 464.0195, Florida Statutes, is  
28 created to read:

29 464.0195 Florida Center for Nursing; goals.--There is  
30 established the Florida Center for Nursing to address issues  
31 of supply and demand for nursing, including issues of

1 recruitment, retention, and utilization of nurse workforce  
2 resources. The Legislature finds that the center will repay  
3 the state's investment by providing an ongoing strategy for  
4 the allocation of the state's resources directed towards  
5 nursing. The primary goals for the center shall be to:

6 (1) Develop a strategic statewide plan for nursing  
7 manpower in this state by:

8 (a) Establishing and maintaining a database on nursing  
9 supply and demand in the state, to include current supply and  
10 demand, and future projections; and

11 (b) Selecting from the plan priorities to be  
12 addressed.

13 (2) Convene various groups representative of nurses,  
14 other health care providers, business and industry, consumers,  
15 legislators, and educators to:

16 (a) Review and comment on data analysis prepared for  
17 the center;

18 (b) Recommend systemic changes, including strategies  
19 for implementation of recommended changes; and

20 (c) Evaluate and report the results of these efforts  
21 to the Legislature and others.

22 (3) Enhance and promote recognition, reward, and  
23 renewal activities for nurses in the state by:

24 (a) Promoting nursing excellence programs such as  
25 magnet recognition by the American Nurses Credentialing  
26 Center;

27 (b) Proposing and creating additional reward,  
28 recognition, and renewal activities for nurses; and

29 (c) Promoting media and positive image-building  
30 efforts for nursing.

31



1           Section 102. Section 464.0196, Florida Statutes, is  
2 created to read:

3           464.0196 Florida Center for Nursing; board of  
4 directors.--

5           (1) The Florida Center for Nursing shall be governed  
6 by a policy-setting board of directors. The board shall  
7 consist of 16 members, with a simple majority of the board  
8 being nurses representative of various practice areas. Other  
9 members shall include representatives of other health care  
10 professions, business and industry, health care providers, and  
11 consumers. The members of the board shall be appointed by the  
12 Governor as follows:

13           (a) Four members recommended by the President of the  
14 Senate, at least one of whom shall be a registered nurse  
15 recommended by the Florida Organization of Nurse Executives  
16 and at least one other representative of the hospital industry  
17 recommended by the Florida Hospital Association;

18           (b) Four members recommended by the Speaker of the  
19 House of Representatives, at least one of whom shall be a  
20 registered nurse recommended by the Florida Nurses Association  
21 and at least one other representative of the long-term care  
22 industry;

23           (c) Four members recommended by the Governor, two of  
24 whom shall be registered nurses; and

25           (d) Four nurse educators recommended by the State  
26 Board of Education, one of whom shall be a dean of a College  
27 of Nursing at a state university, one other shall be a  
28 director of a nursing program in a state community college.

29           (2) The initial terms of the members shall be as  
30 follows:

31

1           (a) Of the members appointed pursuant to paragraph  
2 (1)(a), two shall be appointed for terms expiring June 30,  
3 2005, one for a term expiring June 30, 2004, and one for a  
4 term expiring June 30, 2003.

5           (b) Of the members appointed pursuant to paragraph  
6 (1)(b), one shall be appointed for a term expiring June 30,  
7 2005, two for terms expiring June 30, 2004, and one for a term  
8 expiring June 20, 2003.

9           (c) Of the members appointed pursuant to paragraph  
10 (1)(c), one shall be appointed for a term expiring June 30,  
11 2005, one for a term expiring June 30, 2004, and two for terms  
12 expiring June 30, 2003.

13           (d) Of the members appointed pursuant to paragraph  
14 (1)(d), the terms of two members recommended by the State  
15 Board of Education shall expire June 30, 2005; the term of the  
16 member who is a dean of a College of Nursing at a state  
17 university shall expire June 30, 2004; and the term of the  
18 member who is a director of a state community college nursing  
19 program shall expire June 30, 2003.

20  
21 After the initial appointments expire, the terms of all the  
22 members shall be for 3 years, with no member serving more than  
23 two consecutive terms.

24           (3) The board shall have the following powers and  
25 duties:

26           (a) To employ an executive director.

27           (b) To determine operational policy.

28           (c) To elect a chair and officers, to serve 2-year  
29 terms. The chair and officers may not succeed themselves.

30           (d) To establish committees of the board as needed.

31

1           (e) To appoint a multidisciplinary advisory council  
2 for input and advice on policy matters.

3           (f) To implement the major functions of the center as  
4 established in the goals set out in s. 464.0195.

5           (g) To seek and accept nonstate funds for sustaining  
6 the center and carrying out center policy.

7           (4) The members of the board are entitled to receive  
8 per diem and allowances prescribed by law for state boards and  
9 commissions.

10           Section 103. Section 464.0197, Florida Statutes, is  
11 created to read:

12           464.0197 Florida Center for Nursing; state budget  
13 support.--The Legislature finds that it is imperative that the  
14 state protect its investment and progress made in nursing  
15 efforts to date. The Legislature finds that the Florida Center  
16 for Nursing is the appropriate means to do so. The center  
17 shall have state budget support for its operations so that it  
18 may have adequate resources for the tasks the Legislature has  
19 set out in s. 464.0195.

20           Section 104. The Board of Nursing within the  
21 Department of Health shall hold in abeyance until July 1,  
22 2002, the development of any rule pursuant to s. 464.019(2),  
23 Florida Statutes, which relates to the establishment of  
24 faculty/student clinical ratios. The Board of Nursing and the  
25 Department of Education shall submit to the President of the  
26 Senate and the Speaker of the House of Representatives by  
27 December 31, 2001, an implementation plan that details both  
28 the impact and the cost of any such proposed rule change.

29           Section 105. Subsection (1) of section 464.0205,  
30 Florida Statutes, is amended to read:

31           464.0205 Retired volunteer nurse certificate.--

1 (1) Any retired practical or registered nurse desiring  
2 to serve indigent, underserved, or critical need populations  
3 in this state may apply to the department for a retired  
4 volunteer nurse certificate by providing:

5 (a) A complete application.

6 ~~(b) An application and processing fee of \$25.~~

7 (b)(c) Verification that the applicant had been  
8 licensed to practice nursing in any jurisdiction in the United  
9 States for at least 10 years, had retired or plans to retire,  
10 intends to practice nursing only pursuant to the limitations  
11 provided by the retired volunteer nurse certificate, and has  
12 not committed any act that would constitute a violation under  
13 s. 464.018(1).

14 (c)(d) Proof that the applicant meets the requirements  
15 for licensure under s. 464.008 or s. 464.009.

16 Section 106. The Florida Legislature's Office of  
17 Program Policy Analysis and Government Accountability shall  
18 study the feasibility of maintaining the entire Medical  
19 Quality Assurance function, including enforcement, within one  
20 department, as recommended by the Auditor General in  
21 Operational Report Number 01-063. The study shall be completed  
22 and a report issued to the Legislature on or before November  
23 30, 2001.

24 Section 107. Effective October 1, 2001, section  
25 456.0375, Florida Statutes, is created to read:

26 456.0375 Registration of certain clinics;  
27 requirements; discipline; exemptions.--

28 (1)(a) As used in this section, the term "clinic"  
29 means a business operating in a single structure or facility  
30 or group of adjacent structures or facilities operating under  
31 the same business name or management at which health care

1 services are provided to individuals and which tenders charges  
2 for reimbursement for such services.

3 (b) For purposes of this section, the term "clinic"  
4 does not include and the registration requirements in this  
5 section do not apply to:

6 1. Entities licensed or registered by the state  
7 pursuant to chapter 390, chapter 394, chapter 395, chapter  
8 397, chapter 400, chapter 463, chapter 465, chapter 466,  
9 chapter 478, chapter 480, or chapter 484.

10 2. Entities exempt from federal taxation under 26  
11 U.S.C. s. 501(c)(3).

12 3. Sole proprietorships, group practices,  
13 partnerships, or corporations which provide health care  
14 services by licensed health care practitioners pursuant to  
15 chapter 457, chapter 458, chapter 459, chapter 460, chapter  
16 461, chapter 462, chapter 463, chapter 466, chapter 467,  
17 chapter 484, chapter 486, chapter 490, or chapter 491; part I,  
18 part III, part X, part XIII, or part XIV of chapter 468; or s.  
19 464.012, which are wholly owned by licensed health care  
20 practitioners or wholly owned by licensed health care  
21 practitioners and the spouse, parent, or child of a licensed  
22 health care practitioner, so long as one of the owners who is  
23 a licensed health care practitioner is supervising the  
24 services performed therein and is legally responsible for the  
25 entity's compliance with all federal and state laws. However,  
26 no health care practitioner may supervise services beyond the  
27 scope of the practitioner's license.

28 (2)(a) Every clinic, as defined in paragraph (1)(a),  
29 must register, and at all times maintain a valid registration,  
30 with the department. Each clinic location must be registered  
31 separately even though operated under the same business name

1 or management, and each clinic must appoint a medical director  
2 or clinic director.

3 (b) The department shall adopt rules necessary to  
4 administer the registration program, including rules  
5 establishing the specific registration procedures, forms, and  
6 fees. Registration may be conducted electronically.

7 Registration fees must be calculated to reasonably cover the  
8 cost of registration and must be of such amount that the total  
9 fees collected do not exceed the cost of administering and  
10 enforcing compliance with this section. The registration  
11 program must require:

12 1. The clinic to file the registration form with the  
13 department within 60 days after the effective date of this  
14 section or prior to the inception of operation. The  
15 registration expires automatically 2 years after its date of  
16 issuance and must be renewed biennially thereafter.

17 2. The registration form to contain the name,  
18 residence, and business address, phone number, and license  
19 number of the medical director or clinic director for the  
20 clinic.

21 3. The clinic to display the registration certificate  
22 in a conspicuous location within the clinic which is readily  
23 visible to all patients.

24 (3)(a) Each clinic must employ or contract with a  
25 physician maintaining a full and unencumbered physician  
26 license in accordance with chapter 458, chapter 459, chapter  
27 460, or chapter 461 to serve as the medical director. However,  
28 if the clinic is limited to providing health care services  
29 pursuant to chapter 457, chapter 484, chapter 486, chapter  
30 490, or chapter 491 or part I, part III, part X, part XIII, or  
31 part XIV of chapter 468, the clinic may appoint a health care

1 practitioner licensed under that chapter to serve as the  
2 clinic director who is responsible for the clinic's  
3 activities. A health care practitioner may not serve as the  
4 clinic director if the services provided at the clinic are  
5 beyond the scope of that practitioner's license.

6 (b) The medical director or clinic director must agree  
7 in writing to accept responsibility for the following  
8 activities on behalf of the clinic. The medical director or  
9 the clinic director shall:

10 1. Have signs identifying the medical director or  
11 clinic director posted in a conspicuous location within the  
12 clinic which is readily visible to all patients.

13 2. Ensure that all practitioners providing health care  
14 services or supplies to patients maintain a current, active,  
15 and unencumbered Florida license.

16 3. Review any patient-referral contracts or agreements  
17 executed by the clinic.

18 4. Ensure that all health care practitioners at the  
19 clinic have active appropriate certification or licensure for  
20 the level of care being provided.

21 5. Serve as the clinic records owner as defined in s.  
22 456.057.

23 6. Ensure compliance with the recordkeeping, office  
24 surgery, and adverse incident reporting requirements of  
25 chapter 456, the respective practice acts, and the rules  
26 adopted thereunder.

27 7. Conduct systematic reviews of clinic billings to  
28 ensure that the billings are not fraudulent or unlawful. Upon  
29 discovery of an unlawful charge, the medical director or  
30 clinic director must take immediate corrective action.

31

1           (c) Any contract to serve as a medical director or  
2 clinic director entered into or renewed by a physician or  
3 licensed health care practitioner in violation of this section  
4 is void as contrary to public policy. This section applies to  
5 contracts entered into or renewed on or after the effective  
6 date of this section.

7           (d) The department, in consultation with the boards,  
8 shall adopt rules specifying limitations on the number of  
9 registered clinics and licensees for which a medical director  
10 or clinic director may assume responsibility for purposes of  
11 this section. In determining the quality of supervision a  
12 medical director or clinic director can provide, the  
13 department shall consider the number of clinic employees, the  
14 clinic location, and the services provided by the clinic.

15           (4)(a) All charges or reimbursement claims made by or  
16 on behalf of a clinic that is required to be registered under  
17 this section but that is not so registered are unlawful  
18 charges and therefore are noncompensable and unenforceable.

19           (b) Any person establishing, operating, or managing an  
20 unregistered clinic otherwise required to be registered under  
21 this section commits a felony of the third degree, punishable  
22 as provided in s. 775.082, s. 775.083, or s. 775.084.

23           (c) Any licensed health care practitioner who violates  
24 this section is subject to discipline in accordance with this  
25 chapter and the respective practice act.

26           (d) The department shall revoke the registration of  
27 any clinic registered under this section for operating in  
28 violation of the requirements of this section or the rules  
29 adopted pursuant to this section.

30  
31



1           (e) The department shall investigate allegations of  
2 noncompliance with this section and the rules adopted pursuant  
3 to this section.

4           Section 108. The sum of \$100,000 is appropriated from  
5 the registration fees collected from clinics pursuant to s.  
6 456.0375, Florida Statutes, and one-half of one full-time  
7 equivalent position is authorized, to the Department of Health  
8 for the purposes of regulating medical clinics pursuant to s.  
9 456.0375, Florida Statutes. The appropriated funds shall be  
10 deposited into the Medical Quality Assurance Trust Fund.

11           Section 109. Subsection (3) of section 456.031,  
12 Florida Statutes, is amended to read:

13           456.031 Requirement for instruction on domestic  
14 violence.--

15           (3)(a) In lieu of completing a course as required in  
16 subsection (1), a licensee or certificateholder may complete a  
17 course in end-of-life care and palliative health care, if the  
18 licensee or certificateholder has completed an approved  
19 domestic violence course in the immediately preceding  
20 biennium.

21           (b) In lieu of completing a course as required by  
22 subsection (1), a person licensed under chapter 466 who has  
23 completed an approved domestic-violence education course in  
24 the immediately preceding 2 years may complete a course  
25 approved by the Board of Dentistry.

26           Section 110. Subsection (9) of section 456.033,  
27 Florida Statutes, is amended to read:

28           456.033 Requirement for instruction for certain  
29 licensees on human immunodeficiency virus and acquired immune  
30 deficiency syndrome.--

31

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

6           **(b) In lieu of completing a course as required by**  
7 **subsection (1), a person licensed under chapter 466 who has**  
8 **completed an approved AIDS/HIV course in the immediately**  
9 **preceding 2 years may complete a course approved by the Board**  
10 **of Dentistry.**

11           Section 111. (1) Subsection (9) is added to section  
12 627.419, Florida Statutes, to read:

13           627.419 Construction of policies.--

14           **(9) With respect to any group or individual insurer**  
15 **covering dental services, each claimant, or dentist acting for**  
16 **a claimant, who has had a claim denied as not medically or**  
17 **dentally necessary or who has had a claim payment based on an**  
18 **alternate dental service in accordance with accepted dental**  
19 **standards for adequate and appropriate care must be provided**  
20 **an opportunity for an appeal to the insurer's licensed dentist**  
21 **who is responsible for the medical necessity reviews under the**  
22 **plan or is a member of the plan's peer review group. The**  
23 **appeal may be by telephone, and the insurer's dentist must**  
24 **respond within a reasonable time, not to exceed 15 business**  
25 **days.**

26           (2) This section shall apply to policies issued or  
27 renewed on or after July 1, 2001.

28           Section 112. Paragraph (d) of subsection (3) and  
29 paragraph (c) of subsection (6) of section 468.302, Florida  
30 Statutes, are amended to read:

31

1           468.302 Use of radiation; identification of certified  
2 persons; limitations; exceptions.--

3           (3) Requirement for certification does not apply to:

4           (d) A person holding a certificate as a general  
5 radiographer may not perform nuclear medicine and radiation  
6 therapy procedures, except as provided herein. A person who is  
7 a general radiographer certified pursuant to this part who  
8 receives additional training and skills in radiation therapy  
9 technology procedures as referenced herein may assist with  
10 managing patients undergoing radiation therapy treatments if  
11 that assistance is provided to a person registered with the  
12 American Registry of Radiologic Technologists in radiation  
13 therapy who is also certified pursuant to this part as a  
14 radiation therapy technologist. Both the general radiographer  
15 and the radiation therapy technologist must perform these  
16 radiation therapy services under the general supervision of a  
17 physician licensed under chapter 458 or chapter 459 who is  
18 trained and skilled in performing radiation therapy  
19 treatments. The radiation therapy technologist identified in  
20 this paragraph may not delegate any function to the general  
21 radiographer that could reasonably be expected to create an  
22 unnecessary danger to a patient's life, health or safety. The  
23 general radiographer identified under this paragraph may not,  
24 however, perform the following services while assisting the  
25 radiation therapy technologist: radiation treatment planning,  
26 calculation of radiation therapy doses, administration of  
27 radiation therapy doses, or any of the duties of a medical  
28 physicist. The general radiographer identified under this  
29 paragraph must successfully complete a training program in the  
30 following areas before assisting with radiation therapy  
31 technology duties:

- 1           1. Principles of radiation therapy treatment;  
2           2. Biological effects of radiation;  
3           3. Radiation exposure and monitoring;  
4           4. Radiation safety and protection;  
5           5. Evaluation and handling of radiographic treatment  
6 equipment and accessories;

7           6. Patient positioning for radiation therapy  
8 treatment. In addition, a ~~A~~ general radiographer may  
9 participate in additional approved programs as provided by  
10 rule of the department.

11           (6) Requirement for certification does not apply to:

12           (c) A person who is trained and skilled in invasive  
13 cardiovascular ~~cardiopulmonary~~ technology, including the  
14 radiologic technology duties associated with these procedures,  
15 and who provides invasive cardiovascular ~~cardiopulmonary~~  
16 technology services at the direction, and under the direct  
17 supervision, of a licensed practitioner who is trained and  
18 skilled in performing invasive cardiovascular procedures. Such  
19 persons must have successfully completed a didactic and  
20 clinical training program in the following areas before  
21 performing radiologic technology duties:

- 22           1. Principles of X-ray production and equipment  
23 operation.  
24           2. Biological effects of radiation.  
25           3. Radiation exposure and monitoring.  
26           4. Radiation safety and protection.  
27           5. Evaluation of radiographic equipment and  
28 accessories.  
29           6. Radiographic exposure and technique factors.  
30           7. Film processing.  
31           8. Image quality assurance.

1           9. Patient positioning.

2           10. Administration and complications of contrast  
3 media.

4           11. Specific fluoroscopic and digital X-ray imaging  
5 procedures related to invasive cardiovascular technology.

6           Section 113. Subsections (8) and (9) of section  
7 468.352, Florida Statutes, are amended to read:

8           468.352 Definitions.--As used in this part, unless the  
9 context otherwise requires, the term:

10           (8) "Registered respiratory therapist" means any  
11 person licensed pursuant to this part who is employed to  
12 deliver respiratory care services under the order of a  
13 physician licensed pursuant to chapter 458 or chapter 459, and  
14 in accordance with protocols established by a hospital, other  
15 health care provider, or the board, and who functions in  
16 situations of unsupervised patient contact requiring  
17 individual judgment.

18           (9) "Certified respiratory therapist" or "respiratory  
19 care practitioner" means any person licensed pursuant to this  
20 part who is employed to deliver respiratory care services  
21 under the order of a physician licensed pursuant to chapter  
22 458 or chapter 459, and in accordance with protocols  
23 established by a hospital, other health care provider, or the  
24 board.

25           Section 114. Subsections (1) and (2) of section  
26 468.355, Florida Statutes, are amended to read:

27           468.355 Eligibility for licensure; temporary  
28 licensure.--

29           (1) To be eligible for licensure by the board as a  
30 certified respiratory therapist ~~respiratory care practitioner,~~  
31 an applicant must:

1 (a) Be at least 18 years old.

2 (b) Possess a high school diploma or a graduate  
3 equivalency diploma.

4 (c) Meet at least one of the following criteria:

5 1. The applicant has successfully completed a training  
6 program for respiratory therapy technicians or respiratory  
7 therapists approved by the Commission on Accreditation of  
8 Allied Health Education Programs, or the equivalent thereof,  
9 as accepted by the board.

10 2. The applicant is currently a "Certified Respiratory  
11 Therapist ~~Therapy Technician~~" certified by the National Board  
12 for Respiratory Care, or the equivalent thereof, as accepted  
13 by the board.

14 3. The applicant is currently a "Registered  
15 Respiratory Therapist" registered by the National Board for  
16 Respiratory Care, or the equivalent thereof, as accepted by  
17 the board.

18  
19 The criteria set forth in subparagraphs 2. and 3.  
20 notwithstanding, the board shall periodically review the  
21 examinations and standards of the National Board for  
22 Respiratory Care and may reject those examinations and  
23 standards if they are deemed inappropriate.

24 (2) To be eligible for licensure by the board as a  
25 registered respiratory therapist, an applicant must:

26 (a) Be at least 18 years old.

27 (b) Possess a high school diploma or a graduate  
28 equivalency diploma.

29 (c) Meet at least one of the following criteria:

30 1. The applicant has successfully completed a training  
31 program for registered respiratory therapists approved by the

1 Commission on Accreditation of Allied Health Education  
2 Programs, or the equivalent thereof, as accepted by the board.

3         2. The applicant is currently a "Registered  
4 Respiratory Therapist" registered by the National Board for  
5 Respiratory Care, or the equivalent thereof, as accepted by  
6 the board.

7  
8 The criteria set forth in subparagraphs 1. and 2.  
9 notwithstanding, the board shall periodically review the  
10 examinations and standards of the National Board for  
11 Respiratory Care and may reject those examinations and  
12 standards if they are deemed inappropriate.

13         Section 115. Section 468.357, Florida Statutes, is  
14 amended to read:

15         468.357 Licensure by examination.--

16         (1) A person who desires to be licensed as a certified  
17 respiratory therapist ~~respiratory care practitioner~~ may submit  
18 an application to take the examination, in accordance with  
19 board rule.

20         (a) Each applicant may take the examination who is  
21 determined by the board to have:

22             1. Completed the application form and remitted the  
23 applicable fee set by the board;

24             2. Submitted required documentation as required in s.  
25 468.355; and

26             3. Remitted an examination fee set by the examination  
27 provider.

28         (b) Examinations for licensure of certified  
29 respiratory therapist ~~respiratory care practitioners~~ must be  
30 conducted no less than two times a year in such geographical  
31

1 locations or by such methods as are deemed advantageous to the  
2 majority of the applicants.

3 (c) The examination given for certified respiratory  
4 therapist ~~respiratory care practitioners~~ shall be the same as  
5 that given by the National Board for Respiratory Care for  
6 entry-level certification of respiratory therapists ~~therapy~~  
7 ~~technicians~~. However, an equivalent examination may be  
8 accepted by the board in lieu of that examination.

9 (2) Each applicant who passes the examination shall be  
10 entitled to licensure as a certified respiratory therapist  
11 ~~respiratory care practitioner~~, and the department shall issue  
12 a license pursuant to this part to any applicant who  
13 successfully completes the examination in accordance with this  
14 section. However, the department shall not issue a license to  
15 any applicant who is under investigation in another  
16 jurisdiction for an offense which would constitute a violation  
17 of this part. Upon completion of such an investigation, if the  
18 applicant is found guilty of such an offense, the applicable  
19 provisions of s. 468.365 will apply.

20 Section 116. Subsections (1) and (2) of section  
21 468.358, Florida Statutes, are amended to read:

22 468.358 Licensure by endorsement.--

23 (1) Licensure as a certified respiratory therapist  
24 ~~respiratory care practitioner~~ shall be granted by endorsement  
25 to an individual who holds the "Certified Respiratory  
26 Therapist ~~Therapy Technician~~" credential issued by the  
27 National Board for Respiratory Care or an equivalent  
28 credential acceptable to the board. Licensure by this  
29 mechanism requires verification by oath and submission of  
30 evidence satisfactory to the board that such credential is  
31 held.



1           (2) Licensure as a registered respiratory therapist  
2 shall be granted by endorsement to an individual who holds the  
3 "Registered Respiratory Therapist" credential issued by the  
4 National Board for Respiratory Care or an equivalent  
5 credential acceptable to the board. Licensure by this  
6 mechanism requires verification by oath and submission of  
7 evidence satisfactory to the board that such credential is  
8 held.

9           Section 117. Section 468.359, Florida Statutes, is  
10 amended to read:

11           468.359 Assumption of title and use of  
12 abbreviations.--

13           (1) Only persons who are licensed pursuant to this  
14 part as respiratory care practitioners have the right to use  
15 the title "Respiratory Care Practitioner" and the abbreviation  
16 "RCP."

17           (2) Only persons who are licensed pursuant to this  
18 part as registered respiratory therapists have the right to  
19 use the title "Registered Respiratory Therapist" and the  
20 abbreviation "RRT," when delivering services pursuant to this  
21 part ~~provided such persons have passed the Registry~~  
22 ~~Examination for Respiratory Therapists given by the National~~  
23 ~~Board for Respiratory Care.~~

24           (3) Only persons who are licensed pursuant to this  
25 part as certified respiratory therapists have the right to use  
26 the title "Certified Respiratory Therapist" and the  
27 abbreviation "CRT" when delivering services pursuant to this  
28 part. ~~graduates of board-approved programs for respiratory~~  
29 ~~care practitioners may use the term "Graduate Respiratory~~  
30 ~~Therapy Technician" and the abbreviation "GRTT."~~

31

1           ~~(4) Only persons who are graduates of board-approved~~  
2 ~~programs for respiratory therapists may use the term "Graduate~~  
3 ~~Respiratory Therapist" and the abbreviation "GRT."~~

4           (4)(5) No person in this state shall deliver  
5 respiratory care services; advertise as, or assume the title  
6 of, respiratory care practitioner, certified respiratory  
7 therapist, or registered respiratory therapist; or use the  
8 abbreviation "RCP, "CRT," or "RRT" that would lead the public  
9 to believe that such person is licensed pursuant to this part  
10 unless such person is so licensed; or take any other action  
11 that would lead the public to believe that such person is  
12 licensed pursuant to this part unless such person is so  
13 licensed.

14           Section 118. Subsections (2), (3), and (4) of section  
15 468.1155, Florida Statutes, are amended to read:

16           468.1155 Provisional license; requirements.--

17           (2) The department shall issue a provisional license  
18 to practice speech-language pathology to each applicant who  
19 the board certifies has:

20           (a) Completed the application form and remitted the  
21 required fees, including a nonrefundable application fee.

22           (b) Received a master's degree or is currently  
23 enrolled in a doctoral degree program with a major emphasis in  
24 speech-language pathology from an institution of higher  
25 learning which is, or at the time the applicant was enrolled  
26 and graduated, was, accredited by an accrediting agency  
27 recognized by the Council for Higher Education Commission on  
28 Recognition of Postsecondary Accreditation or from an  
29 institution which is ~~publicly recognized as~~ a member in good  
30 standing with the Association of Universities and Colleges of  
31 Canada. An applicant who graduated from or is currently

1 enrolled in a program at a university or college outside the  
2 United States or Canada must present documentation of the  
3 determination of equivalency to standards established by the  
4 Council for Higher Education ~~Commission on Recognition of~~  
5 ~~Postsecondary~~ Accreditation in order to qualify. The  
6 applicant must have completed 60 semester hours that include:  
7       1. Fundamental information applicable to the normal  
8 development and use of speech, hearing, and language;  
9 information about training in management of speech, hearing,  
10 and language disorders; and information supplementary to these  
11 fields.  
12       2. Six semester hours in audiology.  
13       3. Thirty of the required 60 semester hours in courses  
14 acceptable toward a graduate degree by the college or  
15 university in which these courses were taken, of which 24  
16 semester hours must be in speech-language pathology.  
17       (c) Completed 300 supervised clinical clock hours with  
18 200 clock hours in the area of speech-language pathology or  
19 completed the number of clock hours required by an accredited  
20 institution meeting national certification standards. The  
21 supervised clinical clock hours shall be completed within the  
22 training institution or one of its cooperating programs.  
23       (3) The department shall issue a provisional license  
24 to practice audiology to each applicant who the board  
25 certifies has:  
26       (a) Completed the application form and remitted the  
27 required fees, including a nonrefundable application fee.  
28       (b) Received a master's degree or is currently  
29 enrolled in a doctoral degree program with a major emphasis in  
30 audiology from an institution of higher learning which is, or  
31 at the time the applicant was enrolled and graduated was,

1 accredited by an accrediting agency recognized by the Council  
2 for Higher Education Commission on Recognition of  
3 ~~Postsecondary~~ Accreditation or from an institution which is  
4 ~~publicly recognized as~~ a member in good standing with the  
5 Association of Universities and Colleges of Canada. An  
6 applicant who graduated from or is currently enrolled in a  
7 program at a university or college outside the United States  
8 or Canada must present documentation of the determination of  
9 equivalency to standards established by the Council for Higher  
10 Education Commission on Recognition of Postsecondary  
11 Accreditation in order to qualify. The applicant must have  
12 completed 60 semester hours that include:  
13       1. Fundamental information applicable to the normal  
14 development and use of speech, hearing, and language;  
15 information about training in management of speech, hearing,  
16 and language disorders; and information supplementary to these  
17 fields.  
18       2. Six semester hours in speech-language pathology.  
19       3. Thirty of the required 60 semester hours in courses  
20 acceptable toward a graduate degree by the college or  
21 university in which these courses were taken, of which 24  
22 semester hours must be in audiology.  
23       (c) Completed 300 supervised clinical clock hours with  
24 200 clock hours in the area of audiology or completed the  
25 number of clock hours required by an accredited institution  
26 meeting national certification standards. The supervised  
27 clinical clock hours shall be completed within the training  
28 institution or one of its cooperating programs.  
29       (4) An applicant ~~for a provisional license~~ who has  
30 received a master's degree or is currently enrolled in a  
31 doctoral degree program with a major emphasis in

1 speech-language pathology as provided in subsection (2), or  
2 audiology as provided in subsection (3), and who seeks  
3 licensure in the area in which the applicant is not currently  
4 licensed, must have completed 30 semester hours in courses  
5 acceptable toward a graduate degree and 200 supervised  
6 clinical clock hours in the second discipline from an  
7 accredited institution.

8 Section 119. Paragraph (b) of subsection (1) and  
9 paragraph (b) of subsection (2) of section 468.1215, Florida  
10 Statutes, are amended to read:

11 468.1215 Speech-language pathology assistant and  
12 audiology assistant; certification.--

13 (1) The department shall issue a certificate as a  
14 speech-language pathology assistant to each applicant who the  
15 board certifies has:

16 (b) Earned a bachelor's degree from a college or  
17 university accredited by a regional association of colleges  
18 and schools recognized by the Department of Education which  
19 includes at least 24 semester hours of coursework as approved  
20 by the board at an institution accredited by an accrediting  
21 agency recognized by the Council for Higher Education  
22 ~~Commission on Recognition of Postsecondary Accreditation.~~

23 (2) The department shall issue a certificate as an  
24 audiology assistant to each applicant who the board certifies  
25 has:

26 (b) Completed at least 24 semester hours of coursework  
27 as approved by the board at an institution accredited by an  
28 accrediting agency recognized by the Council for Higher  
29 Education ~~Commission on Recognition of Postsecondary~~  
30 Accreditation.

31

1           Section 120. Subsection (3) of section 480.033,  
2 Florida Statutes, is amended to read:

3           480.033 Definitions.--As used in this act:

4           (3) "Massage" means the manipulation of the soft  
5 ~~superficial~~ tissues of the human body with the hand, foot,  
6 arm, or elbow, whether or not such manipulation is aided by  
7 hydrotherapy, including colonic irrigation, or thermal  
8 therapy; any electrical or mechanical device; or the  
9 application to the human body of a chemical or herbal  
10 preparation.

11           Section 121. Subsection (3) of section 484.002,  
12 Florida Statutes, is amended, and subsections (8) and (9) are  
13 added to that section, to read:

14           484.002 Definitions.--As used in this part:

15           (3) "Opticianry" means the preparation and dispensing  
16 of lenses, spectacles, eyeglasses, contact lenses, and other  
17 optical devices to the intended user or agent thereof, upon  
18 the written prescription of a licensed allopathic or  
19 osteopathic physician ~~medical doctor~~ or optometrist who is  
20 duly licensed to practice or upon presentation of a duplicate  
21 prescription. The selection of frame designs, the actual  
22 sales transaction, and the transfer of physical possession of  
23 lenses, spectacles, eyeglasses, contact lenses, and other  
24 optical devices subsequent to performance of all services of  
25 the optician shall not be considered the practice of  
26 opticianry; however, such physical possession shall not be  
27 transferred until the optician has completed the fitting of  
28 the optical device upon the customer. The practice of  
29 opticianry also includes the duplication of lenses accurately  
30 as to power, without prescription. A board-certified optician  
31 qualified and operating under rules established by the board

1 may fill, fit, adapt, or dispense any soft contact lens  
2 prescription. Such optician may fill, fit, adapt, or dispense  
3 any extended wear or hard contact lens prescription to the  
4 extent authorized to do so by the prescribing allopathic or  
5 osteopathic physician ~~medical doctor~~ or optometrist.

6 (8) "Contact lenses" means a prescribed medical device  
7 intended to be worn directly against the cornea of the eye to  
8 correct vision conditions, act as a therapeutic device, or  
9 provide a cosmetic effect.

10 (9) "Optical dispensing" means interpreting but not  
11 altering a prescription of a licensed physician or optometrist  
12 and designing, adapting, fitting, or replacing the prescribed  
13 optical aids, pursuant to such prescription, to or for the  
14 intended wearer, duplicating lenses, accurately as to power  
15 without a prescription and duplicating nonprescription eyewear  
16 and parts of eyewear. "Optical dispensing" does not include  
17 selecting frames, transferring an optical aid to the wearer  
18 after an optician has completed fitting it, or providing  
19 instruction in the general care and use of an optical aid,  
20 including placement, removal, hygiene, or cleaning.

21 Section 122. Subsection (2) of section 484.006,  
22 Florida Statutes, is amended to read:

23 484.006 Certain rules prohibited.--

24 (2) No rule or policy of the board shall prohibit any  
25 optician from practicing jointly with optometrists or  
26 allopathic or osteopathic physicians ~~medical doctors~~ licensed  
27 in this state.

28 Section 123. Subsections (1) and (2) of section  
29 484.012, Florida Statutes, are amended to read:

30 484.012 Prescriptions; filing; duplication of  
31 prescriptions; duplication of lenses.--

1           (1) Any prescription written by a duly licensed  
 2 allopathic or osteopathic physician ~~medical doctor~~ or  
 3 optometrist for any lenses, spectacles, eyeglasses, contact  
 4 lenses, or other optical devices shall be kept on file for a  
 5 period of 2 years with the optical establishment that fills  
 6 such prescription. However, the licensed optician may  
 7 maintain a copy of the prescription.

8           (2) Upon request by the intended user of the  
 9 prescribed lenses, spectacles, eyeglasses, contact lenses, or  
 10 other optical devices, or by an agent of the intended user,  
 11 the optician who fills the original prescription shall  
 12 duplicate, on a form prescribed by rule of the board, the  
 13 original prescription. However, for medical reasons only, the  
 14 prescribing allopathic or osteopathic physician ~~medical doctor~~  
 15 or optometrist may, upon the original prescription, prohibit  
 16 its duplication. Any duplication shall be considered a valid  
 17 prescription to be filled for a period of 5 years from the  
 18 date of the original prescription, except that a contact lens  
 19 prescription shall be considered a valid prescription to be  
 20 filled for a period of 2 years from the date of the original  
 21 prescription.

22           Section 124. Section 484.015, Florida Statutes, is  
 23 amended to read:

24           484.015 Authority to inspect.--Duly authorized agents  
 25 and employees of the department shall have the power to  
 26 inspect in a lawful manner at all reasonable hours an ~~any~~  
 27 establishment of any kind in the state in which lenses,  
 28 spectacles, eyeglasses, contact lenses, and any other optical  
 29 devices are prepared or ~~and~~ dispensed, for the purposes of:

30           (1) Determining if any provision of this part, or any  
 31 rule promulgated under its authority, is being violated;



1           (2) Securing samples or specimens of any lenses,  
2 spectacles, eyeglasses, contact lenses, or other optical  
3 devices, after paying or offering to pay for such sample or  
4 specimen; or

5           (3) Securing such other evidence as may be needed for  
6 prosecution under this part.

7           Section 125. Section 484.013, Florida Statutes, is  
8 amended to read:

9           484.013 Violations and penalties.--

10          (1) It is unlawful for any person:

11           (a) To intentionally make a false or fraudulent  
12 statement, either for herself or himself or for another  
13 person, in any application, affidavit, or statement presented  
14 to the board or in any proceeding before the board.

15           (b) To prepare or dispense lenses, spectacles,  
16 eyeglasses, contact lenses, or other optical devices when such  
17 person is not licensed as an optician in this state.

18           (c) To prepare or dispense lenses, spectacles,  
19 eyeglasses, contact lenses, or other optical devices without  
20 first being furnished with a prescription as provided for in  
21 s. 484.012.

22          (2) It is unlawful for any person other than an  
23 optician licensed under this part to use the title "optician"  
24 or otherwise lead the public to believe that she or he is  
25 engaged in the practice of opticianry.

26          (3) It is unlawful for any optician to engage in the  
27 diagnosis of the human eyes, attempt to determine the  
28 refractive powers of the human eyes, or, in any manner,  
29 attempt to prescribe for or treat diseases or ailments of  
30 human beings.

31

1 (4) It is unlawful for any person to open or operate,  
2 either alone or with any other person or persons, an optical  
3 establishment which does not have the permit required by this  
4 part.

5 (5)(a) Except as otherwise provided in paragraph (b),  
6 anyAny person who knowingly violates any a provision of this  
7 section commits a felony ~~misdemeanor~~ of the third ~~second~~  
8 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083,  
9 or s. 775.084.

10 (b) A person who knowingly violates paragraph (1)(c)  
11 commits a felony of the third degree, punishable as provided  
12 in s. 775.082, s. 775.083, or s. 775.084.

13 Section 126. Paragraph (g) of subsection (3) of  
14 section 921.0022, Florida Statutes, is amended to read:

15 921.0022 Criminal Punishment Code; offense severity  
16 ranking chart.--

17 (3) OFFENSE SEVERITY RANKING CHART

19 Florida Statute	Felony Degree	Description
		(g) LEVEL 7
23 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
25 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
27 402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

1	409.920(2)	3rd	Medicaid provider fraud.
2	456.065(2)	3rd	Practicing a health care
3			profession without a license.
4	456.065(2)	2nd	Practicing a health care
5			profession without a license
6			which results in serious bodily
7			injury.
8	458.327(1)	3rd	Practicing medicine without a
9			license.
10	459.013(1)	3rd	Practicing osteopathic medicine
11			without a license.
12	460.411(1)	3rd	Practicing chiropractic medicine
13			without a license.
14	461.012(1)	3rd	Practicing podiatric medicine
15			without a license.
16	462.17	3rd	Practicing naturopathy without a
17			license.
18	463.015(1)	3rd	Practicing optometry without a
19			license.
20	464.016(1)	3rd	Practicing nursing without a
21			license.
22	465.015(2)	3rd	Practicing pharmacy without a
23			license.
24	466.026(1)	3rd	Practicing dentistry or dental
25			hygiene without a license.
26	467.201	3rd	Practicing midwifery without a
27			license.
28	468.366	3rd	Delivering respiratory care
29			services without a license.
30	483.828(1)	3rd	Practicing as clinical laboratory
31			personnel without a license.

1	483.901(9)	3rd	Practicing medical physics
2			without a license.
3	<u>484.013(1)(c)</u>	<u>3rd</u>	<u>Preparing or dispensing optical</u>
4			<u>devices without a prescription.</u>
5	484.053	3rd	Dispensing hearing aids without a
6			license.
7	494.0018(2)	1st	Conviction of any violation of
8			ss. 494.001-494.0077 in which the
9			total money and property
10			unlawfully obtained exceeded
11			\$50,000 and there were five or
12			more victims.
13	560.123(8)(b)1.	3rd	Failure to report currency or
14			payment instruments exceeding
15			\$300 but less than \$20,000 by
16			money transmitter.
17	560.125(5)(a)	3rd	Money transmitter business by
18			unauthorized person, currency or
19			payment instruments exceeding
20			\$300 but less than \$20,000.
21	655.50(10)(b)1.	3rd	Failure to report financial
22			transactions exceeding \$300 but
23			less than \$20,000 by financial
24			institution.
25	782.051(3)	2nd	Attempted felony murder of a
26			person by a person other than the
27			perpetrator or the perpetrator of
28			an attempted felony.
29			
30			
31			

1	782.07(1)	2nd	Killing of a human being by the
2			act, procurement, or culpable
3			negligence of another
4			(manslaughter).
5	782.071	2nd	Killing of human being or viable
6			fetus by the operation of a motor
7			vehicle in a reckless manner
8			(vehicular homicide).
9	782.072	2nd	Killing of a human being by the
10			operation of a vessel in a
11			reckless manner (vessel
12			homicide).
13	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
14			causing great bodily harm or
15			disfigurement.
16	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
17			weapon.
18	784.045(1)(b)	2nd	Aggravated battery; perpetrator
19			aware victim pregnant.
20	784.048(4)	3rd	Aggravated stalking; violation of
21			injunction or court order.
22	784.07(2)(d)	1st	Aggravated battery on law
23			enforcement officer.
24	784.08(2)(a)	1st	Aggravated battery on a person 65
25			years of age or older.
26	784.081(1)	1st	Aggravated battery on specified
27			official or employee.
28	784.082(1)	1st	Aggravated battery by detained
29			person on visitor or other
30			detainee.
31			

1	784.083(1)	1st	Aggravated battery on code
2			inspector.
3	790.07(4)	1st	Specified weapons violation
4			subsequent to previous conviction
5			of s. 790.07(1) or (2).
6	790.16(1)	1st	Discharge of a machine gun under
7			specified circumstances.
8	790.166(3)	2nd	Possessing, selling, using, or
9			attempting to use a hoax weapon
10			of mass destruction.
11	796.03	2nd	Procuring any person under 16
12			years for prostitution.
13	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
14			victim less than 12 years of age;
15			offender less than 18 years.
16	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
17			victim 12 years of age or older
18			but less than 16 years; offender
19			18 years or older.
20	806.01(2)	2nd	Maliciously damage structure by
21			fire or explosive.
22	810.02(3)(a)	2nd	Burglary of occupied dwelling;
23			unarmed; no assault or battery.
24	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
25			unarmed; no assault or battery.
26	810.02(3)(d)	2nd	Burglary of occupied conveyance;
27			unarmed; no assault or battery.
28	812.014(2)(a)	1st	Property stolen, valued at
29			\$100,000 or more; property stolen
30			while causing other property
31			damage; 1st degree grand theft.

1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.131(2)(a)	2nd	Robbery by sudden snatching.
6	812.133(2)(b)	1st	Carjacking; no firearm, deadly
7			weapon, or other weapon.
8	825.102(3)(b)	2nd	Neglecting an elderly person or
9			disabled adult causing great
10			bodily harm, disability, or
11			disfigurement.
12	825.1025(2)	2nd	Lewd or lascivious battery upon
13			an elderly person or disabled
14			adult.
15	825.103(2)(b)	2nd	Exploiting an elderly person or
16			disabled adult and property is
17			valued at \$20,000 or more, but
18			less than \$100,000.
19	827.03(3)(b)	2nd	Neglect of a child causing great
20			bodily harm, disability, or
21			disfigurement.
22	827.04(3)	3rd	Impregnation of a child under 16
23			years of age by person 21 years
24			of age or older.
25	837.05(2)	3rd	Giving false information about
26			alleged capital felony to a law
27			enforcement officer.
28	872.06	2nd	Abuse of a dead human body.
29			
30			
31			

1	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4.) within 1,000 feet of a
6			child care facility or school.
7	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
8			cocaine or other drug prohibited
9			under s. 893.03(1)(a), (1)(b),
10			(1)(d), (2)(a), (2)(b), or
11			(2)(c)4., within 1,000 feet of
12			property used for religious
13			services or a specified business
14			site.
15	893.13(4)(a)	1st	Deliver to minor cocaine (or
16			other s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4. drugs).
19	893.135(1)(a)1.	1st	Trafficking in cannabis, more
20			than 50 lbs., less than 2,000
21			lbs.
22	893.135		
23	(1)(b)1.a.	1st	Trafficking in cocaine, more than
24			28 grams, less than 200 grams.
25	893.135		
26	(1)(c)1.a.	1st	Trafficking in illegal drugs,
27			more than 4 grams, less than 14
28			grams.
29			
30			
31			



1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
13			grams or more, less than 14
14			grams.
15	893.135		
16	(1)(h)1.a.	1st	Trafficking in
17			gamma-hydroxybutyric acid (GHB),
18			1 kilogram or more, less than 5
19			kilograms.
20	893.135		
21	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
22			kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
26			10 grams or more, less than 200
27			grams.
28	896.101(5)(a)	3rd	Money laundering, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
31			

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 127. 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 128. Section 484.045, Florida Statutes, is  
31 amended to read:

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  
31

1           (g) Has demonstrated, in a manner designated by rule  
2 of the board, knowledge of state laws and rules relating to  
3 the fitting and dispensing of hearing aids.

4           (3) A person who fails the examination may make  
5 application for reexamination to the appropriate examining  
6 entity, as prescribed by board rule.

7           ~~(2) On or after October 1, 1990, every applicant who~~  
8 ~~is qualified to take the examination shall be allowed to take~~  
9 ~~the examination three times. If, after October 1, 1990, an~~  
10 ~~applicant fails the examination three times, the applicant~~  
11 ~~shall no longer be eligible to take the examination.~~

12           ~~(3) The department shall issue a license to practice~~  
13 ~~dispensing hearing aids to any applicant who successfully~~  
14 ~~completes the examination in accordance with this section.~~

15           Section 129. Effective January 1, 2002, subsection (1)  
16 of section 490.012, Florida Statutes, is amended to read:

17           490.012 Violations; penalties; injunction.--

18           (1)(a) No person shall hold herself or himself out by  
19 any professional title, name, or description incorporating the  
20 word "psychologist" unless such person holds a valid, active  
21 license as a psychologist under this chapter.

22           (b) No person shall hold herself or himself out by any  
23 professional title, name, or description incorporating the  
24 words "school psychologist" unless such person holds a valid,  
25 active license as a school psychologist under this chapter or  
26 is certified as a school psychologist by the Department of  
27 Education.

28           ~~(c)(1)(a)~~ No person shall hold herself or himself out  
29 by any title or description incorporating the words, or  
30 permutations of them, ~~"psychologist," "psychology,"~~  
31 "psychological," or "psychodiagnostic," ~~or "school~~

1 ~~psychologist,~~ or describe any test or report as  
2 psychological, unless such person holds a valid, active  
3 license under this chapter or is exempt from the provisions of  
4 this chapter.

5 (d)~~(b)~~ No person shall hold herself or himself out by  
6 any title or description incorporating the word, or a  
7 permutation of the word, "psychotherapy" unless such person  
8 holds a valid, active license under chapter 458, chapter 459,  
9 chapter 490, or chapter 491, or such person is certified as an  
10 advanced registered nurse practitioner, pursuant to s.  
11 464.012, who has been determined by the Board of Nursing as a  
12 specialist in psychiatric mental health.

13 (e)~~(c)~~ No person licensed or provisionally licensed  
14 pursuant to this chapter shall hold herself or himself out by  
15 any title or description which indicates licensure other than  
16 that which has been granted to her or him.

17 Section 130. Effective January 1, 2002, section  
18 490.014, Florida Statutes, is amended to read:

19 490.014 Exemptions.--

20 (1)(a) No provision of this chapter shall be construed  
21 to limit the practice of physicians licensed pursuant to  
22 chapter 458 or chapter 459 so long as they do not hold  
23 themselves out to the public as psychologists or use a  
24 professional title protected by this chapter.

25 (b) No provision of this chapter shall be construed to  
26 limit the practice of nursing, clinical social work, marriage  
27 and family therapy, mental health counseling, or other  
28 recognized businesses or professions, or to prevent qualified  
29 members of other professions from doing work of a nature  
30 consistent with their training, so long as they do not hold  
31 themselves out to the public as psychologists or use a title

1 or description protected by this chapter. Nothing in this  
2 subsection shall be construed to exempt any person from the  
3 provisions of s. 490.012.

4 (2) No person shall be required to be licensed or  
5 provisionally licensed under this chapter who:

6 (a) Is a salaried employee of a government agency;  
7 developmental services program, mental health, alcohol, or  
8 drug abuse facility operating pursuant to chapter 393, chapter  
9 394, or chapter 397; subsidized child care program, subsidized  
10 child care case management program, or child care resource and  
11 referral program operating pursuant to chapter 402;  
12 child-placing or child-caring agency licensed pursuant to  
13 chapter 409; domestic violence center certified pursuant to  
14 chapter 39; accredited academic institution; or research  
15 institution, if such employee is performing duties for which  
16 he or she was trained and hired solely within the confines of  
17 such agency, facility, or institution, so long as the employee  
18 is not held out to the public as a psychologist pursuant to s.  
19 490.012(1)(a).

20 (b) Is a salaried employee of a private, nonprofit  
21 organization providing counseling services to children, youth,  
22 and families, if such services are provided for no charge, if  
23 such employee is performing duties for which he or she was  
24 trained and hired, so long as the employee is not held out to  
25 the public as a psychologist pursuant to s. 490.012(1)(a).

26 (c) Is a student who is pursuing a course of study  
27 which leads to a degree in medicine or a profession regulated  
28 by this chapter who is providing services in a training  
29 setting, provided such activities or services constitute part  
30 of a supervised course of study, or is a graduate accumulating  
31 the experience required for any licensure under this chapter,

1 provided such graduate or student is designated by a title  
2 such as "intern" or "trainee" which clearly indicates the  
3 in-training status of the student.

4 (d) Is certified in school psychology by the  
5 Department of Education and is performing psychological  
6 services as an employee of a public or private educational  
7 institution. Such exemption shall not be construed to  
8 authorize any unlicensed practice which is not performed as a  
9 direct employee of an educational institution.

10 (e) Is not a resident of the state but offers services  
11 in this state, provided:

12 1. Such services are performed for no more than 5 days  
13 in any month and no more than 15 days in any calendar year;  
14 and

15 2. Such nonresident is licensed or certified by a  
16 state or territory of the United States, or by a foreign  
17 country or province, the standards of which were, at the date  
18 of his or her licensure or certification, equivalent to or  
19 higher than the requirements of this chapter in the opinion of  
20 the department or, in the case of psychologists, in the  
21 opinion of the board.

22 (f) Is a rabbi, priest, minister, or member of the  
23 clergy of any religious denomination or sect when engaging in  
24 activities which are within the scope of the performance of  
25 his or her regular or specialized ministerial duties and for  
26 which no separate charge is made, or when such activities are  
27 performed, with or without charge, for or under the auspices  
28 or sponsorship, individually or in conjunction with others, of  
29 an established and legally cognizable church, denomination, or  
30 sect, and when the person rendering service remains  
31 accountable to the established authority thereof.

1           (3) No provision of this chapter shall be construed to  
2 limit the practice of any individual who solely engages in  
3 behavior analysis so long as he or she does not hold himself  
4 or herself out to the public as possessing a license issued  
5 pursuant to this chapter or use a title or description  
6 protected by this chapter.

7           (4) Nothing in this section shall exempt any person  
8 from the provisions ~~provision~~ of s. 490.012(1)(a)-(b)~~(a)-(b)~~.

9           (5) Except as stipulated by the board, the exemptions  
10 contained in this section do not apply to any person licensed  
11 under this chapter whose license has been suspended or revoked  
12 by the board or another jurisdiction.

13           Section 131. Effective January 1, 2002, paragraphs  
14 (i), (j), and (k) of subsection (1) of section 491.012,  
15 Florida Statutes, are amended to read:

16           491.012 Violations; penalty; injunction.--

17           (1) It is unlawful and a violation of this chapter for  
18 any person to:

19           (i) Practice clinical social work in this state, ~~as~~  
20 ~~the practice is defined in s. 491.003(7),~~ for compensation,  
21 unless the person holds a valid, active license to practice  
22 clinical social work issued pursuant to this chapter or is an  
23 intern registered pursuant to s. 491.0045.

24           (j) Practice marriage and family therapy in this  
25 state, ~~as the practice is defined in s. 491.003(8),~~ for  
26 compensation, unless the person holds a valid, active license  
27 to practice marriage and family therapy issued pursuant to  
28 this chapter or is an intern registered pursuant to s.  
29 491.0045.

30           (k) Practice mental health counseling in this state,  
31 ~~as the practice is defined in s. 491.003(9),~~ for compensation,



1 unless the person holds a valid, active license to practice  
2 mental health counseling issued pursuant to this chapter or is  
3 an intern registered pursuant to s. 491.0045.

4 Section 132. Effective January 1, 2002, paragraphs (a)  
5 and (b) of subsection (4) of section 491.014, Florida  
6 Statutes, are amended to read:

7 491.014 Exemptions.--

8 (4) No person shall be required to be licensed,  
9 provisionally licensed, registered, or certified under this  
10 chapter who:

11 (a) Is a salaried employee of a government agency;  
12 developmental services program, mental health, alcohol, or  
13 drug abuse facility operating pursuant to chapter 393, chapter  
14 394, or chapter 397; subsidized child care program, subsidized  
15 child care case management program, or child care resource and  
16 referral program operating pursuant to chapter 402;  
17 child-placing or child-caring agency licensed pursuant to  
18 chapter 409; domestic violence center certified pursuant to  
19 chapter 39; accredited academic institution; or research  
20 institution, if such employee is performing duties for which  
21 he or she was trained and hired solely within the confines of  
22 such agency, facility, or institution, so long as the employee  
23 is not held out to the public as a clinical social worker,  
24 mental health counselor, or marriage and family therapist.

25 (b) Is a salaried employee of a private, nonprofit  
26 organization providing counseling services to children, youth,  
27 and families, if such services are provided for no charge, if  
28 such employee is performing duties for which he or she was  
29 trained and hired, so long as the employee is not held out to  
30 the public as a clinical social worker, mental health  
31 counselor, or marriage and family therapist.

1 Section 133. Subsection (4) of section 458.319,  
2 Florida Statutes, is amended to read:

3 458.319 Renewal of license.--

4 (4) Notwithstanding the provisions of s. 456.033, a  
5 physician may complete continuing education on end-of-life  
6 care and palliative ~~health~~ care in lieu of continuing  
7 education in AIDS/HIV, if that physician has completed the  
8 AIDS/HIV continuing education in the immediately preceding  
9 biennium.

10 Section 134. Subsection (5) of section 459.008,  
11 Florida Statutes, is amended to read:

12 459.008 Renewal of licenses and certificates.--

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

19 Section 135. Subsection (4) of section 765.101,  
20 Florida Statutes, is amended to read:

21 765.101 Definitions.--As used in this chapter:

22 (4) "End-stage condition" means an irreversible ~~a~~  
23 condition that is caused by injury, disease, or illness which  
24 has resulted in progressively severe and permanent  
25 deterioration, ~~indicated by incapacity and complete physical~~  
26 ~~dependency~~ and for which, to a reasonable degree of medical  
27 probability ~~certainty~~, treatment of the ~~irreversible~~ condition  
28 would be ~~medically~~ ineffective.

29 Section 136. Subsection (4) of section 765.102,  
30 Florida Statutes, is amended to read:

31 765.102 Legislative findings and intent.--

1           (4) The Legislature recognizes the need for all health  
2 care professionals to rapidly increase their understanding of  
3 end-of-life and palliative ~~health~~ care. Therefore, the  
4 Legislature encourages the professional regulatory boards to  
5 adopt appropriate standards and guidelines regarding  
6 end-of-life care and pain management and encourages  
7 educational institutions established to train health care  
8 professionals and allied health professionals to implement  
9 curricula to train such professionals to provide end-of-life  
10 care, including pain management and palliative care.

11           Section 137. Section 765.1025, Florida Statutes, is  
12 created to read:

13           765.1025 Palliative care.--For purposes of this  
14 chapter:

15           (1) Palliative care is the comprehensive management of  
16 the physical, psychological, social, spiritual, and  
17 existential needs of patients. Palliative care is especially  
18 suited to the care of persons who have incurable, progressive  
19 illness.

20           (2) Palliative care must include:

21           (a) An opportunity to discuss and plan for end-of-life  
22 care.

23           (b) Assurance that physical and mental suffering will  
24 be carefully attended to.

25           (c) Assurance that preferences for withholding and  
26 withdrawing life-sustaining interventions will be honored.

27           (d) Assurance that the personal goals of the dying  
28 person will be addressed.

29           (e) Assurance that the dignity of the dying person  
30 will be a priority.

31

1       (f) Assurance that health care providers will not  
2 abandon the dying person.

3       (g) Assurance that the burden to family and others  
4 will be addressed.

5       (h) Assurance that advance directives for care will be  
6 respected regardless of the location of care.

7       (i) Assurance that organizational mechanisms are in  
8 place to evaluate the availability and quality of end-of-life,  
9 palliative, and hospice care services, including the  
10 evaluation of administrative and regulatory barriers.

11       (j) Assurance that necessary health care services will  
12 be provided and that relevant reimbursement policies are  
13 available.

14       (k) Assurance that the goals expressed in paragraphs  
15 (a)-(j) will be accomplished in a culturally appropriate  
16 manner.

17       Section 138. Subsection (2) of section 765.1103,  
18 Florida Statutes, is amended to read:

19       765.1103 Pain management and palliative care.--

20       (2) Health care providers and practitioners regulated  
21 under chapter 458, chapter 459, or chapter 464 must, as  
22 appropriate, comply with a request for pain management or  
23 palliative care from a patient under their care or, for an  
24 incapacitated patient under their care, from a surrogate,  
25 proxy, guardian, or other representative permitted to make  
26 health care decisions for the incapacitated patient.

27 Facilities regulated under chapter 400 or chapter 395 must  
28 comply with the pain management or palliative care measures  
29 ordered by the patient's physician.~~When the patient is~~  
30 ~~receiving care as an admitted patient of a facility or a~~  
31 ~~provider or is a subscriber of a health care facility, health~~

1 ~~care provider, or health care practitioner regulated under~~  
2 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~  
3 ~~464, or chapter 641, such facility, provider, or practitioner~~  
4 ~~must, when appropriate, comply with a request for pain~~  
5 ~~management or palliative care from a capacitated patient or an~~  
6 ~~incapacitated patient's health care surrogate or proxy,~~  
7 ~~court-appointed guardian as provided in chapter 744, or~~  
8 ~~attorney in fact as provided in chapter 709. The~~  
9 ~~court-appointed guardian or attorney in fact must have been~~  
10 ~~delegated authority to make health care decisions on behalf of~~  
11 ~~the patient.~~

12 Section 139. Paragraph (b) of subsection (1) of  
13 section 765.205, Florida Statutes, is amended to read:

14 765.205 Responsibility of the surrogate.--

15 (1) The surrogate, in accordance with the principal's  
16 instructions, unless such authority has been expressly limited  
17 by the principal, shall:

18 (b) Consult expeditiously with appropriate health care  
19 providers to provide informed consent, and make only health  
20 care decisions for the principal which he or she believes the  
21 principal would have made under the circumstances if the  
22 principal were capable of making such decisions. If there is  
23 no indication of what the principal would have chosen, the  
24 surrogate may consider the patient's best interest in deciding  
25 that proposed treatments are to be withheld or that treatments  
26 currently in effect are to be withdrawn.

27 Section 140. Subsections (2) and (3) of section  
28 765.401, Florida Statutes, are amended to read:

29 765.401 The proxy.--

30 (2) Any health care decision made under this part must  
31 be based on the proxy's informed consent and on the decision

1 the proxy reasonably believes the patient would have made  
 2 under the circumstances. If there is no indication of what the  
 3 patient would have chosen, the proxy may consider the  
 4 patient's best interest in deciding that proposed treatments  
 5 are to be withheld or that treatments currently in effect are  
 6 to be withdrawn.

7 (3) Before exercising the incapacitated patient's  
 8 rights to select or decline health care, the proxy must comply  
 9 with the provisions of ss. 765.205 and 765.305, except that a  
 10 proxy's decision to withhold or withdraw life-prolonging  
 11 procedures must be supported by clear and convincing evidence  
 12 that the decision would have been the one the patient would  
 13 have chosen had the patient been competent or, if there is no  
 14 indication of what the patient would have chosen, that the  
 15 decision is in the patient's best interest.

16 Section 141. The Legislature finds that the area of  
 17 specialty training is of great importance to the citizens of  
 18 this state and that specialty training and certification  
 19 creates a higher level of proficiency for the practitioner and  
 20 improves the delivery of health care to Floridians. Because  
 21 much confusion exists among the patient population and  
 22 practitioners as to the requirements for board certification,  
 23 the Legislature directs the Department of Health to conduct a  
 24 study of the area of specialty certification relating to the  
 25 Board of Medicine, the Board of Osteopathic Medicine, and the  
 26 Board of Dentistry. The study should review current statutes  
 27 and rules to determine if any barriers exist in board  
 28 recognition of certifying organizations and if restrictions  
 29 placed on a licensee's speech both target an identifiable harm  
 30 and mitigate against such harm in a direct and effective  
 31 manner. A final report shall be provided no later than January

1 1, 2002, to the President of the Senate and the Speaker of the  
2 House of Representatives for distribution to the chairs of the  
3 health-care-related committees.

4 Section 142. Paragraph (d) of subsection (2) of  
5 section 499.012, Florida Statutes, is amended to read:

6 499.012 Wholesale distribution; definitions; permits;  
7 general requirements.--

8 (2) The following types of wholesaler permits are  
9 established:

10 (d) A retail pharmacy wholesaler's permit. A retail  
11 pharmacy wholesaler is a retail pharmacy engaged in wholesale  
12 distribution of prescription drugs within this state under the  
13 following conditions:

14 1. The pharmacy must obtain a retail pharmacy  
15 wholesaler's permit pursuant to ss. 499.001-499.081 and the  
16 rules adopted under those sections.

17 2. The wholesale distribution activity does not exceed  
18 30 percent of the total annual purchases of prescription  
19 drugs. If the wholesale distribution activity exceeds the  
20 30-percent maximum, the pharmacy must obtain a prescription  
21 drug wholesaler's permit.

22 3. The transfer of prescription drugs that appear in  
23 any schedule contained in chapter 893 is subject to chapter  
24 893 and the federal Comprehensive Drug Abuse Prevention and  
25 Control Act of 1970.

26 4. The transfer is between a retail pharmacy and  
27 another retail pharmacy, a Modified Class II institutional  
28 pharmacy, or a health care practitioner licensed in this state  
29 and authorized by law to dispense or prescribe prescription  
30 drugs.

31

1           5. All records of sales of prescription drugs subject  
 2 to this section must be maintained separate and distinct from  
 3 other records and comply with the recordkeeping requirements  
 4 of ss. 499.001-499.081.

5           Section 143. The Legislature finds that personal  
 6 identifying information, name, age, diagnosis, address, bank  
 7 account numbers, and debit and credit card numbers contained  
 8 in the records relating to an individual's personal health or  
 9 eligibility for health-related services made or received by  
 10 the individual's physician and public or private health  
 11 facility should be held confidential. Furthermore, the  
 12 Legislature finds that every person has an expectation of and  
 13 a right to privacy in all matters concerning her or his  
 14 personal health when medical services are provided. Matters of  
 15 personal health are traditionally private and confidential  
 16 concerns between the patient and the health care provider. The  
 17 private and confidential nature of personal health matters  
 18 pervades both the public and private sectors. For these  
 19 reasons, it is the express intent of the Legislature to  
 20 protect confidential information and the individual's  
 21 expectations of the right to privacy in all matters regarding  
 22 her or his personal health and not to have such information  
 23 exploited for purposes of solicitation or marketing the sale  
 24 of goods and services.

25           Section 144. Subsection (5) of section 456.057,  
 26 Florida Statutes, is amended to read:

27           456.057 Ownership and control of patient records;  
 28 report or copies of records to be furnished.--

29           (5)(a) Except as otherwise provided in this section  
 30 and in s. 440.13(4)(c), such records may not be furnished to,  
 31 and the medical condition of a patient may not be discussed



1 with, any person other than the patient or the patient's legal  
2 representative or other health care practitioners and  
3 providers involved in the care or treatment of the patient,  
4 except upon written authorization of the patient. However,  
5 such records may be furnished without written authorization  
6 under the following circumstances:

7 ~~1.(a)~~ To any person, firm, or corporation that has  
8 procured or furnished such examination or treatment with the  
9 patient's consent.

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

14 ~~3.(c)~~ In any civil or criminal action, unless  
15 otherwise prohibited by law, upon the issuance of a subpoena  
16 from a court of competent jurisdiction and proper notice to  
17 the patient or the patient's legal representative by the party  
18 seeking such records.

19 ~~4.(d)~~ For statistical and scientific research,  
20 provided the information is abstracted in such a way as to  
21 protect the identity of the patient or provided written  
22 permission is received from the patient or the patient's legal  
23 representative.

24 (b) Absent a specific written release or authorization  
25 permitting utilization of patient information for solicitation  
26 or marketing the sale of goods or services, any use of that  
27 information for those purposes is prohibited.

28 (14) Licensees in violation of the provisions of this  
29 section shall be disciplined by the appropriate licensing  
30 authority.

31

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

5 Section 145. Subsection (7) of section 395.3025,  
6 Florida Statutes is amended to read:

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

9 (7)(a) If the content of any record of patient  
10 treatment is provided under this section, the recipient, if  
11 other than the patient or the patient's representative, may  
12 use such information only for the purpose provided and may not  
13 further disclose any information to any other person or  
14 entity, unless expressly permitted by the written consent of  
15 the patient. A general authorization for the release of  
16 medical information is not sufficient for this purpose. The  
17 content of such patient treatment record is confidential and  
18 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
19 I of the State Constitution.

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 Section 146. Subsection (1) of section 400.1415,  
25 Florida Statutes, is amended to read:

26 400.1415 Patient records; penalties for alteration.--

27 (1) Any person who fraudulently alters, defaces, or  
28 falsifies any medical record or releases medical records for  
29 the purposes of solicitation or marketing the sale of goods or  
30 services absent a specific written release or authorization  
31 permitting utilization of patient information, or other

1 nursing home record, or causes or procures any of these  
2 offenses to be committed, commits a misdemeanor of the second  
3 degree, punishable as provided in s. 775.082 or s. 775.083.

4 Section 147. Section 626.9651, Florida Statutes, is  
5 created to read:

6 626.9651 Privacy.--The department shall adopt rules  
7 consistent with other provisions of the Florida Insurance Code  
8 to govern the use of a consumer's nonpublic personal financial  
9 and health information. These rules must be based on,  
10 consistent with, and not more restrictive than the Privacy of  
11 Consumer Financial and Health Information Regulation, adopted  
12 September 26, 2000, by the National Association of Insurance  
13 Commissioners; however, the rules must permit the use and  
14 disclosure of nonpublic personal health information for  
15 scientific, medical, or public policy research, in accordance  
16 with federal law. In addition, these rules must be consistent  
17 with, and not more restrictive than, the standards contained  
18 in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No.  
19 106-102. If the department determines that a health insurer or  
20 health maintenance organization is in compliance with, or is  
21 actively undertaking compliance with, the consumer privacy  
22 protection rules adopted by the United States Department of  
23 Health and Human Services, in conformance with the Health  
24 Insurance Portability and Affordability Act, that health  
25 insurer or health maintenance organization is in compliance  
26 with this section.

27 Section 148. Effective upon becoming law, subsections  
28 (14), (15), and (16) are added to section 400.141, Florida  
29 Statutes, to read:

30  
31

1           400.141 Administration and management of nursing home  
2 facilities.--Every licensed facility shall comply with all  
3 applicable standards and rules of the agency and shall:

4           (14) Before November 30 of each year, subject to the  
5 availability of an adequate supply of the necessary vaccine,  
6 provide for immunizations against influenza viruses to all its  
7 consenting residents in accordance with the recommendations of  
8 the U.S. Centers for Disease Control and Prevention, subject  
9 to exemptions for medical contraindications and religious or  
10 personal beliefs. Subject to these exemptions, any consenting  
11 person who becomes a resident of the facility after November  
12 30 but before March 31 of the following year must be immunized  
13 within 5 working days after becoming a resident. Immunization  
14 shall not be provided to any resident who provides  
15 documentation that he or she has been immunized as required by  
16 this subsection. This subsection does not prohibit a resident  
17 from receiving the immunization from his or her personal  
18 physician if he or she so chooses. A resident who chooses to  
19 receive the immunization from his or her personal physician  
20 shall provide proof of immunization to the facility. The  
21 agency may adopt and enforce any rules necessary to comply  
22 with or implement this subsection.

23           (15) Assess all residents for eligibility for  
24 pneumococcal polysaccharide vaccination (PPV) and vaccinate  
25 residents when indicated within 60 days after the effective  
26 date of this act in accordance with the recommendations of the  
27 U.S. Centers for Disease Control and Prevention, subject to  
28 exemptions for medical contraindications and religious or  
29 personal beliefs. Residents admitted after the effective date  
30 of this act shall be assessed within 5 working days of  
31 admission and, when indicated, vaccinated within 60 days in

1 accordance with the recommendations of the United States  
 2 Centers for Disease Control and Prevention, subject to  
 3 exemptions for medical contradictions and religious or  
 4 personal beliefs. Immunization shall not be provided to any  
 5 resident who provides documentation that he or she has been  
 6 immunized as required by this subsection. This subsection does  
 7 not prohibit a resident from receiving the immunization from  
 8 his or her personal physician if he or she so chooses. A  
 9 resident who chooses to receive the immunization from his or  
 10 her personal physician shall provide proof of immunization to  
 11 the facility. The agency may adopt and enforce any rules  
 12 necessary to comply with or implement this subsection.

13 (16) Annually encourage and promote to its employees  
 14 the benefits associated with immunizations against influenza  
 15 viruses in accordance with the recommendations of the U.S.  
 16 Centers for Disease Control and Prevention. The agency may  
 17 adopt and enforce any rules necessary to comply with or  
 18 implement this subsection.

19  
 20 Facilities that have been awarded a Gold Seal under the  
 21 program established in s. 400.235 may develop a plan to  
 22 provide certified nursing assistant training as prescribed by  
 23 federal regulations and state rules and may apply to the  
 24 agency for approval of its program.

25 Section 149. There is established the Office of  
 26 Community Partners within the Department of Health for the  
 27 purpose of receiving, coordinating, and dispensing federal  
 28 funds set aside to expand the delivery of social services  
 29 through eligible private community organizations and programs.  
 30 The office shall provide policy direction and promote civic  
 31 initiatives which seek to preserve and strengthen families and

1 communities. The Department of Health, the Department of  
2 Children and Family Services, the Department of Juvenile  
3 Justice, and the Department of Corrections may request  
4 transfer of general revenue funds between agencies, as  
5 approved by the Legislative Budget Commission, as necessary to  
6 match federal funds received by the Office of Community  
7 Partners for these initiatives.

8 Section 150. Section 627.6474, Florida Statutes, is  
9 created to read:

10 627.6474 Provider contracts.--A health insurer shall  
11 not require a contracted health care practitioner as defined  
12 in s. 456.001(4) to accept the terms of other health care  
13 practitioner contracts with the insurer or any other insurer,  
14 or health maintenance organization, under common management  
15 and control with the insurer, including Medicare and Medicaid  
16 practitioner contracts and those authorized by s. 627.6471, s.  
17 627.6472, or s. 641.315, except for a practitioner in a group  
18 practice as defined in s. 456.053 who must accept the terms of  
19 a contract negotiated for the practitioner by the group, as a  
20 condition of continuation or renewal of the contract. Any  
21 contract provision that violates this section is void. A  
22 violation of this section is not subject to the criminal  
23 penalty specified in s. 624.15.

24 Section 151. Subsection (11) is added to section  
25 627.662, Florida Statutes, to read:

26 627.662 Other provisions applicable.--The following  
27 provisions apply to group health insurance, blanket health  
28 insurance, and franchise health insurance:

29 (11) Section 627.6474, relating to provider contracts.

30 Section 152. Subsection (10) is added to section  
31 641.315, Florida Statutes, to read:

1           641.315 Provider contracts.--  
2           (10) A health maintenance organization shall not  
3 require a contracted health care practitioner as defined in s.  
4 456.001(4) to accept the terms of other health care  
5 practitioner contracts with the health maintenance  
6 organization or any insurer, or other health maintenance  
7 organization, under common management and control with the  
8 health maintenance organization, including Medicare and  
9 Medicaid practitioner contracts and those authorized by s.  
10 627.6471, s. 627.6472, or s. 641.315, except for a  
11 practitioner in a group practice as defined in s. 456.053 who  
12 must accept the terms of a contract negotiated for the  
13 practitioner by the group, as a condition of continuation or  
14 renewal of the contract. Any contract provision that violates  
15 this section is void. A violation of this section is not  
16 subject to the criminal penalty specified in s. 624.15.

17           Section 153. The provisions of sections 146-148 of  
18 this act shall take effect July 1, 2001, and shall apply to  
19 contracts entered into or renewed on or after that date.

20           Section 154. Except as otherwise provided herein, this  
21 act shall take effect July 1, 2001.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31