

By the Council for Healthy Communities and Committee on
Health Regulation and Representative Farkas

1 A bill to be entitled
2 An act relating to health care regulation;
3 amending s. 483.245, F.S.; prohibiting rebate
4 or split-fee arrangements with dialysis
5 facilities for patient referrals to clinical
6 laboratories; providing penalties; amending s.
7 381.6021, F.S.; prohibiting rules that
8 establish standards and guidelines for organ
9 and tissue procurement from allowing the
10 pooling of human cells or tissue; amending s.
11 395.0197, F.S.; revising provisions relating to
12 hospital and ambulatory surgical center
13 internal risk management programs; modifying
14 requirements for risk management and prevention
15 education and training; restricting
16 participation of unlicensed persons in surgical
17 procedures; requiring ongoing evaluation of
18 surgical procedures and protocols; eliminating
19 an annual report summarizing facility incident
20 reports and disciplinary actions; requiring the
21 Agency for Health Care Administration to
22 publish website summaries of adverse incident
23 reports; requiring facility reporting of
24 allegations of sexual misconduct by health care
25 practitioners; providing certain civil
26 liability for licensed risk managers;
27 prohibiting intimidation of a risk manager;
28 providing a penalty; amending s. 395.10972,
29 F.S.; increasing membership on the Health Care
30 Risk Management Advisory Council; amending s.
31 395.701, F.S.; limiting the financial

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

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

1 purposes of immunity from liability, and
2 reenacting ss. 440.105(1)(a) and 626.989(6),
3 F.S., to incorporate said amendment in
4 references; amending s. 766.1115, F.S.;
5 conforming language and cross references to
6 changes made by the act; amending s. 456.047,
7 F.S.; providing intent; revising and providing
8 definitions; revising duties of the Department
9 of Health relating to file maintenance;
10 providing that primary source data verified by
11 the department or its designee may be relied
12 upon to meet accreditation purposes; amending
13 s. 240.4075, F.S.; transferring the Nursing
14 Student Loan Forgiveness Program from the
15 Department of Education to the Department of
16 Health; including public schools, family
17 practice teaching hospitals, and specialty
18 hospitals for children as eligible facilities
19 under the program; exempting such facilities
20 from the fund-matching requirements of the
21 program; amending s. 240.4076, F.S.;
22 transferring the nursing scholarship program
23 from the Department of Education to the
24 Department of Health; providing requirements
25 under the program for students seeking to
26 qualify for a nursing faculty position and
27 receive credit for work in such a position;
28 including nursing homes, hospitals, public
29 schools, colleges of nursing, and community
30 college nursing programs as eligible facilities
31 under the program; transferring powers, duties,

1 functions, rules, records, personnel, property,
2 and appropriations and other funds relating to
3 the Nursing Student Loan Forgiveness Program
4 and the nursing scholarship program from the
5 Department of Education to the Department of
6 Health; amending s. 464.005, F.S.; providing
7 for future relocation of the headquarters of
8 the Board of Nursing; amending s. 464.008,
9 F.S.; revising education requirements for
10 licensure by examination; amending s. 464.009,
11 F.S.; revising requirements for licensure by
12 endorsement; requiring submission of
13 fingerprints for a criminal history check and a
14 fee to cover the costs of such check; providing
15 for an electronic applicant notification
16 process; creating s. 464.0195, F.S.; creating
17 the Florida Center for Nursing and providing
18 its goals; creating s. 464.0196, F.S.;
19 providing for a board of directors; providing
20 for appointment of board members; providing for
21 staggered terms; providing powers and duties;
22 authorizing per diem and travel expenses;
23 creating s. 464.0197, F.S.; declaring state
24 budget support for the center; prohibiting the
25 Board of Nursing from developing any rule
26 relating to faculty/student clinical ratios
27 until a specified time; requiring the Board of
28 Nursing and the Department of Education to
29 submit to the Legislature an implementation
30 plan detailing the impact and cost of any such
31 proposed rule change; amending s. 464.0205,

1 F.S.; deleting the application and processing
2 fee for applicants for a retired volunteer
3 nurse certificate; requiring study by Office of
4 Program Policy Analysis and Government
5 Accountability of the feasibility of
6 maintaining all of Medical Quality Assurance in
7 one state agency; creating s. 456.0375, F.S.;
8 requiring registration of certain clinics;
9 providing requirements, including fees;
10 providing rulemaking authority; requiring
11 medical directors or clinic directors for such
12 clinics and providing their duties and
13 responsibilities; providing an appropriation;
14 amending s. 456.031, F.S.; providing an
15 alternative by which licensees under ch. 466,
16 F.S., relating to dentistry, may comply with a
17 general requirement that they take
18 domestic-violence education courses; amending
19 s. 456.033, F.S.; providing an alternative by
20 which such licensees may comply with a general
21 requirement that they take AIDS/HIV education
22 courses; amending s. 627.419, F.S.; providing
23 for appeals from certain adverse determinations
24 relating to dental service claims; providing
25 applicability; amending s. 468.302, F.S.;
26 revising a provision relating to exemption from
27 certification to use radiation on human beings;
28 amending ss. 468.352, 468.355, 468.357,
29 468.358, and 468.359, F.S.; revising
30 definitions and provisions relating to
31 licensure and use of titles and abbreviations

1 to correct and conform terminology with respect
2 to respiratory therapists and respiratory care
3 practitioners; amending ss. 468.1155 and
4 468.1215, F.S.; revising requirements for
5 licensure to practice speech-language pathology
6 or audiology and for certification of
7 speech-language pathology or audiology
8 assistants; amending s. 480.033, F.S.;
9 correcting terminology in the definition of
10 "massage"; amending s. 484.0445, F.S.; removing
11 certain provisions relating to the training
12 program for hearing aid specialists; amending
13 s. 484.045, F.S.; revising requirements for
14 licensure as a hearing aid specialist by
15 examination; amending s. 490.012, F.S.;
16 prohibiting the use of certain titles or
17 descriptions relating to the practice of
18 psychology or school psychology unless properly
19 licensed; providing penalties; amending s.
20 490.014, F.S.; revising exemptions from
21 regulation under ch. 490, F.S., relating to
22 psychology; correcting a cross reference;
23 amending s. 491.012, F.S.; revising
24 prohibitions against unlicensed practice of
25 clinical social work, marriage and family
26 therapy, and mental health counseling to
27 provide that practice by registered interns is
28 lawful; amending s. 491.014, F.S.; revising
29 exemptions from licensure under ch. 491, F.S.,
30 relating to clinical, counseling, and
31 psychotherapy services, to prohibit the use by

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

29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

3 483.245 Rebates prohibited; penalties.--

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

10 Section 2. Section 381.6021, Florida Statutes, is
11 amended to read:

12 381.6021 Certification of organizations engaged in the
13 practice of cadaveric organ and tissue procurement.--The
14 Agency for Health Care Administration shall:

15 (1) Establish a program for the certification of
16 organizations, agencies, or other entities engaged in the
17 procurement of organs, tissues, and eyes for transplantation;

18 (2) Adopt rules that set forth appropriate standards
19 and guidelines for the program. These standards and guidelines
20 must be substantially based on the existing laws of the
21 Federal Government and this state and the existing standards
22 and guidelines of the federal Food and Drug Administration
23 (FDA), the United Network for Organ Sharing (UNOS), the
24 American Association of Tissue Banks (AATB), the South-Eastern
25 Organ Procurement Foundation (SEOPF), the North American
26 Transplant Coordinators Organization (NATCO), and the Eye Bank
27 Association of America (EBAA). In addition, the Agency for
28 Health Care Administration shall, before adopting these
29 standards and guidelines, seek input from all organ
30 procurement organizations, tissue banks, and eye banks based
31 in this state. However, notwithstanding any other provision of

1 law to the contrary, rules adopted under this subsection shall
2 not allow human cells or tissue from two or more donors to be
3 pooled during retrieval, processing, preservation, or storage.
4 For purposes of this subsection, "pooled" means placed in
5 physical contact or mixed in a single receptacle;

6 (3) Collect, keep, and make available to the Governor
7 and the Legislature information regarding the numbers and
8 disposition of organs and tissues procured by each certified
9 entity;

10 (4) Monitor participating facilities and agencies for
11 program compliance; and

12 (5) Provide for the administration of the Organ and
13 Tissue Procurement and Transplantation Advisory Board.

14 Section 3. Section 395.0197, Florida Statutes, is
15 amended to read:

16 395.0197 Internal risk management program.--

17 (1) Every licensed facility shall, as a part of its
18 administrative functions, establish an internal risk
19 management program that includes all of the following
20 components:

21 (a) The investigation and analysis of the frequency
22 and causes of general categories and specific types of adverse
23 incidents to patients.

24 (b) The development of appropriate measures to
25 minimize the risk of adverse incidents to patients, including,
26 but not limited to:

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

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

31

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

7 2. A prohibition, except when emergency circumstances
8 require otherwise, against a staff member of the licensed
9 facility attending a patient in the recovery room, unless the
10 staff member is authorized to attend the patient in the
11 recovery room and is in the company of at least one other
12 person. However, a licensed facility is exempt from the
13 two-person requirement if it has:

- 14 a. Live visual observation;
15 b. Electronic observation; or
16 c. Any other reasonable measure taken to ensure
17 patient protection and privacy.

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

25 4. Development, implementation, and ongoing evaluation
26 of procedures, protocols, and systems to accurately identify
27 patients, planned procedures, and the correct site of the
28 planned procedure so as to minimize the performance of a
29 surgical procedure on the wrong patient, a wrong surgical
30 procedure, a wrong-site surgical procedure, or a surgical
31

1 procedure otherwise unrelated to the patient's diagnosis or
2 medical condition.

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

5 (d) The development and implementation of an incident
6 reporting system based upon the affirmative duty of all health
7 care providers and all agents and employees of the licensed
8 health care facility to report adverse incidents to the risk
9 manager, or to his or her designee, within 3 business days
10 after their occurrence.

11 (2) The internal risk management program is the
12 responsibility of the governing board of the health care
13 facility. Each licensed facility shall hire a risk manager,
14 licensed under s. 395.10974 ~~part IX of chapter 626~~, who is
15 responsible for implementation and oversight of such
16 facility's internal risk management program as required by
17 this section. A risk manager must not be made responsible for
18 more than four internal risk management programs in separate
19 licensed facilities, unless the facilities are under one
20 corporate ownership or the risk management programs are in
21 rural hospitals.

22 (3) In addition to the programs mandated by this
23 section, other innovative approaches intended to reduce the
24 frequency and severity of medical malpractice and patient
25 injury claims shall be encouraged and their implementation and
26 operation facilitated. Such additional approaches may include
27 extending internal risk management programs to health care
28 providers' offices and the assuming of provider liability by a
29 licensed health care facility for acts or omissions occurring
30 within the licensed facility.

31

1 (4) The agency shall, ~~after consulting with the~~
2 ~~Department of Insurance~~, adopt rules governing the
3 establishment of internal risk management programs to meet the
4 needs of individual licensed facilities. Each internal risk
5 management program shall include the use of incident reports
6 to be filed with an individual of responsibility who is
7 competent in risk management techniques in the employ of each
8 licensed facility, such as an insurance coordinator, or who is
9 retained by the licensed facility as a consultant. The
10 individual responsible for the risk management program shall
11 have free access to all medical records of the licensed
12 facility. The incident reports are part of the workpapers of
13 the attorney defending the licensed facility in litigation
14 relating to the licensed facility and are subject to
15 discovery, but are not admissible as evidence in court. A
16 person filing an incident report is not subject to civil suit
17 by virtue of such incident report. As a part of each internal
18 risk management program, the incident reports shall be used to
19 develop categories of incidents which identify problem areas.
20 Once identified, procedures shall be adjusted to correct the
21 problem areas.

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

- 28 (a) Results in one of the following injuries:
29 1. Death;
30 2. Brain or spinal damage;
31 3. Permanent disfigurement;

- 1 4. Fracture or dislocation of bones or joints;
2 5. A resulting limitation of neurological, physical,
3 or sensory function which continues after discharge from the
4 facility;
5 6. Any condition that required specialized medical
6 attention or surgical intervention resulting from nonemergency
7 medical intervention, other than an emergency medical
8 condition, to which the patient has not given his or her
9 informed consent; or
10 7. Any condition that required the transfer of the
11 patient, within or outside the facility, to a unit providing a
12 more acute level of care due to the adverse incident, rather
13 than the patient's condition prior to the adverse incident;
14 (b) Was the performance of a surgical procedure on the
15 wrong patient, a wrong surgical procedure, a wrong-site
16 surgical procedure, or a surgical procedure otherwise
17 unrelated to the patient's diagnosis or medical condition;
18 (c) Required the surgical repair of damage resulting
19 to a patient from a planned surgical procedure, where the
20 damage was not a recognized specific risk, as disclosed to the
21 patient and documented through the informed-consent process;
22 or
23 (d) Was a procedure to remove unplanned foreign
24 objects remaining from a surgical procedure.
25 (6)(a) Each licensed facility subject to this section
26 shall submit an annual report to the agency summarizing the
27 incident reports that have been filed in the facility for that
28 year. The report shall include:
29 1. The total number of adverse incidents.
30 2. A listing, by category, of the types of operations,
31 diagnostic or treatment procedures, or other actions causing

1 the injuries, and the number of incidents occurring within
2 each category.

3 3. A listing, by category, of the types of injuries
4 caused and the number of incidents occurring within each
5 category.

6 4. A code number using the health care professional's
7 licensure number and a separate code number identifying all
8 other individuals directly involved in adverse incidents to
9 patients, the relationship of the individual to the licensed
10 facility, and the number of incidents in which each individual
11 has been directly involved. Each licensed facility shall
12 maintain names of the health care professionals and
13 individuals identified by code numbers for purposes of this
14 section.

15 5. A description of all malpractice claims filed
16 against the licensed facility, including the total number of
17 pending and closed claims and the nature of the incident which
18 led to, the persons involved in, and the status and
19 disposition of each claim. Each report shall update status and
20 disposition for all prior reports.

21 (b) The information reported to the agency pursuant to
22 paragraph (a) which relates to persons licensed under chapter
23 458, chapter 459, chapter 461, or chapter 466 shall be
24 reviewed by the agency. The agency shall determine whether
25 any of the incidents potentially involved conduct by a health
26 care professional who is subject to disciplinary action, in
27 which case the provisions of s. 456.073 shall apply.

28 (c) The report submitted to the agency shall also
29 contain the name and license number of the risk manager of the
30 licensed facility, a copy of its policy and procedures which
31 govern the measures taken by the facility and its risk manager

1 to reduce the risk of injuries and adverse incidents, and the
2 results of such measures. The annual report is confidential
3 and is not available to the public pursuant to s. 119.07(1) or
4 any other law providing access to public records. The annual
5 report is not discoverable or admissible in any civil or
6 administrative action, except in disciplinary proceedings by
7 the agency or the appropriate regulatory board. The annual
8 report is not available to the public as part of the record of
9 investigation for and prosecution in disciplinary proceedings
10 made available to the public by the agency or the appropriate
11 regulatory board. However, the agency or the appropriate
12 regulatory board shall make available, upon written request by
13 a health care professional against whom probable cause has
14 been found, any such records which form the basis of the
15 determination of probable cause.

16 (7) The licensed facility shall notify the agency no
17 later than 1 business day after the risk manager or his or her
18 designee has received a report pursuant to paragraph (1)(d)
19 and can determine within 1 business day that any of the
20 following adverse incidents has occurred, whether occurring in
21 the licensed facility or arising from health care prior to
22 admission in the licensed facility:

23 (a) The death of a patient;

24 (b) Brain or spinal damage to a patient;

25 (c) The performance of a surgical procedure on the
26 wrong patient;

27 (d) The performance of a wrong-site surgical
28 procedure; or

29 (e) The performance of a wrong surgical procedure.
30
31

1 The notification must be made in writing and be provided by
2 facsimile device or overnight mail delivery. The notification
3 must include information regarding the identity of the
4 affected patient, the type of adverse incident, the initiation
5 of an investigation by the facility, and whether the events
6 causing or resulting in the adverse incident represent a
7 potential risk to other patients.

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

13 (a) The death of a patient;

14 (b) Brain or spinal damage to a patient;

15 (c) The performance of a surgical procedure on the
16 wrong patient;

17 (d) The performance of a wrong-site surgical
18 procedure;

19 (e) The performance of a wrong surgical procedure;

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

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

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

29

30 The agency may grant extensions to this reporting requirement
31 for more than 15 days upon justification submitted in writing

1 by the facility administrator to the agency. The agency may
2 require an additional, final report. These reports shall not
3 be available to the public pursuant to s. 119.07(1) or any
4 other law providing access to public records, nor be
5 discoverable or admissible in any civil or administrative
6 action, except in disciplinary proceedings by the agency or
7 the appropriate regulatory board, nor shall they be available
8 to the public as part of the record of investigation for and
9 prosecution in disciplinary proceedings made available to the
10 public by the agency or the appropriate regulatory board.
11 However, the agency or the appropriate regulatory board shall
12 make available, upon written request by a health care
13 professional against whom probable cause has been found, any
14 such records which form the basis of the determination of
15 probable cause. The agency may investigate, as it deems
16 appropriate, any such incident and prescribe measures that
17 must or may be taken in response to the incident. The agency
18 shall review each incident and determine whether it
19 potentially involved conduct by the health care professional
20 who is subject to disciplinary action, in which case the
21 provisions of s. 456.073 shall apply.

22 (9) The agency shall publish on the agency's website,
23 no less than quarterly, a summary and trend analysis of
24 adverse incident reports received pursuant to this section,
25 which shall not include information that would identify the
26 patient, the reporting facility, or the health care
27 practitioners involved. The agency shall publish on the
28 agency's website an annual summary and trend analysis of all
29 adverse incident reports and malpractice claims information
30 provided by facilities in their annual reports, which shall
31 not include information that would identify the patient, the

1 reporting facility, or the practitioners involved. The
2 purpose of the publication of the summary and trend analysis
3 is to promote the rapid dissemination of information relating
4 to adverse incidents and malpractice claims to assist in
5 avoidance of similar incidents and reduce morbidity and
6 mortality.

7 (10)~~(9)~~ The internal risk manager of each licensed
8 facility shall:

9 (a) Investigate every allegation of sexual misconduct
10 which is made against a member of the facility's personnel who
11 has direct patient contact, when the allegation is that the
12 sexual misconduct occurred at the facility or on the grounds
13 of the facility. ~~and~~

14 (b) Report every allegation of sexual misconduct to
15 the administrator of the licensed facility.

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

19 (d) Report to the Department of Health every
20 allegation of sexual misconduct, as defined in chapter 456 and
21 the respective practice act, by a licensed health care
22 practitioner that involves a patient.

23 (11)~~(10)~~ Any witness who witnessed or who possesses
24 actual knowledge of the act that is the basis of an allegation
25 of sexual abuse shall:

26 (a) Notify the local police; and

27 (b) Notify the hospital risk manager and the
28 administrator.

29
30 For purposes of this subsection, "sexual abuse" means acts of
31 a sexual nature committed for the sexual gratification of

1 anyone upon, or in the presence of, a vulnerable adult,
2 without the vulnerable adult's informed consent, or a minor.
3 "Sexual abuse" includes, but is not limited to, the acts
4 defined in s. 794.011(1)(h), fondling, exposure of a
5 vulnerable adult's or minor's sexual organs, or the use of the
6 vulnerable adult or minor to solicit for or engage in
7 prostitution or sexual performance. "Sexual abuse" does not
8 include any act intended for a valid medical purpose or any
9 act which may reasonably be construed to be a normal
10 caregiving action.

11 (12)~~(11)~~ A person who, with malice or with intent to
12 discredit or harm a licensed facility or any person, makes a
13 false allegation of sexual misconduct against a member of a
14 licensed facility's personnel is guilty of a misdemeanor of
15 the second degree, punishable as provided in s. 775.082 or s.
16 775.083.

17 (13)~~(12)~~ In addition to any penalty imposed pursuant
18 to this section, the agency shall require a written plan of
19 correction from the facility. For a single incident or series
20 of isolated incidents that are nonwillful violations of the
21 reporting requirements of this section, the agency shall first
22 seek to obtain corrective action by the facility. If the
23 correction is not demonstrated within the timeframe
24 established by the agency or if there is a pattern of
25 nonwillful violations of this section, the agency may impose
26 an administrative fine, not to exceed \$5,000 for any violation
27 of the reporting requirements of this section. The
28 administrative fine for repeated nonwillful violations shall
29 not exceed \$10,000 for any violation. The administrative fine
30 for each intentional and willful violation may not exceed
31 \$25,000 per violation, per day. The fine for an intentional

1 and willful violation of this section may not exceed \$250,000.
2 In determining the amount of fine to be levied, the agency
3 shall be guided by s. 395.1065(2)(b). This subsection does not
4 apply to the notice requirements under subsection (7).

5 (14)~~(13)~~ The agency shall have access to all licensed
6 facility records necessary to carry out the provisions of this
7 section. The records obtained by the agency under subsection
8 (6), subsection (8), or subsection(10)~~(9)~~are not available
9 to the public under s. 119.07(1), nor shall they be
10 discoverable or admissible in any civil or administrative
11 action, except in disciplinary proceedings by the agency or
12 the appropriate regulatory board, nor shall records obtained
13 pursuant to s. 456.071 be available to the public as part of
14 the record of investigation for and prosecution in
15 disciplinary proceedings made available to the public by the
16 agency or the appropriate regulatory board. However, the
17 agency or the appropriate regulatory board shall make
18 available, upon written request by a health care professional
19 against whom probable cause has been found, any such records
20 which form the basis of the determination of probable cause,
21 except that, with respect to medical review committee records,
22 s. 766.101 controls.

23 (15)~~(14)~~ The meetings of the committees and governing
24 board of a licensed facility held solely for the purpose of
25 achieving the objectives of risk management as provided by
26 this section shall not be open to the public under the
27 provisions of chapter 286. The records of such meetings are
28 confidential and exempt from s. 119.07(1), except as provided
29 in subsection(14)~~(13)~~.

30 (16)~~(15)~~ The agency shall review, as part of its
31 licensure inspection process, the internal risk management

1 program at each licensed facility regulated by this section to
2 determine whether the program meets standards established in
3 statutes and rules, whether the program is being conducted in
4 a manner designed to reduce adverse incidents, and whether the
5 program is appropriately reporting incidents under this
6 section ~~subsections (5), (6), (7), and (8).~~

7 (17)~~(16)~~ There shall be no monetary liability on the
8 part of, and no cause of action for damages shall arise
9 against, any risk manager, licensed under s. 395.10974 ~~part IX~~
10 ~~of chapter 626~~, for the implementation and oversight of the
11 internal risk management program in a facility licensed under
12 this chapter or chapter 390 as required by this section, for
13 any act or proceeding undertaken or performed within the scope
14 of the functions of such internal risk management program if
15 the risk manager acts without intentional fraud.

16 (18) A privilege against civil liability is hereby
17 granted to any licensed risk manager or licensed facility with
18 regard to information furnished pursuant to this chapter,
19 unless the licensed risk manager or facility acted in bad
20 faith or with malice in providing such information.

21 (19)~~(17)~~ If the agency, through its receipt of any
22 reports required under this section ~~the annual reports~~
23 ~~prescribed in subsection (6)~~ or through any investigation, has
24 a reasonable belief that conduct by a staff member or employee
25 of a licensed facility is grounds for disciplinary action by
26 the appropriate regulatory board, the agency shall report this
27 fact to such regulatory board.

28 ~~(18)~~ ~~The agency shall annually publish a report~~
29 ~~summarizing the information contained in the annual incident~~
30 ~~reports submitted by licensed facilities pursuant to~~
31 ~~subsection (6) and disciplinary actions reported to the agency~~

1 ~~pursuant to s. 395.0193. The report must, at a minimum,~~
2 ~~summarize:~~

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

5 ~~(b) Types of malpractice claims filed, by type of~~
6 ~~professional involved.~~

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

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

14 Section 4. Section 395.10972, Florida Statutes, is
15 amended to read:

16 395.10972 Health Care Risk Manager Advisory
17 Council.--The Secretary of Health Care Administration may
18 appoint a seven-member ~~five-member~~ advisory council to advise
19 the agency on matters pertaining to health care risk managers.
20 The members of the council shall serve at the pleasure of the
21 secretary. The council shall designate a chair. The council
22 shall meet at the call of the secretary or at those times as
23 may be required by rule of the agency. The members of the
24 advisory council shall receive no compensation for their
25 services, but shall be reimbursed for travel expenses as
26 provided in s. 112.061. The council shall consist of
27 individuals representing the following areas:

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

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

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

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

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

8 Section 5. Paragraph (b) of subsection (2) of section
9 395.701, Florida Statutes, is amended to read:

10 395.701 Annual assessments on net operating revenues
11 for inpatient and outpatient services to fund public medical
12 assistance; administrative fines for failure to pay
13 assessments when due; exemption.--

14 (2)

15 (b) There is imposed upon each hospital an assessment
16 in an amount equal to 1 percent of the annual net operating
17 revenue for outpatient services for each hospital, such
18 revenue to be determined by the agency, based on the actual
19 experience of the hospital as reported to the agency. While
20 prior year report worksheets may be reconciled to the
21 hospital's audited financial statements, no additional audited
22 financial components may be required for the purposes of
23 determining the amount of the assessment imposed pursuant to
24 this section other than those in effect on July 1, 2000.

25 Within 6 months after the end of each hospital fiscal year,
26 the agency shall certify the amount of the assessment for each
27 hospital. The assessment shall be payable to and collected by
28 the agency in equal quarterly amounts, on or before the first
29 day of each calendar quarter, beginning with the first full
30 calendar quarter that occurs after the agency certifies the
31 amount of the assessment for each hospital. All moneys

1 collected pursuant to this subsection shall be deposited into
2 the Public Medical Assistance Trust Fund.

3 Section 6. Subsections (7) through (11) of section
4 456.013, Florida Statutes, are renumbered as subsections (8)
5 through (12), respectively, and a new subsection (7) is added
6 to said section to read:

7 456.013 Department; general licensing provisions.--

8 (7) The boards, or the department when there is no
9 board, shall require the completion of a 2-hour course
10 relating to prevention of medical errors as part of the
11 licensure and renewal process. The 2-hour course shall count
12 towards the total number of continuing education hours
13 required for the profession. The course shall be approved by
14 the board or department, as appropriate, and shall include a
15 study of root-cause analysis, error reduction and prevention,
16 and patient safety. If the course is being offered by a
17 facility licensed pursuant to chapter 395 for its employees,
18 the board may approve up to 1 hour of the 2-hour course to be
19 specifically related to error reduction and prevention methods
20 used in that facility.

21 Section 7. Subsection (19) is added to section
22 456.057, Florida Statutes, to read:

23 456.057 Ownership and control of patient records;
24 report or copies of records to be furnished.--

25 (19) The board, or department when there is no board,
26 may temporarily or permanently appoint a person or entity as a
27 custodian of medical records in the event of the death of a
28 practitioner, the mental or physical incapacitation of the
29 practitioner, or the abandonment of medical records by a
30 practitioner. The custodian appointed shall comply with all

31

1 provisions of this section, including the release of patient
2 records.

3 Section 8. Subsection (3) is added to section 456.063,
4 Florida Statutes, to read:

5 456.063 Sexual misconduct; disqualification for
6 license, certificate, or registration; reports of allegation
7 of sexual misconduct.--

8 (3) Licensed health care practitioners shall report
9 allegations of sexual misconduct to the department, regardless
10 of the practice setting in which the alleged sexual misconduct
11 occurred.

12 Section 9. Paragraph (c) of subsection (1) of section
13 456.072, Florida Statutes, is amended, paragraphs (aa) and
14 (bb) are added to said subsection, paragraphs (c) and (d) of
15 subsection (2) and subsection (4) are amended, and paragraphs
16 (i) and (j) are added to subsection (2) of said section, to
17 read:

18 456.072 Grounds for discipline; penalties;
19 enforcement.--

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

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

28 (aa) Performing or attempting to perform health care
29 services on the wrong patient, a wrong-site procedure, a wrong
30 procedure, or an unauthorized procedure or a procedure that is
31 medically unnecessary or otherwise unrelated to the patient's

1 diagnosis or medical condition. For the purposes of this
2 paragraph, performing or attempting to perform health care
3 services includes the preparation of the patient.

4 (bb) Leaving a foreign body in a patient, such as a
5 sponge, clamp, forceps, surgical needle, or other
6 paraphernalia commonly used in surgical, examination, or other
7 diagnostic procedures. For the purposes of this paragraph, it
8 shall be legally presumed that retention of a foreign body is
9 not in the best interest of the patient and is not within the
10 standard of care of the profession, regardless of the intent
11 of the professional.

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

20 (c) Restriction of practice or license, including, but
21 not limited to, restricting the licensee from practicing in
22 certain settings, restricting the licensee to work only under
23 designated conditions or in certain settings, restricting the
24 licensee from performing or providing designated clinical and
25 administrative services, restricting the licensee from
26 practicing more than a designated number of hours, or any
27 other restriction found to be necessary for the protection of
28 the public health, safety, and welfare.

29 (d) Imposition of an administrative fine not to exceed
30 \$10,000 for each count or separate offense. If the violation
31 is for fraud or making a false or fraudulent representation,

1 the board, or the department if there is no board, must impose
2 a fine of \$10,000 per count or offense.

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

5 (j) Requirement that the practitioner undergo remedial
6 education.

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

16 (4) In addition to any other discipline imposed
17 pursuant to this section or discipline imposed for a violation
18 of any practice act, the board, or the department when there
19 is no board, shall ~~may~~ assess costs related to the
20 investigation and prosecution of the case. In any case where
21 the board or the department imposes a fine or assessment and
22 the fine or assessment is not paid within a reasonable time,
23 such reasonable time to be prescribed in the rules of the
24 board, or the department when there is no board, or in the
25 order assessing such fines or costs, the department or the
26 Department of Legal Affairs may contract for the collection
27 of, or bring a civil action to recover, the fine or
28 assessment.

29 Section 10. Paragraphs (a) and (c) of subsection (9)
30 of section 456.073, Florida Statutes, are amended, and,
31

1 effective upon this act becoming a law, subsection (13) is
2 added to said section, to read:

3 456.073 Disciplinary proceedings.--Disciplinary
4 proceedings for each board shall be within the jurisdiction of
5 the department.

6 (9)(a) The department shall periodically notify the
7 person who filed the complaint, as well as the patient or the
8 patient's legal representative,of the status of the
9 investigation, indicating whether probable cause has been
10 found and the status of any civil action or administrative
11 proceeding or appeal.

12 (c) In any disciplinary case for which probable cause
13 is not found, the department shall so inform the person who
14 filed the complaint and notify that person that he or she may,
15 within 60 days, provide any additional information to the
16 department ~~probable cause panel~~ which may be relevant to the
17 decision. To facilitate the provision of additional
18 information, the person who filed the complaint may receive,
19 upon request, a copy of the department's expert report that
20 supported the recommendation for closure, if such a report was
21 relied upon by the department. In no way does this require the
22 department to procure an expert opinion or report if none was
23 used. Additionally, the identity of the expert shall remain
24 confidential.In any administrative proceeding under s.
25 120.57, the person who filed the disciplinary complaint shall
26 have the right to present oral or written communication
27 relating to the alleged disciplinary violations or to the
28 appropriate penalty.

29 (13) Notwithstanding any provision of law to the
30 contrary, an administrative complaint against a licensee shall
31 be filed within 6 years after the time of the incident or

1 occurrence giving rise to the complaint against the licensee.
2 If such incident or occurrence involved criminal actions,
3 diversion of controlled substances, sexual misconduct, or
4 impairment by the licensee, this subsection does not apply to
5 bar initiation of an investigation or filing of an
6 administrative complaint beyond the 6-year timeframe. In those
7 cases covered by this subsection in which it can be shown that
8 fraud, concealment, or intentional misrepresentation of fact
9 prevented the discovery of the violation of law, the period of
10 limitations is extended forward, but in no event to exceed 12
11 years after the time of the incident or occurrence.

12 Section 11. Subsection (1) of section 456.074, Florida
13 Statutes, is amended to read:

14 456.074 Certain health care practitioners; immediate
15 suspension of license.--

16 (1) The department shall issue an emergency order
17 suspending the license of any person licensed under chapter
18 458, chapter 459, chapter 460, chapter 461, chapter 462,
19 chapter 463, chapter 464, chapter 465, chapter 466, or chapter
20 484 who pleads guilty to, is convicted or found guilty of, or
21 who enters a plea of nolo contendere to, regardless of
22 adjudication, a felony under chapter 409, chapter 817, or
23 chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C.
24 ss. 1395-1396.

25 Section 12. Subsections (2) and (6) of section
26 456.077, Florida Statutes, are amended to read:

27 456.077 Authority to issue citations.--

28 (2) The board, or the department if there is no board,
29 shall adopt rules designating violations for which a citation
30 may be issued. Such rules shall designate as citation
31 violations those violations for which there is no substantial

1 threat to the public health, safety, and welfare. Violations
2 for which a citation may be issued shall include violations of
3 continuing education requirements, failure to timely pay
4 required fees and fines, failure to comply with the
5 requirements of ss. 381.026 and 381.0261 regarding the
6 dissemination of information regarding patient rights, failure
7 to comply with advertising requirements, failure to timely
8 update practitioner profile and credentialing files, failure
9 to display signs, licenses, and permits, failure to have
10 required reference books available, and all other violations
11 that do not pose a direct and serious threat to the health and
12 safety of the patient.

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

20 Section 13. Section 456.081, Florida Statutes, is
21 amended to read:

22 456.081 Publication of information.--The department
23 and the boards shall have the authority to advise licensees
24 periodically, through the publication of a newsletter, about
25 information that the department or the board determines is of
26 interest to the industry. The department and the boards shall
27 maintain a website which contains copies of the newsletter;
28 information relating to adverse incident reports without
29 identifying the patient, practitioner, or facility in which
30 the adverse incident occurred until 10 days after probable
31 cause is found, at which time the name of the practitioner and

1 facility shall become public as part of the investigative
2 file; information about error prevention and safety
3 strategies; and information concerning best practices.Unless
4 otherwise prohibited by law, the department and the boards
5 shall publish on the website a summary of final orders entered
6 after July 1, 2001, resulting in disciplinary action ~~finer,~~
7 ~~suspensions, or revocations,~~ and any other information the
8 department or the board determines is of interest to the
9 public. In order to provide useful and timely information at
10 minimal cost, the department and boards may consult with, and
11 include information provided by, professional associations and
12 national organizations.

13 Section 14. Section 458.3147, Florida Statutes, is
14 created to read:

15 458.3147 Medical school eligibility of military
16 academy students or graduates.--Any Florida resident who is a
17 student at or a graduate of any of the four United States
18 military academies who qualifies for assignment to the Medical
19 Corps of the United States military shall be considered
20 eligible for admission to any medical school in the State
21 University System. All application fees shall be waived or
22 refunded.

23 Section 15. 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 16. Subsection (9) of section 459.015, Florida
22 Statutes, is amended to read:

23 459.015 Grounds for disciplinary action; action by the
24 board and department.--

25 (9) When an investigation of an osteopathic physician
26 is undertaken, the department shall promptly furnish to the
27 osteopathic physician or his or her attorney a copy of the
28 complaint or document which resulted in the initiation of the
29 investigation. For purposes of this subsection, such documents
30 include, but are not limited to: the pertinent portions of an
31 annual report submitted to the department pursuant to s.

1 395.0197(6); a report of an adverse incident which is provided
2 to the department pursuant to s. 395.0197~~(8)~~; a report of peer
3 review disciplinary action submitted to the department
4 pursuant to s. 395.0193(4) or s. 459.016, provided that the
5 investigations, proceedings, and records relating to such peer
6 review disciplinary action shall continue to retain their
7 privileged status even as to the licensee who is the subject
8 of the investigation, as provided by ss. 395.0193(8) and
9 459.016(3); a report of a closed claim submitted pursuant to
10 s. 627.912; a presuit notice submitted pursuant to s.
11 766.106(2); and a petition brought under the Florida
12 Birth-Related Neurological Injury Compensation Plan, pursuant
13 to s. 766.305(2). The osteopathic physician may submit a
14 written response to the information contained in the complaint
15 or document which resulted in the initiation of the
16 investigation within 45 days after service to the osteopathic
17 physician of the complaint or document. The osteopathic
18 physician's written response shall be considered by the
19 probable cause panel.

20 Section 17. Subsection (5) of section 465.019, Florida
21 Statutes, is amended to read:

22 465.019 Institutional pharmacies; permits.--

23 (5) All institutional pharmacies shall be under the
24 professional supervision of a consultant pharmacist, and the
25 compounding and dispensing of medicinal drugs shall be done
26 only by a licensed pharmacist. Every institutional pharmacy
27 that employs or otherwise utilizes pharmacy technicians shall
28 have a written policy and procedures manual specifying those
29 duties, tasks, and functions which a pharmacy technician is
30 allowed to perform.

31

1 Section 18. Section 465.0196, Florida Statutes, is
2 amended to read:

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

23 Section 19. The Department of Health and the Agency
24 for Health Care Administration shall conduct a review of all
25 statutorily imposed reporting requirements for health care
26 practitioners and health facilities. The department and the
27 agency shall report back to the Legislature on or before
28 November 1, 2001, with recommendations and suggested statutory
29 changes to streamline reporting requirements to avoid
30 duplicative, overlapping, and unnecessary reports or data
31 elements.

1 Section 20. Paragraph (r) is added to subsection (1)
2 of section 468.1755, Florida Statutes, and, for the purpose of
3 incorporating the amendment to section 456.072(1), Florida
4 Statutes, in a reference thereto, paragraph (a) of subsection
5 (1) of said section is reenacted, to read:

6 468.1755 Disciplinary proceedings.--

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

9 (a) Violation of any provision of s. 456.072(1) or s.
10 468.1745(1).

11 (r) Failing to implement an ongoing quality assurance
12 program directed by an interdisciplinary team that meets at
13 least every other month.

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

18 (a) Denial of an application for licensure.

19 (b) Revocation or suspension of a license.

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

22 (d) Issuance of a reprimand.

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

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

29 Section 21. For the purpose of incorporating the
30 amendment to section 468.1755(1), Florida Statutes, in
31 reference thereto, subsection (3) of section 468.1695, Florida

1 Statutes, and section 468.1735, Florida Statutes, are
2 reenacted to read:

3 468.1695 Licensure by examination.--

4 (3) The department shall issue a license to practice
5 nursing home administration to any applicant who successfully
6 completes the examination in accordance with this section and
7 otherwise meets the requirements of this part. The department
8 shall not issue a license to any applicant who is under
9 investigation in this state or another jurisdiction for an
10 offense which would constitute a violation of s. 468.1745 or
11 s. 468.1755. Upon completion of the investigation, the
12 provisions of s. 468.1755 shall apply.

13 468.1735 Provisional license.--The board may establish
14 by rule requirements for issuance of a provisional license. A
15 provisional license shall be issued only to fill a position of
16 nursing home administrator that unexpectedly becomes vacant
17 due to illness, sudden death of the administrator, or
18 abandonment of position and shall be issued for one single
19 period as provided by rule not to exceed 6 months. The
20 department shall not issue a provisional license to any
21 applicant who is under investigation in this state or another
22 jurisdiction for an offense which would constitute a violation
23 of s. 468.1745 or s. 468.1755. Upon completion of the
24 investigation, the provisions of s. 468.1755 shall apply. The
25 provisional license may be issued to a person who does not
26 meet all of the licensing requirements established by this
27 part, but the board shall by rule establish minimal
28 requirements to ensure protection of the public health,
29 safety, and welfare. The provisional license shall be issued
30 to the person who is designated as the responsible person next
31 in command in the event of the administrator's departure. The

1 board may set an application fee not to exceed \$500 for a
2 provisional license.

3 Section 22. For the purpose of incorporating the
4 amendment to section 456.072(1), Florida Statutes, in a
5 reference thereto, paragraph (a) of subsection (1) of section
6 484.056, Florida Statutes, is reenacted to read:

7 484.056 Disciplinary proceedings.--

8 (1) The following acts relating to the practice of
9 dispensing hearing aids shall be grounds for both disciplinary
10 action against a hearing aid specialist as set forth in this
11 section and cease and desist or other related action by the
12 department as set forth in s. 456.065 against any person
13 owning or operating a hearing aid establishment who engages
14 in, aids, or abets any such violation:

15 (a) Violation of any provision of s. 456.072(1), s.
16 484.0512, or s. 484.053.

17 Section 23. Paragraph (a) of subsection (1), paragraph
18 (a) of subsection (7), and subsection (8) of section 766.101,
19 Florida Statutes, are amended to read:

20 766.101 Medical review committee, immunity from
21 liability.--

22 (1) As used in this section:

23 (a) The term "medical review committee" or "committee"
24 means:

25 1.a. A committee of a hospital or ambulatory surgical
26 center licensed under chapter 395 or a health maintenance
27 organization certificated under part I of chapter 641,

28 b. A committee of a physician-hospital organization, a
29 provider-sponsored organization, or an integrated delivery
30 system,

31

- 1 c. A committee of a state or local professional
2 society of health care providers,
- 3 d. A committee of a medical staff of a licensed
4 hospital or nursing home, provided the medical staff operates
5 pursuant to written bylaws that have been approved by the
6 governing board of the hospital or nursing home,
- 7 e. A committee of the Department of Corrections or the
8 Correctional Medical Authority as created under s. 945.602, or
9 employees, agents, or consultants of either the department or
10 the authority or both,
- 11 f. A committee of a professional service corporation
12 formed under chapter 621 or a corporation organized under
13 chapter 607 or chapter 617, which is formed and operated for
14 the practice of medicine as defined in s. 458.305(3), and
15 which has at least 25 health care providers who routinely
16 provide health care services directly to patients,
- 17 g. A committee of a mental health treatment facility
18 licensed under chapter 394 or a community mental health center
19 as defined in s. 394.907, provided the quality assurance
20 program operates pursuant to the guidelines which have been
21 approved by the governing board of the agency,
- 22 h. A committee of a substance abuse treatment and
23 education prevention program licensed under chapter 397
24 provided the quality assurance program operates pursuant to
25 the guidelines which have been approved by the governing board
26 of the agency,
- 27 i. A peer review or utilization review committee
28 organized under chapter 440, ~~or~~
- 29 j. A committee of the Department of Health, a county
30 health department, healthy start coalition, or certified rural
31

1 health network, when reviewing quality of care, or employees
2 of these entities when reviewing mortality records, or
3 k. A continuous quality improvement committee of a
4 pharmacy licensed pursuant to chapter 465,
5
6 which committee is formed to evaluate and improve the quality
7 of health care rendered by providers of health service or to
8 determine that health services rendered were professionally
9 indicated or were performed in compliance with the applicable
10 standard of care or that the cost of health care rendered was
11 considered reasonable by the providers of professional health
12 services in the area; or
13 2. A committee of an insurer, self-insurer, or joint
14 underwriting association of medical malpractice insurance, or
15 other persons conducting review under s. 766.106.
16 (7)(a) It is the intent of the Legislature to
17 encourage medical review committees to contribute further to
18 the quality of health care in this state by reviewing
19 complaints against physicians in the manner described in this
20 paragraph. Accordingly, the Department of Health ~~Business and~~
21 ~~Professional Regulation~~ may enter into a letter of agreement
22 with a professional society of physicians licensed under
23 chapter 458 or chapter 459, under which agreement the medical
24 or peer review committees of the professional society will
25 conduct a review of any complaint or case referred to the
26 society by the department which involves a question as to
27 whether a physician's actions represented a breach of the
28 prevailing professional standard of care. The prevailing
29 professional standard of care is that level of care, skill,
30 and treatment which, in light of all relevant surrounding
31 circumstances, is recognized as acceptable and appropriate by

1 reasonably prudent similar health care providers. The letter
2 of agreement must specify that the professional society will
3 submit an advisory report to the department within a
4 reasonable time following the department's written and
5 appropriately supported request to the professional society.
6 The advisory report, which is not binding upon the department,
7 constitutes the professional opinion of the medical review
8 committee and must include:

9 1. A statement of relevant factual findings.
10 2. The judgment of the committee as to whether the
11 physician's actions represented a breach of the prevailing
12 professional standard of care.

13 (8) No cause of action of any nature by a person
14 licensed pursuant to chapter 458, chapter 459, chapter 461,
15 chapter 463, part I of chapter 464, chapter 465, or chapter
16 466 shall arise against another person licensed pursuant to
17 chapter 458, chapter 459, chapter 461, chapter 463, part I of
18 chapter 464, chapter 465, or chapter 466 for furnishing
19 information to a duly appointed medical review committee, to
20 an internal risk management program established under s.
21 395.0197, to the Department of Health or the Agency for Health
22 Care Administration ~~Business and Professional Regulation~~, or
23 to the appropriate regulatory board if the information
24 furnished concerns patient care at a facility licensed
25 pursuant to part I of chapter 395 where both persons provide
26 health care services, if the information is not intentionally
27 fraudulent, and if the information is within the scope of the
28 functions of the committee, department, or board. However, if
29 such information is otherwise available from original sources,
30 it is not immune from discovery or use in a civil action
31

1 merely because it was presented during a proceeding of the
2 committee, department, or board.

3 Section 24. For the purpose of incorporating the
4 amendment to section 766.101(1)(a), Florida Statutes, in
5 references thereto, paragraph (a) of subsection (1) of section
6 440.105, Florida Statutes, and subsection (6) of section
7 626.989, Florida Statutes, are reenacted to read:

8 440.105 Prohibited activities; reports; penalties;
9 limitations.--

10 (1)(a) Any insurance carrier, any individual
11 self-insured, any commercial or group self-insurance fund, any
12 professional practitioner licensed or regulated by the
13 Department of Business and Professional Regulation, except as
14 otherwise provided by law, any medical review committee as
15 defined in s. 766.101, any private medical review committee,
16 and any insurer, agent, or other person licensed under the
17 insurance code, or any employee thereof, having knowledge or
18 who believes that a fraudulent act or any other act or
19 practice which, upon conviction, constitutes a felony or
20 misdemeanor under this chapter is being or has been committed
21 shall send to the Division of Insurance Fraud, Bureau of
22 Workers' Compensation Fraud, a report or information pertinent
23 to such knowledge or belief and such additional information
24 relative thereto as the bureau may require. The bureau shall
25 review such information or reports and select such information
26 or reports as, in its judgment, may require further
27 investigation. It shall then cause an independent examination
28 of the facts surrounding such information or report to be made
29 to determine the extent, if any, to which a fraudulent act or
30 any other act or practice which, upon conviction, constitutes
31 a felony or a misdemeanor under this chapter is being

1 committed. The bureau shall report any alleged violations of
2 law which its investigations disclose to the appropriate
3 licensing agency and state attorney or other prosecuting
4 agency having jurisdiction with respect to any such violations
5 of this chapter. If prosecution by the state attorney or other
6 prosecuting agency having jurisdiction with respect to such
7 violation is not begun within 60 days of the bureau's report,
8 the state attorney or other prosecuting agency having
9 jurisdiction with respect to such violation shall inform the
10 bureau of the reasons for the lack of prosecution.

11 626.989 Investigation by department or Division of
12 Insurance Fraud; compliance; immunity; confidential
13 information; reports to division; division investigator's
14 power of arrest.--

15 (6) Any person, other than an insurer, agent, or other
16 person licensed under the code, or an employee thereof, having
17 knowledge or who believes that a fraudulent insurance act or
18 any other act or practice which, upon conviction, constitutes
19 a felony or a misdemeanor under the code, or under s. 817.234,
20 is being or has been committed may send to the Division of
21 Insurance Fraud a report or information pertinent to such
22 knowledge or belief and such additional information relative
23 thereto as the department may request. Any professional
24 practitioner licensed or regulated by the Department of
25 Business and Professional Regulation, except as otherwise
26 provided by law, any medical review committee as defined in s.
27 766.101, any private medical review committee, and any
28 insurer, agent, or other person licensed under the code, or an
29 employee thereof, having knowledge or who believes that a
30 fraudulent insurance act or any other act or practice which,
31 upon conviction, constitutes a felony or a misdemeanor under

1 the code, or under s. 817.234, is being or has been committed
2 shall send to the Division of Insurance Fraud a report or
3 information pertinent to such knowledge or belief and such
4 additional information relative thereto as the department may
5 require. The Division of Insurance Fraud shall review such
6 information or reports and select such information or reports
7 as, in its judgment, may require further investigation. It
8 shall then cause an independent examination of the facts
9 surrounding such information or report to be made to determine
10 the extent, if any, to which a fraudulent insurance act or any
11 other act or practice which, upon conviction, constitutes a
12 felony or a misdemeanor under the code, or under s. 817.234,
13 is being committed. The Division of Insurance Fraud shall
14 report any alleged violations of law which its investigations
15 disclose to the appropriate licensing agency and state
16 attorney or other prosecuting agency having jurisdiction with
17 respect to any such violation, as provided in s. 624.310. If
18 prosecution by the state attorney or other prosecuting agency
19 having jurisdiction with respect to such violation is not
20 begun within 60 days of the division's report, the state
21 attorney or other prosecuting agency having jurisdiction with
22 respect to such violation shall inform the division of the
23 reasons for the lack of prosecution.

24 Section 25. Paragraph (c) of subsection (4) of section
25 766.1115, Florida Statutes, is amended to read:

26 766.1115 Health care providers; creation of agency
27 relationship with governmental contractors.--

28 (4) CONTRACT REQUIREMENTS.--A health care provider
29 that executes a contract with a governmental contractor to
30 deliver health care services on or after April 17, 1992, as an
31 agent of the governmental contractor is an agent for purposes

1 of s. 768.28(9), while acting within the scope of duties
2 pursuant to the contract, if the contract complies with the
3 requirements of this section and regardless of whether the
4 individual treated is later found to be ineligible. A health
5 care provider under contract with the state may not be named
6 as a defendant in any action arising out of the medical care
7 or treatment provided on or after April 17, 1992, pursuant to
8 contracts entered into under this section. The contract must
9 provide that:

10 (c) Adverse incidents and information on treatment
11 outcomes must be reported by any health care provider to the
12 governmental contractor if such incidents and information
13 pertain to a patient treated pursuant to the contract. The
14 health care provider shall submit the reports required by s.
15 395.0197 ~~annually submit an adverse incident report that~~
16 ~~includes all information required by s. 395.0197(6)(a), unless~~
17 ~~the adverse incident involves a result described by s.~~
18 ~~395.0197(8), in which case it shall be reported within 15 days~~
19 ~~after the occurrence of such incident.~~ If an incident involves
20 a professional licensed by the Department of Health or a
21 facility licensed by the Agency for Health Care
22 Administration, the governmental contractor shall submit such
23 incident reports to the appropriate department or agency,
24 which shall review each incident and determine whether it
25 involves conduct by the licensee that is subject to
26 disciplinary action. All patient medical records and any
27 identifying information contained in adverse incident reports
28 and treatment outcomes which are obtained by governmental
29 entities pursuant to this paragraph are confidential and
30 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
31 I of the State Constitution.

1 Section 26. Section 456.047, Florida Statutes, is
2 amended to read:

3 456.047 Standardized credentialing for health care
4 practitioners.--

5 (1) INTENT.--The Legislature recognizes that an
6 efficient and effective health care practitioner credentialing
7 program helps to ensure access to quality health care and also
8 recognizes that health care practitioner credentialing
9 activities have increased significantly as a result of health
10 care reform and recent changes in health care delivery and
11 reimbursement systems. Moreover, the resulting duplication of
12 health care practitioner credentialing activities is
13 unnecessarily costly and cumbersome for both the practitioner
14 and the entity granting practice privileges. Therefore, it is
15 the intent of this section that a credentials collection
16 program be established which provides that, once a health care
17 practitioner's core credentials data are collected, they need
18 not be collected again, except for corrections, updates, and
19 modifications thereto. Furthermore, it is the intent of the
20 Legislature that the department and all entities and
21 practitioners work cooperatively to ensure the integrity and
22 accuracy of the program. Participation under this section
23 shall include those individuals licensed under chapter 458,
24 chapter 459, chapter 460, chapter 461, or s. 464.012. However,
25 the department shall, with the approval of the applicable
26 board, include other professions under the jurisdiction of the
27 Division of Medical Quality Assurance in this program,
28 provided they meet the requirements of s. 456.039 or s.
29 456.0391.

30 (2) DEFINITIONS.--As used in this section, the term:
31

1 (a) "Certified" or "accredited," as applicable, means
2 approved by a quality assessment program, from the National
3 Committee for Quality Assurance, the Joint Commission on
4 Accreditation of Healthcare Organizations, the American
5 Accreditation HealthCare Commission/URAC, or any such other
6 nationally recognized and accepted organization authorized by
7 the department, used to assess and certify any credentials
8 verification program, entity, or organization that verifies
9 the credentials of any health care practitioner.

10 (b) "Core credentials data" means data that is primary
11 source verified and includes the following data: ~~current name,~~
12 ~~any former name, and any alias, any professional education,~~
13 ~~professional training, licensure, current Drug Enforcement~~
14 ~~Administration certification, social security number,~~
15 ~~specialty board certification, Educational Commission for~~
16 ~~Foreign Medical Graduates certification, and hospital or other~~
17 ~~institutional affiliations, evidence of professional liability~~
18 ~~coverage or evidence of financial responsibility as required~~
19 ~~by s. 458.320, s. 459.0085, or s. 456.048, history of claims,~~
20 ~~suits, judgments, or settlements, final disciplinary action~~
21 ~~reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8.~~
22 The department may by rule designate additional core
23 credentials data elements, ~~and Medicare or Medicaid sanctions.~~

24 (c) "Credential" or "credentialing" means the process
25 of assessing and verifying the qualifications of a licensed
26 health care practitioner or applicant for licensure as a
27 health care practitioner.

28 (d) "Credentials verification organization" means any
29 organization certified or accredited as a credentials
30 verification organization.

31

- 1 (e) "Department" means the Department of Health,
2 Division of Medical Quality Assurance.
- 3 (f) "Designated credentials verification organization"
4 means the credentials verification organization which is
5 selected by the health care practitioner, if the health care
6 practitioner chooses to make such a designation.
- 7 (g) "Drug Enforcement Administration certification"
8 means certification issued by the Drug Enforcement
9 Administration for purposes of administration or prescription
10 of controlled substances. Submission of such certification
11 under this section must include evidence that the
12 certification is current and must also include all current
13 addresses to which the certificate is issued.
- 14 (h) "Health care entity" means:
- 15 1. Any health care facility or other health care
16 organization licensed or certified to provide approved medical
17 and allied health services in this state;
- 18 2. Any entity licensed by the Department of Insurance
19 as a prepaid health care plan or health maintenance
20 organization or as an insurer to provide coverage for health
21 care services through a network of providers or similar
22 organization licensed under chapter 627, chapter 636, chapter
23 641, or chapter 651; or
- 24 3. Any accredited medical school in this state.
- 25 (i) "Health care practitioner" means any person
26 licensed, or, for credentialing purposes only, any person
27 applying for licensure, under chapter 458, chapter 459,
28 chapter 460, chapter 461, or s. 464.012 or any person licensed
29 or applying for licensure under a chapter subsequently made
30 subject to this section by the department with the approval of
31

1 the applicable board, except a person registered or applying
2 for registration pursuant to s. 458.345 or s. 459.021.

3 ~~(j) "Hospital or other institutional affiliations"~~
4 ~~means each hospital or other institution for which the health~~
5 ~~care practitioner or applicant has provided medical services.~~
6 ~~Submission of such information under this section must~~
7 ~~include, for each hospital or other institution, the name and~~
8 ~~address of the hospital or institution, the staff status of~~
9 ~~the health care practitioner or applicant at that hospital or~~
10 ~~institution, and the dates of affiliation with that hospital~~
11 ~~or institution.~~

12 (j)(k) "National accrediting organization" means an
13 organization that awards accreditation or certification to
14 hospitals, managed care organizations, credentials
15 verification organizations, or other health care
16 organizations, including, but not limited to, the Joint
17 Commission on Accreditation of Healthcare Organizations, the
18 American Accreditation HealthCare Commission/URAC, and the
19 National Committee for Quality Assurance.

20 (k) "Primary source verification" means verification
21 of professional qualifications based on evidence obtained
22 directly from the issuing source of the applicable
23 qualification or from any other source deemed as a primary
24 source for such verification by the department or an
25 accrediting body approved by the department.

26 (l) "Professional training" means any internship,
27 residency, or fellowship relating to the profession for which
28 the health care practitioner is licensed or seeking licensure.

29 (m) "Specialty board certification" means
30 certification in a specialty issued by a specialty board
31 recognized by the board in this state that regulates the

1 profession for which the health care practitioner is licensed
2 or seeking licensure.

3 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

4 (a) Every health care practitioner shall:

5 1. Report all core credentials data to the department
6 which is not already on file with the department, either by
7 designating a credentials verification organization to submit
8 the data or by submitting the data directly.

9 2. Notify the department within 45 days of any
10 corrections, updates, or modifications to the core credentials
11 data either through his or her designated credentials
12 verification organization or by submitting the data directly.
13 Corrections, updates, and modifications to the core
14 credentials data provided the department under this section
15 shall comply with the updating requirements of s. 456.039(3)
16 or s. 456.0391(3) related to profiling.

17 (b) The department shall:

18 1. Maintain a complete, current file of applicable
19 core credentials data on each health care practitioner, which
20 shall include data provided in accordance with subparagraph
21 (a)1. and all updates provided in accordance with subparagraph
22 (a)2.

23 2. Release the core credentials data that is otherwise
24 confidential or exempt from the provisions of chapter 119 and
25 s. 24(a), Art. I of the State Constitution and any
26 corrections, updates, and modifications thereto, if authorized
27 by the health care practitioner.

28 3. Charge a fee to access the core credentials data,
29 which may not exceed the actual cost, including prorated setup
30 and operating costs, pursuant to the requirements of chapter
31 119.

1 4. Develop standardized forms to be used by the health
2 care practitioner or designated credentials verification
3 organization for the initial reporting of core credentials
4 data, for the health care practitioner to authorize the
5 release of core credentials data, and for the subsequent
6 reporting of corrections, updates, and modifications thereto.

7 (c) A registered credentials verification organization
8 may be designated by a health care practitioner to assist the
9 health care practitioner to comply with the requirements of
10 subparagraph (a)2. A designated credentials verification
11 organization shall:

12 1. Timely comply with the requirements of subparagraph
13 (a)2., pursuant to rules adopted by the department.

14 2. Not provide the health care practitioner's core
15 credentials data, including all corrections, updates, and
16 modifications, without the authorization of the practitioner.

17 (d) This section shall not be construed to restrict in
18 any way the authority of the health care entity to credential
19 and to approve or deny an application for hospital staff
20 membership, clinical privileges, or managed care network
21 participation.

22 (4) DUPLICATION OF DATA PROHIBITED.--

23 (a) A healthcare entity or credentials verification
24 organization is prohibited from collecting or attempting to
25 collect duplicate core credentials data from any health care
26 practitioner if the information is available from the
27 department. This section shall not be construed to restrict
28 the right of any health care entity or credentials
29 verification organization to collect additional information
30 from the health care practitioner which is not included in the
31 core credentials data file. This section shall not be

1 construed to prohibit a health care entity or credentials
2 verification organization from obtaining all necessary
3 attestation and release form signatures and dates.

4 (b) Effective July 1, 2002, a state agency in this
5 state which credentials health care practitioners may not
6 collect or attempt to collect duplicate core credentials data
7 from any individual health care practitioner if the
8 information is already available from the department. This
9 section shall not be construed to restrict the right of any
10 such state agency to request additional information not
11 included in the core credentials ~~credential~~ data file, but
12 which is deemed necessary for the agency's specific
13 credentialing purposes.

14 (5) STANDARDS AND REGISTRATION.--Any credentials
15 verification organization that does business in this state
16 must be fully accredited or certified as a credentials
17 verification organization by a national accrediting
18 organization as specified in paragraph (2)(a) and must
19 register with the department. The department may charge a
20 reasonable registration fee, not to exceed an amount
21 sufficient to cover its actual expenses in providing and
22 enforcing such registration. The department shall establish by
23 rule for biennial renewal of such registration. Failure by a
24 registered credentials verification organization to maintain
25 full accreditation or certification, to provide data as
26 authorized by the health care practitioner, to report to the
27 department changes, updates, and modifications to a health
28 care practitioner's records within the time period specified
29 in subparagraph (3)(a)2., or to comply with the prohibition
30 against collection of duplicate core credentials data from a
31 practitioner may result in denial of an application for

1 renewal of registration or in revocation or suspension of a
2 registration.

3 (6) PRIMARY SOURCE VERIFIED DATA.--Health care
4 entities and credentials verification organizations may rely
5 upon any data that has been primary source verified by the
6 department or its designee to meet primary source verification
7 requirements of national accrediting organizations.

8 (7)(6) LIABILITY.--No civil, criminal, or
9 administrative action may be instituted, and there shall be no
10 liability, against any registered credentials verification
11 organization or health care entity on account of its reliance
12 on any data obtained directly from the department.

13 (8)(7) LIABILITY INSURANCE REQUIREMENTS.--Each
14 credentials verification organization doing business in this
15 state shall maintain liability insurance appropriate to meet
16 the certification or accreditation requirements established in
17 this section.

18 (9)(8) RULES.--The department shall adopt rules
19 necessary to develop and implement the standardized core
20 credentials data collection program established by this
21 section.

22 Section 27. Section 240.4075, Florida Statutes, is
23 amended to read:

24 240.4075 Nursing Student Loan Forgiveness Program.--

25 (1) To encourage qualified personnel to seek
26 employment in areas of this state in which critical nursing
27 shortages exist, there is established the Nursing Student Loan
28 Forgiveness Program. The primary function of the program is
29 to increase employment and retention of registered nurses and
30 licensed practical nurses in nursing homes and hospitals in
31 the state and in state-operated medical and health care

1 facilities, public schools, birth centers, and federally
2 sponsored community health centers ~~and teaching hospitals~~ by
3 making repayments toward loans received by students from
4 federal or state programs or commercial lending institutions
5 for the support of postsecondary study in accredited or
6 approved nursing programs.

7 (2) To be eligible, a candidate must have graduated
8 from an accredited or approved nursing program and have
9 received a Florida license as a licensed practical nurse or a
10 registered nurse or a Florida certificate as an advanced
11 registered nurse practitioner.

12 (3) Only loans to pay the costs of tuition, books, and
13 living expenses shall be covered, at an amount not to exceed
14 \$4,000 for each year of education towards the degree obtained.

15 (4) Receipt of funds pursuant to this program shall be
16 contingent upon continued proof of employment in the
17 designated facilities in this state. Loan principal payments
18 shall be made by the Department of Health ~~Education~~ directly
19 to the federal or state programs or commercial lending
20 institutions holding the loan as follows:

21 (a) Twenty-five percent of the loan principal and
22 accrued interest shall be retired after the first year of
23 nursing;

24 (b) Fifty percent of the loan principal and accrued
25 interest shall be retired after the second year of nursing;

26 (c) Seventy-five percent of the loan principal and
27 accrued interest shall be retired after the third year of
28 nursing; and

29 (d) The remaining loan principal and accrued interest
30 shall be retired after the fourth year of nursing.

31

1 In no case may payment for any nurse exceed \$4,000 in any
2 12-month period.

3 (5) There is created the Nursing Student Loan
4 Forgiveness Trust Fund to be administered by the Department of
5 Health Education pursuant to this section and s. 240.4076 and
6 department rules. The Comptroller shall authorize
7 expenditures from the trust fund upon receipt of vouchers
8 approved by the Department of Health Education. All moneys
9 collected from the private health care industry and other
10 private sources for the purposes of this section shall be
11 deposited into the Nursing Student Loan Forgiveness Trust
12 Fund. Any balance in the trust fund at the end of any fiscal
13 year shall remain therein and shall be available for carrying
14 out the purposes of this section and s. 240.4076.

15 (6) In addition to licensing fees imposed under part I
16 of chapter 464, there is hereby levied and imposed an
17 additional fee of \$5, which fee shall be paid upon licensure
18 or renewal of nursing licensure. Revenues collected from the
19 fee imposed in this subsection shall be deposited in the
20 Nursing Student Loan Forgiveness Trust Fund of the Department
21 of Health Education and will be used solely for the purpose of
22 carrying out the provisions of this section and s. 240.4076.
23 Up to 50 percent of the revenues appropriated to implement
24 this subsection may be used for the nursing scholarship
25 program established pursuant to s. 240.4076.

26 (7)(a) Funds contained in the Nursing Student Loan
27 Forgiveness Trust Fund which are to be used for loan
28 forgiveness for those nurses employed by hospitals, birth
29 centers, and nursing homes must be matched on a
30 dollar-for-dollar basis by contributions from the employing
31 institutions, except that this provision shall not apply to

1 state-operated medical and health care facilities, public
2 schools, county health departments, federally sponsored
3 community health centers, ~~or~~ teaching hospitals as defined in
4 s. 408.07, family practice teaching hospitals as defined in s.
5 395.805, or specialty hospitals for children as used in s.
6 409.9119. If in any given fiscal quarter there are
7 insufficient funds in the trust fund to grant all eligible
8 applicant requests, awards shall be based on the following
9 priority of employer: county health departments; federally
10 sponsored community health centers; state-operated medical and
11 health care facilities; public schools; teaching hospitals as
12 defined in s. 408.07; family practice teaching hospitals as
13 defined in s. 395.805; specialty hospitals for children as
14 used in s. 409.9119; and other hospitals, birth centers, and
15 nursing homes.

16 (b) All Nursing Student Loan Forgiveness Trust Fund
17 moneys shall be invested pursuant to s. 18.125. Interest
18 income accruing to that portion of the trust fund not matched
19 shall increase the total funds available for loan forgiveness
20 and scholarships. Pledged contributions shall not be eligible
21 for matching prior to the actual collection of the total
22 private contribution for the year.

23 (8) The Department of Health ~~Education~~ may solicit
24 technical assistance relating to the conduct of this program
25 from the Department of Education ~~Health~~.

26 (9) The Department of Health ~~Education~~ is authorized
27 to recover from the Nursing Student Loan Forgiveness Trust
28 Fund its costs for administering the Nursing Student Loan
29 Forgiveness Program.

30 (10) The Department of Health ~~Education~~ may adopt
31 rules necessary to administer this program.

1 (11) This section shall be implemented only as
2 specifically funded.

3 Section 28. Section 240.4076, Florida Statutes, is
4 amended to read:

5 240.4076 Nursing scholarship program.--

6 (1) There is established within the Department of
7 Health Education a scholarship program for the purpose of
8 attracting capable and promising students to the nursing
9 profession.

10 (2) A scholarship applicant shall be enrolled as a
11 full-time or part-time student in the upper division of an
12 approved nursing program leading to the award of a
13 baccalaureate degree or graduate degree to qualify for a
14 nursing faculty position or as an ~~or any~~ advanced registered
15 nurse practitioner ~~degree~~ or be enrolled as a full-time or
16 part-time student in an approved program leading to the award
17 of an associate degree in nursing ~~or a diploma in nursing~~.

18 (3) A scholarship may be awarded for no more than 2
19 years, in an amount not to exceed \$8,000 per year. However,
20 registered nurses pursuing a graduate degree for a faculty
21 position or to practice as an advanced registered nurse
22 practitioner ~~degree~~ may receive up to \$12,000 per year.
23 Beginning July 1, 1998, these amounts shall be adjusted by the
24 amount of increase or decrease in the consumer price index for
25 urban consumers published by the United States Department of
26 Commerce.

27 (4) Credit for repayment of a scholarship shall be as
28 follows:

29 (a) For each full year of scholarship assistance, the
30 recipient agrees to work for 12 months in a faculty position
31 in a college of nursing or community college nursing program

1 in this state or at a health care facility in a medically
2 underserved area as approved by the Department of Health
3 ~~Education~~. Scholarship recipients who attend school on a
4 part-time basis shall have their employment service obligation
5 prorated in proportion to the amount of scholarship payments
6 received.

7 (b) Eligible health care facilities include nursing
8 homes and hospitals in this state, state-operated medical or
9 health care facilities, public schools, county health
10 departments, federally sponsored community health centers,
11 colleges of nursing in universities in this state, and
12 community college nursing programs in this state ~~or teaching~~
13 ~~hospitals as defined in s. 408.07~~. The recipient shall be
14 encouraged to complete the service obligation at a single
15 employment site. If continuous employment at the same site is
16 not feasible, the recipient may apply to the department for a
17 transfer to another approved health care facility.

18 (c) Any recipient who does not complete an appropriate
19 program of studies or who does not become licensed shall repay
20 to the Department of Health Education, on a schedule to be
21 determined by the department, the entire amount of the
22 scholarship plus 18 percent interest accruing from the date of
23 the scholarship payment. Moneys repaid shall be deposited into
24 the Nursing Student Loan Forgiveness Trust Fund established in
25 s. 240.4075. However, the department may provide additional
26 time for repayment if the department finds that circumstances
27 beyond the control of the recipient caused or contributed to
28 the default.

29 (d) Any recipient who does not accept employment as a
30 nurse at an approved health care facility or who does not
31 complete 12 months of approved employment for each year of

1 scholarship assistance received shall repay to the Department
2 of ~~Health Education~~ an amount equal to two times the entire
3 amount of the scholarship plus interest accruing from the date
4 of the scholarship payment at the maximum allowable interest
5 rate permitted by law. Repayment shall be made within 1 year
6 of notice that the recipient is considered to be in default.
7 However, the department may provide additional time for
8 repayment if the department finds that circumstances beyond
9 the control of the recipient caused or contributed to the
10 default.

11 (5) Scholarship payments shall be transmitted to the
12 recipient upon receipt of documentation that the recipient is
13 enrolled in an approved nursing program. The Department of
14 ~~Health Education~~ shall develop a formula to prorate payments
15 to scholarship recipients so as not to exceed the maximum
16 amount per academic year.

17 (6) The Department of ~~Health Education~~ shall adopt
18 rules, including rules to address extraordinary circumstances
19 that may cause a recipient to default on either the school
20 enrollment or employment contractual agreement, to implement
21 this section and may solicit technical assistance relating to
22 the conduct of this program from the Department of Health.

23 (7) The Department of ~~Health Education~~ is authorized
24 to recover from the Nursing Student Loan Forgiveness Trust
25 Fund its costs for administering the nursing scholarship
26 program.

27 Section 29. All powers, duties, and functions, rules,
28 records, personnel, property, and unexpended balances of
29 appropriations, allocations, or other funds of the Department
30 of Education relating to the Nursing Student Loan Forgiveness
31 Program and the nursing scholarship program are transferred by

1 a type two transfer, as defined in s. 20.06(2), Florida
2 Statutes, to the Department of Health.

3 Section 30. Effective July 1, 2003, section 464.005,
4 Florida Statutes, is amended to read:

5 464.005 Board headquarters.--The board shall maintain
6 its official headquarters in Tallahassee ~~the city in which it~~
7 ~~has been domiciled for the past 5 years.~~

8 Section 31. Subsections (1) and (2) of section
9 464.008, Florida Statutes, are amended to read:

10 464.008 Licensure by examination.--

11 (1) Any person desiring to be licensed as a registered
12 nurse or licensed practical nurse shall apply to the
13 department to take the licensure examination. The department
14 shall examine each applicant who:

15 (a) Has completed the application form and remitted a
16 fee set by the board not to exceed \$150 and has remitted an
17 examination fee set by the board not to exceed \$75 plus the
18 actual per applicant cost to the department for purchase of
19 the examination from the National Council of State Boards of
20 Nursing or a similar national organization.

21 (b) Has provided sufficient information on or after
22 October 1, 1989, which must be submitted by the department for
23 a statewide criminal records correspondence check through the
24 Department of Law Enforcement.

25 (c) Is in good mental and physical health, is a
26 recipient of a high school diploma or the equivalent, and has
27 completed the requirements for graduation from an approved
28 program, or its equivalent as determined by the board, for the
29 preparation of registered nurses or licensed practical nurses,
30 whichever is applicable. Courses successfully completed in a
31 professional nursing program which are at least equivalent to

1 a practical nursing program may be used to satisfy the
2 education requirements for licensure as a licensed practical
3 nurse.

4 (d) Has the ability to communicate in the English
5 language, which may be determined by an examination given by
6 the department.

7 (2) Each applicant who passes the examination and
8 provides proof of meeting the educational requirements
9 specified in subsection (1)~~graduation from an approved~~
10 ~~nursing program~~ shall, unless denied pursuant to s. 464.018,
11 be entitled to licensure as a registered professional nurse or
12 a licensed practical nurse, whichever is applicable.

13 Section 32. Section 464.009, Florida Statutes, is
14 amended to read:

15 464.009 Licensure by endorsement.--

16 (1) The department shall issue the appropriate license
17 by endorsement to practice professional or practical nursing
18 to an applicant who, upon applying to the department and
19 remitting a fee set by the board not to exceed \$100,
20 demonstrates to the board that he or she:

21 (a) Holds a valid license to practice professional or
22 practical nursing in another state of the United States,
23 provided that, when the applicant secured his or her original
24 license, the requirements for licensure were substantially
25 equivalent to or more stringent than those existing in Florida
26 at that time; or

27 (b) Meets the qualifications for licensure in s.
28 464.008 and has successfully completed a state, regional, or
29 national examination which is substantially equivalent to or
30 more stringent than the examination given by the department.

31

1 (2) Such examinations and requirements from other
2 states shall be presumed to be substantially equivalent to or
3 more stringent than those in this state. Such presumption
4 shall not arise until January 1, 1980. However, the board may,
5 by rule, specify states the examinations and requirements of
6 which shall not be presumed to be substantially equivalent to
7 those of this state.

8 (3) The applicant must submit to the department a set
9 of fingerprints on a form and under procedures specified by
10 the department, along with a payment in an amount equal to the
11 costs incurred by the Department of Health for the criminal
12 background check of the applicant. The Department of Health
13 shall submit the fingerprints provided by the applicant to the
14 Florida Department of Law Enforcement for a statewide criminal
15 history check, and the Florida Department of Law Enforcement
16 shall forward the fingerprints to the Federal Bureau of
17 Investigation for a national criminal history check of the
18 applicant. The Department of Health shall review the results
19 of the criminal history check, issue a license to an applicant
20 who has met all of the other requirements for licensure and
21 has no criminal history, and shall refer all applicants with
22 criminal histories back to the board for determination as to
23 whether a license should be issued and under what conditions.

24 ~~(4)(3)~~ The department shall not issue a license by
25 endorsement to any applicant who is under investigation in
26 another state for an act which would constitute a violation of
27 this part or chapter 456 until such time as the investigation
28 is complete, at which time the provisions of s. 464.018 shall
29 apply.

30 (5) The department shall develop an electronic
31 applicant notification process and provide electronic

1 notification when the application has been received and when
2 background screenings have been completed, and shall issue a
3 license within 30 days after completion of all required data
4 collection and verification. This 30-day period to issue a
5 license shall be tolled if the applicant must appear before
6 the board due to information provided on the application or
7 obtained through screening and data collection and
8 verification procedures.

9 Section 33. Section 464.0195, Florida Statutes, is
10 created to read:

11 464.0195 Florida Center for Nursing; goals.--There is
12 established the Florida Center for Nursing to address issues
13 of supply and demand for nursing, including issues of
14 recruitment, retention, and utilization of nurse workforce
15 resources. The Legislature finds that the center will repay
16 the state's investment by providing an ongoing strategy for
17 the allocation of the state's resources directed towards
18 nursing. The primary goals for the center shall be to:

19 (1) Develop a strategic statewide plan for nursing
20 manpower in this state by:

21 (a) Establishing and maintaining a database on nursing
22 supply and demand in the state, to include current supply and
23 demand, and future projections; and

24 (b) Selecting from the plan priorities to be
25 addressed.

26 (2) Convene various groups representative of nurses,
27 other health care providers, business and industry, consumers,
28 legislators, and educators to:

29 (a) Review and comment on data analysis prepared for
30 the center;

31

1 (b) Recommend systemic changes, including strategies
2 for implementation of recommended changes; and

3 (c) Evaluate and report the results of these efforts
4 to the Legislature and others.

5 (3) Enhance and promote recognition, reward, and
6 renewal activities for nurses in the state by:

7 (a) Promoting nursing excellence programs such as
8 magnet recognition by the American Nurses Credentialing
9 Center;

10 (b) Proposing and creating additional reward,
11 recognition, and renewal activities for nurses; and

12 (c) Promoting media and positive image-building
13 efforts for nursing.

14 Section 34. Section 464.0196, Florida Statutes, is
15 created to read:

16 464.0196 Florida Center for Nursing; board of
17 directors.--

18 (1) The Florida Center for Nursing shall be governed
19 by a policy-setting board of directors. The board shall
20 consist of 16 members, with a simple majority of the board
21 being nurses representative of various practice areas. Other
22 members shall include representatives of other health care
23 professions, business and industry, health care providers, and
24 consumers. The members of the board shall be appointed by the
25 Governor as follows:

26 (a) Four members recommended by the President of the
27 Senate, at least one of whom shall be a registered nurse
28 recommended by the Florida Organization of Nurse Executives
29 and at least one other representative of the hospital industry
30 recommended by the Florida Hospital Association;
31

1 (b) Four members recommended by the Speaker of the
2 House of Representatives, at least one of whom shall be a
3 registered nurse recommended by the Florida Nurses Association
4 and at least one other representative of the long-term care
5 industry;

6 (c) Four members recommended by the Governor, two of
7 whom shall be registered nurses; and

8 (d) Four nurse educators recommended by the State
9 Board of Education, one of whom shall be a dean of a College
10 of Nursing at a state university, one other shall be a
11 director of a nursing program in a state community college.

12 (2) The initial terms of the members shall be as
13 follows:

14 (a) Of the members appointed pursuant to paragraph
15 (1)(a), two shall be appointed for terms expiring June 30,
16 2005, one for a term expiring June 30, 2004, and one for a
17 term expiring June 30, 2003.

18 (b) Of the members appointed pursuant to paragraph
19 (1)(b), one shall be appointed for a term expiring June 30,
20 2005, two for terms expiring June 30, 2004, and one for a term
21 expiring June 20, 2003.

22 (c) Of the members appointed pursuant to paragraph
23 (1)(c), one shall be appointed for a term expiring June 30,
24 2005, one for a term expiring June 30, 2004, and two for terms
25 expiring June 30, 2003.

26 (d) Of the members appointed pursuant to paragraph
27 (1)(d), the terms of two members recommended by the State
28 Board of Education shall expire June 30, 2005; the term of the
29 member who is a dean of a College of Nursing at a state
30 university shall expire June 30, 2004; and the term of the
31

1 member who is a director of a state community college nursing
2 program shall expire June 30, 2003.

3
4 After the initial appointments expire, the terms of all the
5 members shall be for 3 years, with no member serving more than
6 two consecutive terms.

7 (3) The board shall have the following powers and
8 duties:

9 (a) To employ an executive director.

10 (b) To determine operational policy.

11 (c) To elect a chair and officers, to serve 2-year
12 terms. The chair and officers may not succeed themselves.

13 (d) To establish committees of the board as needed.

14 (e) To appoint a multidisciplinary advisory council
15 for input and advice on policy matters.

16 (f) To implement the major functions of the center as
17 established in the goals set out in s. 464.0195.

18 (g) To seek and accept nonstate funds for sustaining
19 the center and carrying out center policy.

20 (4) The members of the board are entitled to receive
21 per diem and allowances prescribed by law for state boards and
22 commissions.

23 Section 35. Section 464.0197, Florida Statutes, is
24 created to read:

25 464.0197 Florida Center for Nursing; state budget
26 support.--The Legislature finds that it is imperative that the
27 state protect its investment and progress made in nursing
28 efforts to date. The Legislature finds that the Florida Center
29 for Nursing is the appropriate means to do so. The center
30 shall have state budget support for its operations so that it
31

1 may have adequate resources for the tasks the Legislature has
2 set out in s. 464.0195.

3 Section 36. The Board of Nursing within the Department
4 of Health shall hold in abeyance until July 1, 2002, the
5 development of any rule pursuant to s. 464.019(2), Florida
6 Statutes, which relates to the establishment of
7 faculty/student clinical ratios. The Board of Nursing and the
8 Department of Education shall submit to the President of the
9 Senate and the Speaker of the House of Representatives by
10 December 31, 2001, an implementation plan that details both
11 the impact and the cost of any such proposed rule change.

12 Section 37. Subsection (1) of section 464.0205,
13 Florida Statutes, is amended to read:

14 464.0205 Retired volunteer nurse certificate.--

15 (1) Any retired practical or registered nurse desiring
16 to serve indigent, underserved, or critical need populations
17 in this state may apply to the department for a retired
18 volunteer nurse certificate by providing:

19 (a) A complete application.

20 ~~(b) An application and processing fee of \$25.~~

21 (b)(c) Verification that the applicant had been
22 licensed to practice nursing in any jurisdiction in the United
23 States for at least 10 years, had retired or plans to retire,
24 intends to practice nursing only pursuant to the limitations
25 provided by the retired volunteer nurse certificate, and has
26 not committed any act that would constitute a violation under
27 s. 464.018(1).

28 (c)(d) Proof that the applicant meets the requirements
29 for licensure under s. 464.008 or s. 464.009.

30 Section 38. The Florida Legislature's Office of
31 Program Policy Analysis and Government Accountability shall

1 study the feasibility of maintaining the entire Medical
2 Quality Assurance function, including enforcement, within one
3 department, as recommended by the Auditor General in
4 Operational Report Number 01-063. The study shall be completed
5 and a report issued to the Legislature on or before November
6 30, 2001.

7 Section 39. Effective October 1, 2001, section
8 456.0375, Florida Statutes, is created to read:

9 456.0375 Registration of certain clinics;
10 requirements; discipline; exemptions.--

11 (1)(a) As used in this section, the term "clinic"
12 means a business operating in a single structure or facility
13 or group of adjacent structures or facilities operating under
14 the same business name or management at which health care
15 services are provided to individuals and which tenders charges
16 for reimbursement for such services.

17 (b) For purposes of this section, the term "clinic"
18 does not include and the registration requirements in this
19 section do not apply to:

20 1. Entities licensed or registered by the state
21 pursuant to chapter 390, chapter 394, chapter 395, chapter
22 397, chapter 400, chapter 463, chapter 465, chapter 466,
23 chapter 478, chapter 480, or chapter 484.

24 2. Entities exempt from federal taxation under 26
25 U.S.C. s. 501(c)(3).

26 3. Sole proprietorships, group practices,
27 partnerships, or corporations which provide health care
28 services by licensed health care practitioners pursuant to
29 chapter 457, chapter 458, chapter 459, chapter 460, chapter
30 461, chapter 462, chapter 463, chapter 466, chapter 467,
31 chapter 484, chapter 486, chapter 490, or chapter 491; part I,

1 part III, part X, part XIII, or part XIV of chapter 468; or s.
2 464.012, which are wholly owned by licensed health care
3 practitioners or wholly owned by licensed health care
4 practitioners and the spouse, parent, or child of a licensed
5 health care practitioner, so long as one of the owners who is
6 a licensed health care practitioner is supervising the
7 services performed therein and is legally responsible for the
8 entity's compliance with all federal and state laws. However,
9 no health care practitioner may supervise services beyond the
10 scope of the practitioner's license.

11 (2)(a) Every clinic, as defined in paragraph (1)(a),
12 must register, and at all times maintain a valid registration,
13 with the department. Each clinic location must be registered
14 separately even though operated under the same business name
15 or management, and each clinic must appoint a medical director
16 or clinic director.

17 (b) The department shall adopt rules necessary to
18 administer the registration program, including rules
19 establishing the specific registration procedures, forms, and
20 fees. Registration may be conducted electronically.
21 Registration fees must be calculated to reasonably cover the
22 cost of registration and must be of such amount that the total
23 fees collected do not exceed the cost of administering and
24 enforcing compliance with this section. The registration
25 program must require:

26 1. The clinic to file the registration form with the
27 department within 60 days after the effective date of this
28 section or prior to the inception of operation. The
29 registration expires automatically 2 years after its date of
30 issuance and must be renewed biennially thereafter.

31

1 2. The registration form to contain the name,
2 residence, and business address, phone number, and license
3 number of the medical director or clinic director for the
4 clinic.

5 3. The clinic to display the registration certificate
6 in a conspicuous location within the clinic which is readily
7 visible to all patients.

8 (3)(a) Each clinic must employ or contract with a
9 physician maintaining a full and unencumbered physician
10 license in accordance with chapter 458, chapter 459, chapter
11 460, or chapter 461 to serve as the medical director. However,
12 if the clinic is limited to providing health care services
13 pursuant to chapter 457, chapter 484, chapter 486, chapter
14 490, or chapter 491 or part I, part III, part X, part XIII, or
15 part XIV of chapter 468, the clinic may appoint a health care
16 practitioner licensed under that chapter to serve as the
17 clinic director who is responsible for the clinic's
18 activities. A health care practitioner may not serve as the
19 clinic director if the services provided at the clinic are
20 beyond the scope of that practitioner's license.

21 (b) The medical director or clinic director must agree
22 in writing to accept responsibility for the following
23 activities on behalf of the clinic. The medical director or
24 the clinic director shall:

25 1. Have signs identifying the medical director or
26 clinic director posted in a conspicuous location within the
27 clinic which is readily visible to all patients.

28 2. Ensure that all practitioners providing health care
29 services or supplies to patients maintain a current, active,
30 and unencumbered Florida license.

31

1 3. Review any patient-referral contracts or agreements
2 executed by the clinic.

3 4. Ensure that all health care practitioners at the
4 clinic have active appropriate certification or licensure for
5 the level of care being provided.

6 5. Serve as the clinic records owner as defined in s.
7 456.057.

8 6. Ensure compliance with the recordkeeping, office
9 surgery, and adverse incident reporting requirements of
10 chapter 456, the respective practice acts, and the rules
11 adopted thereunder.

12 7. Conduct systematic reviews of clinic billings to
13 ensure that the billings are not fraudulent or unlawful. Upon
14 discovery of an unlawful charge, the medical director or
15 clinic director must take immediate corrective action.

16 (c) Any contract to serve as a medical director or
17 clinic director entered into or renewed by a physician or
18 licensed health care practitioner in violation of this section
19 is void as contrary to public policy. This section applies to
20 contracts entered into or renewed on or after the effective
21 date of this section.

22 (d) The department, in consultation with the boards,
23 shall adopt rules specifying limitations on the number of
24 registered clinics and licensees for which a medical director
25 or clinic director may assume responsibility for purposes of
26 this section. In determining the quality of supervision a
27 medical director or clinic director can provide, the
28 department shall consider the number of clinic employees, the
29 clinic location, and the services provided by the clinic.

30 (4)(a) All charges or reimbursement claims made by or
31 on behalf of a clinic that is required to be registered under

1 this section but that is not so registered are unlawful
2 charges and therefore are noncompensable and unenforceable.

3 (b) Any person establishing, operating, or managing an
4 unregistered clinic otherwise required to be registered under
5 this section commits a felony of the third degree, punishable
6 as provided in s. 775.082, s. 775.083, or s. 775.084.

7 (c) Any licensed health care practitioner who violates
8 this section is subject to discipline in accordance with this
9 chapter and the respective practice act.

10 (d) The department shall revoke the registration of
11 any clinic registered under this section for operating in
12 violation of the requirements of this section or the rules
13 adopted pursuant to this section.

14 (e) The department shall investigate allegations of
15 noncompliance with this section and the rules adopted pursuant
16 to this section.

17 Section 40. The sum of \$100,000 is appropriated from
18 the registration fees collected from clinics pursuant to s.
19 456.0375, Florida Statutes, and one-half of one full-time
20 equivalent position is authorized, to the Department of Health
21 for the purposes of regulating medical clinics pursuant to s.
22 456.0375, Florida Statutes. The appropriated funds shall be
23 deposited into the Medical Quality Assurance Trust Fund.

24 Section 41. Subsection (3) of section 456.031, Florida
25 Statutes, is amended to read:

26 456.031 Requirement for instruction on domestic
27 violence.--

28 (3)(a) In lieu of completing a course as required in
29 subsection (1), a licensee or certificateholder may complete a
30 course in end-of-life care and palliative health care, if the
31 licensee or certificateholder has completed an approved

1 domestic violence course in the immediately preceding
2 biennium.

3 (b) In lieu of completing a course as required by
4 subsection (1), a person licensed under chapter 466 who has
5 completed an approved domestic-violence education course in
6 the immediately preceding 2 years may complete a course
7 approved by the Board of Dentistry.

8 Section 42. Subsection (9) of section 456.033, Florida
9 Statutes, is amended to read:

10 456.033 Requirement for instruction for certain
11 licensees on human immunodeficiency virus and acquired immune
12 deficiency syndrome.--

13 (9)(a) In lieu of completing a course as required in
14 subsection (1), the licensee may complete a course in
15 end-of-life care and palliative health care, so long as the
16 licensee completed an approved AIDS/HIV course in the
17 immediately preceding biennium.

18 (b) In lieu of completing a course as required by
19 subsection (1), a person licensed under chapter 466 who has
20 completed an approved AIDS/HIV course in the immediately
21 preceding 2 years may complete a course approved by the Board
22 of Dentistry.

23 Section 43. (1) Subsection (9) is added to section
24 627.419, Florida Statutes, to read:

25 627.419 Construction of policies.--

26 (9) With respect to any group or individual insurer
27 covering dental services, each claimant, or dentist acting for
28 a claimant, who has had a claim denied as not medically or
29 dentally necessary or who has had a claim payment based on an
30 alternate dental service in accordance with accepted dental
31 standards for adequate and appropriate care must be provided

1 an opportunity for an appeal to the insurer's licensed dentist
2 who is responsible for the medical necessity reviews under the
3 plan or is a member of the plan's peer review group. The
4 appeal may be by telephone, and the insurer's dentist must
5 respond within a reasonable time, not to exceed 15 business
6 days.

7 (2) This section shall apply to policies issued or
8 renewed on or after July 1, 2001.

9 Section 44. Paragraph (c) of subsection (6) of section
10 468.302, Florida Statutes, is amended to read:

11 468.302 Use of radiation; identification of certified
12 persons; limitations; exceptions.--

13 (6) Requirement for certification does not apply to:

14 (c) A person who is trained and skilled in invasive
15 cardiovascular ~~cardiopulmonary~~ technology, including the
16 radiologic technology duties associated with these procedures,
17 and who provides invasive cardiovascular ~~cardiopulmonary~~
18 technology services at the direction, and under the direct
19 supervision, of a licensed practitioner who is trained and
20 skilled in performing invasive cardiovascular procedures. Such
21 persons must have successfully completed a didactic and
22 clinical training program in the following areas before
23 performing radiologic technology duties:

24 1. Principles of X-ray production and equipment
25 operation.

26 2. Biological effects of radiation.

27 3. Radiation exposure and monitoring.

28 4. Radiation safety and protection.

29 5. Evaluation of radiographic equipment and
30 accessories.

31 6. Radiographic exposure and technique factors.

1 7. Film processing.
2 8. Image quality assurance.
3 9. Patient positioning.
4 10. Administration and complications of contrast
5 media.
6 11. Specific fluoroscopic and digital X-ray imaging
7 procedures related to invasive cardiovascular technology.
8 Section 45. Subsections (8) and (9) of section
9 468.352, Florida Statutes, are amended to read:
10 468.352 Definitions.--As used in this part, unless the
11 context otherwise requires, the term:
12 (8) "Registered respiratory therapist" means any
13 person licensed pursuant to this part who is employed to
14 deliver respiratory care services under the order of a
15 physician licensed pursuant to chapter 458 or chapter 459, and
16 in accordance with protocols established by a hospital, other
17 health care provider, or the board, and who functions in
18 situations of unsupervised patient contact requiring
19 individual judgment.
20 (9) "Certified respiratory therapist" or "respiratory
21 care practitioner" means any person licensed pursuant to this
22 part who is employed to deliver respiratory care services
23 under the order of a physician licensed pursuant to chapter
24 458 or chapter 459, and in accordance with protocols
25 established by a hospital, other health care provider, or the
26 board.
27 Section 46. Subsections (1) and (2) of section
28 468.355, Florida Statutes, are amended to read:
29 468.355 Eligibility for licensure; temporary
30 licensure.--
31

1 (1) To be eligible for licensure by the board as a
2 certified respiratory therapist ~~respiratory care practitioner~~,
3 an applicant must:

4 (a) Be at least 18 years old.

5 (b) Possess a high school diploma or a graduate
6 equivalency diploma.

7 (c) Meet at least one of the following criteria:

8 1. The applicant has successfully completed a training
9 program for respiratory therapy technicians or respiratory
10 therapists approved by the Commission on Accreditation of
11 Allied Health Education Programs, or the equivalent thereof,
12 as accepted by the board.

13 2. The applicant is currently a "Certified Respiratory
14 Therapist ~~Therapy Technician~~" certified by the National Board
15 for Respiratory Care, or the equivalent thereof, as accepted
16 by the board.

17 3. The applicant is currently a "Registered
18 Respiratory Therapist" registered by the National Board for
19 Respiratory Care, or the equivalent thereof, as accepted by
20 the board.

21
22 The criteria set forth in subparagraphs 2. and 3.
23 notwithstanding, the board shall periodically review the
24 examinations and standards of the National Board for
25 Respiratory Care and may reject those examinations and
26 standards if they are deemed inappropriate.

27 (2) To be eligible for licensure by the board as a
28 registered respiratory therapist, an applicant must:

29 (a) Be at least 18 years old.

30 (b) Possess a high school diploma or a graduate
31 equivalency diploma.

- 1 (c) Meet at least one of the following criteria:
2 1. The applicant has successfully completed a training
3 program for registered respiratory therapists approved by the
4 Commission on Accreditation of Allied Health Education
5 Programs, or the equivalent thereof, as accepted by the board.
6 2. The applicant is currently a "Registered
7 Respiratory Therapist" registered by the National Board for
8 Respiratory Care, or the equivalent thereof, as accepted by
9 the board.

10

11 The criteria set forth in subparagraphs 1. and 2.
12 notwithstanding, the board shall periodically review the
13 examinations and standards of the National Board for
14 Respiratory Care and may reject those examinations and
15 standards if they are deemed inappropriate.

16 Section 47. Section 468.357, Florida Statutes, is
17 amended to read:

18 468.357 Licensure by examination.--

19 (1) A person who desires to be licensed as a certified
20 respiratory therapist ~~respiratory care practitioner~~ may submit
21 an application to take the examination, in accordance with
22 board rule.

23 (a) Each applicant may take the examination who is
24 determined by the board to have:

25 1. Completed the application form and remitted the
26 applicable fee set by the board;

27 2. Submitted required documentation as required in s.
28 468.355; and

29 3. Remitted an examination fee set by the examination
30 provider.

31

1 (b) Examinations for licensure of certified
2 respiratory therapist ~~respiratory care practitioners~~ must be
3 conducted no less than two times a year in such geographical
4 locations or by such methods as are deemed advantageous to the
5 majority of the applicants.

6 (c) The examination given for certified respiratory
7 therapist ~~respiratory care practitioners~~ shall be the same as
8 that given by the National Board for Respiratory Care for
9 entry-level certification of respiratory therapists ~~therapy~~
10 ~~technicians~~. However, an equivalent examination may be
11 accepted by the board in lieu of that examination.

12 (2) Each applicant who passes the examination shall be
13 entitled to licensure as a certified respiratory therapist
14 ~~respiratory care practitioner~~, and the department shall issue
15 a license pursuant to this part to any applicant who
16 successfully completes the examination in accordance with this
17 section. However, the department shall not issue a license to
18 any applicant who is under investigation in another
19 jurisdiction for an offense which would constitute a violation
20 of this part. Upon completion of such an investigation, if the
21 applicant is found guilty of such an offense, the applicable
22 provisions of s. 468.365 will apply.

23 Section 48. Subsections (1) and (2) of section
24 468.358, Florida Statutes, are amended to read:

25 468.358 Licensure by endorsement.--

26 (1) Licensure as a certified respiratory therapist
27 ~~respiratory care practitioner~~ shall be granted by endorsement
28 to an individual who holds the "Certified Respiratory
29 Therapist ~~Therapy Technician~~" credential issued by the
30 National Board for Respiratory Care or an equivalent
31 credential acceptable to the board. Licensure by this

1 mechanism requires verification by oath and submission of
2 evidence satisfactory to the board that such credential is
3 held.

4 (2) Licensure as a registered respiratory therapist
5 shall be granted by endorsement to an individual who holds the
6 "Registered Respiratory Therapist" credential issued by the
7 National Board for Respiratory Care or an equivalent
8 credential acceptable to the board. Licensure by this
9 mechanism requires verification by oath and submission of
10 evidence satisfactory to the board that such credential is
11 held.

12 Section 49. Section 468.359, Florida Statutes, is
13 amended to read:

14 468.359 Assumption of title and use of
15 abbreviations.--

16 (1) Only persons who are licensed pursuant to this
17 part as respiratory care practitioners have the right to use
18 the title "Respiratory Care Practitioner" and the abbreviation
19 "RCP."

20 (2) Only persons who are licensed pursuant to this
21 part as registered respiratory therapists have the right to
22 use the title "Registered Respiratory Therapist" and the
23 abbreviation "RRT," when delivering services pursuant to this
24 part provided such persons have passed the Registry
25 Examination for Respiratory Therapists given by the National
26 Board for Respiratory Care.

27 (3) Only persons who are licensed pursuant to this
28 part as certified respiratory therapists have the right to use
29 the title "Certified Respiratory Therapist" and the
30 abbreviation "CRT" when delivering services pursuant to this
31 part. ~~graduates of board-approved programs for respiratory~~

1 ~~care practitioners may use the term "Graduate Respiratory~~
2 ~~Therapy Technician" and the abbreviation "GRTT."~~

3 ~~(4) Only persons who are graduates of board-approved~~
4 ~~programs for respiratory therapists may use the term "Graduate~~
5 ~~Respiratory Therapist" and the abbreviation "GRT."~~

6 (4)(5) No person in this state shall deliver
7 respiratory care services; advertise as, or assume the title
8 of, respiratory care practitioner, certified respiratory
9 therapist, or registered respiratory therapist; or use the
10 abbreviation "RCP, "CRT," or "RRT" that would lead the public
11 to believe that such person is licensed pursuant to this part
12 unless such person is so licensed; or take any other action
13 that would lead the public to believe that such person is
14 licensed pursuant to this part unless such person is so
15 licensed.

16 Section 50. Subsections (2), (3), and (4) of section
17 468.1155, Florida Statutes, are amended to read:

18 468.1155 Provisional license; requirements.--

19 (2) The department shall issue a provisional license
20 to practice speech-language pathology to each applicant who
21 the board certifies has:

22 (a) Completed the application form and remitted the
23 required fees, including a nonrefundable application fee.

24 (b) Received a master's degree or is currently
25 enrolled in a doctoral degree program with a major emphasis in
26 speech-language pathology from an institution of higher
27 learning which is, or at the time the applicant was enrolled
28 and graduated, was, accredited by an accrediting agency
29 recognized by the Council for Higher Education Commission on
30 Recognition of Postsecondary Accreditation or from an
31 institution which is ~~publicly recognized as~~ a member in good

1 standing with the Association of Universities and Colleges of
2 Canada. An applicant who graduated from or is currently
3 enrolled in a program at a university or college outside the
4 United States or Canada must present documentation of the
5 determination of equivalency to standards established by the
6 Council for Higher Education ~~Commission on Recognition of~~
7 ~~Postsecondary~~ Accreditation in order to qualify. The
8 applicant must have completed 60 semester hours that include:
9 1. Fundamental information applicable to the normal
10 development and use of speech, hearing, and language;
11 information about training in management of speech, hearing,
12 and language disorders; and information supplementary to these
13 fields.
14 2. Six semester hours in audiology.
15 3. Thirty of the required 60 semester hours in courses
16 acceptable toward a graduate degree by the college or
17 university in which these courses were taken, of which 24
18 semester hours must be in speech-language pathology.
19 (c) Completed 300 supervised clinical clock hours with
20 200 clock hours in the area of speech-language pathology or
21 completed the number of clock hours required by an accredited
22 institution meeting national certification standards. The
23 supervised clinical clock hours shall be completed within the
24 training institution or one of its cooperating programs.
25 (3) The department shall issue a provisional license
26 to practice audiology to each applicant who the board
27 certifies has:
28 (a) Completed the application form and remitted the
29 required fees, including a nonrefundable application fee.
30 (b) Received a master's degree or is currently
31 enrolled in a doctoral degree program with a major emphasis in

1 | audiology from an institution of higher learning which is, or
2 | at the time the applicant was enrolled and graduated was,
3 | accredited by an accrediting agency recognized by the Council
4 | for Higher Education ~~Commission on Recognition of~~
5 | ~~Postsecondary~~ Accreditation or from an institution which is
6 | ~~publicly recognized as~~ a member in good standing with the
7 | Association of Universities and Colleges of Canada. An
8 | applicant who graduated from or is currently enrolled in a
9 | program at a university or college outside the United States
10 | or Canada must present documentation of the determination of
11 | equivalency to standards established by the Council for Higher
12 | Education ~~Commission on Recognition of Postsecondary~~
13 | Accreditation in order to qualify. The applicant must have
14 | completed 60 semester hours that include:
15 | 1. Fundamental information applicable to the normal
16 | development and use of speech, hearing, and language;
17 | information about training in management of speech, hearing,
18 | and language disorders; and information supplementary to these
19 | fields.
20 | 2. Six semester hours in speech-language pathology.
21 | 3. Thirty of the required 60 semester hours in courses
22 | acceptable toward a graduate degree by the college or
23 | university in which these courses were taken, of which 24
24 | semester hours must be in audiology.
25 | (c) Completed 300 supervised clinical clock hours with
26 | 200 clock hours in the area of audiology or completed the
27 | number of clock hours required by an accredited institution
28 | meeting national certification standards. The supervised
29 | clinical clock hours shall be completed within the training
30 | institution or one of its cooperating programs.
31 |

1 (4) An applicant ~~for a provisional license~~ who has
2 received a master's degree or is currently enrolled in a
3 doctoral degree program with a major emphasis in
4 speech-language pathology as provided in subsection (2), or
5 audiology as provided in subsection (3), and who seeks
6 licensure in the area in which the applicant is not currently
7 licensed, must have completed 30 semester hours in courses
8 acceptable toward a graduate degree and 200 supervised
9 clinical clock hours in the second discipline from an
10 accredited institution.

11 Section 51. Paragraph (b) of subsection (1) and
12 paragraph (b) of subsection (2) of section 468.1215, Florida
13 Statutes, are amended to read:

14 468.1215 Speech-language pathology assistant and
15 audiology assistant; certification.--

16 (1) The department shall issue a certificate as a
17 speech-language pathology assistant to each applicant who the
18 board certifies has:

19 (b) Earned a bachelor's degree from a college or
20 university accredited by a regional association of colleges
21 and schools recognized by the Department of Education which
22 includes at least 24 semester hours of coursework as approved
23 by the board at an institution accredited by an accrediting
24 agency recognized by the Council for Higher Education
25 ~~Commission on Recognition of Postsecondary Accreditation.~~

26 (2) The department shall issue a certificate as an
27 audiology assistant to each applicant who the board certifies
28 has:

29 (b) Completed at least 24 semester hours of coursework
30 as approved by the board at an institution accredited by an
31 accrediting agency recognized by the Council for Higher

1 ~~Education Commission on Recognition of Postsecondary~~
2 ~~Accreditation.~~

3 Section 52. Subsection (3) of section 480.033, Florida
4 Statutes, is amended to read:

5 480.033 Definitions.--As used in this act:

6 (3) "Massage" means the manipulation of the soft
7 ~~superficial~~ tissues of the human body with the hand, foot,
8 arm, or elbow, whether or not such manipulation is aided by
9 hydrotherapy, including colonic irrigation, or thermal
10 therapy; any electrical or mechanical device; or the
11 application to the human body of a chemical or herbal
12 preparation.

13 Section 53. Subsection (1) of section 484.0445,
14 Florida Statutes, is amended to read:

15 484.0445 Training program.--

16 (1) The board shall establish by rule a training
17 program for a minimum ~~not to exceed~~ 6 months in length, which
18 may include a board-approved home study course. ~~Upon~~
19 ~~submitting to the department the registration fee, the~~
20 ~~applicant may register and enter the training program. Upon~~
21 ~~completion of the training program, the trainee shall take the~~
22 ~~first available written and practical examinations offered by~~
23 ~~the department. The department shall administer the written~~
24 ~~and practical examinations as prescribed by board rule. If~~
25 ~~the trainee fails either the written or the practical~~
26 ~~examination, she or he may repeat the training program one~~
27 ~~time and retake the failed examination, provided she or he~~
28 ~~takes the next available examination. No person may remain in~~
29 ~~trainee status or further perform any services authorized for~~
30 ~~a trainee if she or he fails either the written or the~~
31 ~~practical examination twice; but, a trainee may continue to~~

1 ~~function as a trainee until she or he has received the results~~
2 ~~of the examinations. Any applicant who has failed an~~
3 ~~examination twice and is no longer functioning as a trainee~~
4 ~~shall be eligible for reexamination as provided in s.~~
5 ~~484.045(2).~~

6 Section 54. Section 484.045, Florida Statutes, is
7 amended to read:

8 484.045 Licensure by examination.--

9 (1) Any person desiring to be licensed as a hearing
10 aid specialist shall apply to the department on a form
11 approved by the department to take the licensure examination,
12 ~~which shall include a clinical practical component.~~

13 (2) The department shall license ~~examine~~ each
14 applicant who the board certifies:

15 (a) Has completed the application form and remitted
16 the required fees ~~applicable fee to the board and has paid the~~
17 ~~examination fee;~~

18 (b) Is of good moral character;

19 (c) Is 18 years of age or older;

20 (d) Is a graduate of an accredited high school or its
21 equivalent; ~~and~~

22 (e)1. Has met the requirements of the training program
23 ~~set forth in s. 484.0445; or~~

24 2.a. Has a valid, current license as a hearing aid
25 specialist or its equivalent from another state and has been
26 actively practicing in such capacity for at least 12 months;
27 or

28 b. Is currently certified by the National Board for
29 Certification in Hearing Instrument Sciences and has been
30 actively practicing for at least 12 months. ~~Persons qualifying~~
31 ~~under this sub-subparagraph need not take the written or~~

1 ~~practical examination, but must take and pass a test on~~
2 ~~Florida laws and rules relating to the fitting and dispensing~~
3 ~~of hearing aids.~~

4 (f) Has passed an examination, as prescribed by board
5 rule; and

6 (g) Has demonstrated, in a manner designated by rule
7 of the board, knowledge of state laws and rules relating to
8 the fitting and dispensing of hearing aids.

9 (3) A person who fails the examination may make
10 application for reexamination to the appropriate examining
11 entity, as prescribed by board rule.

12 ~~(2) On or after October 1, 1990, every applicant who~~
13 ~~is qualified to take the examination shall be allowed to take~~
14 ~~the examination three times. If, after October 1, 1990, an~~
15 ~~applicant fails the examination three times, the applicant~~
16 ~~shall no longer be eligible to take the examination.~~

17 ~~(3) The department shall issue a license to practice~~
18 ~~dispensing hearing aids to any applicant who successfully~~
19 ~~completes the examination in accordance with this section.~~

20 Section 55. Subsection (1) of section 490.012, Florida
21 Statutes, is amended to read:

22 490.012 Violations; penalties; injunction.--

23 (1)(a) No person shall hold herself or himself out by
24 any professional title, name, or description incorporating the
25 word "psychologist" unless such person holds a valid, active
26 license as a psychologist under this chapter.

27 (b) No person shall hold herself or himself out by any
28 professional title, name, or description incorporating the
29 words "school psychologist" unless such person holds a valid,
30 active license as a school psychologist under this chapter or
31

1 is certified as a school psychologist by the Department of
2 Education.

3 (c)~~(a)~~ No person shall hold herself or himself out by
4 any title or description incorporating the words, or
5 permutations of them, ~~"psychologist," "psychology,"~~
6 "psychological," or "psychodiagnostic," ~~or "school~~
7 ~~psychologist,"~~ or describe any test or report as
8 psychological, unless such person holds a valid, active
9 license under this chapter or is exempt from the provisions of
10 this chapter.

11 (d)~~(b)~~ No person shall hold herself or himself out by
12 any title or description incorporating the word, or a
13 permutation of the word, "psychotherapy" unless such person
14 holds a valid, active license under chapter 458, chapter 459,
15 chapter 490, or chapter 491, or such person is certified as an
16 advanced registered nurse practitioner, pursuant to s.
17 464.012, who has been determined by the Board of Nursing as a
18 specialist in psychiatric mental health.

19 (e)~~(c)~~ No person licensed or provisionally licensed
20 pursuant to this chapter shall hold herself or himself out by
21 any title or description which indicates licensure other than
22 that which has been granted to her or him.

23 (4) Any person who violates any provision of this
24 section, except for subsections (2) and (3), commits a
25 misdemeanor of the first degree, punishable as provided in s.
26 775.082 or s. 775.083. Any person who violates any provision
27 of subsection (2) or subsection (3) is subject to disciplinary
28 action under s. 490.009.

29 Section 56. Section 490.014, Florida Statutes, is
30 amended to read:

31 490.014 Exemptions.--

1 (1)(a) No provision of this chapter shall be construed
2 to limit the practice of physicians licensed pursuant to
3 chapter 458 or chapter 459 so long as they do not hold
4 themselves out to the public as psychologists or use a
5 professional title protected by this chapter.

6 (b) No provision of this chapter shall be construed to
7 limit the practice of nursing, clinical social work, marriage
8 and family therapy, mental health counseling, or other
9 recognized businesses or professions, or to prevent qualified
10 members of other professions from doing work of a nature
11 consistent with their training, so long as they do not hold
12 themselves out to the public as psychologists or use a title
13 or description protected by this chapter. Nothing in this
14 subsection shall be construed to exempt any person from the
15 provisions of s. 490.012.

16 (2) No person shall be required to be licensed or
17 provisionally licensed under this chapter who:

18 (a) Is a salaried employee of a government agency;
19 developmental services program, mental health, alcohol, or
20 drug abuse facility operating pursuant to chapter 393, chapter
21 394, or chapter 397; subsidized child care program, subsidized
22 child care case management program, or child care resource and
23 referral program operating pursuant to chapter 402;
24 child-placing or child-caring agency licensed pursuant to
25 chapter 409; domestic violence center certified pursuant to
26 chapter 39; accredited academic institution; or research
27 institution, if such employee is performing duties for which
28 he or she was trained and hired solely within the confines of
29 such agency, facility, or institution, so long as the employee
30 is not held out to the public as a psychologist pursuant to s.
31 490.012(1)(a).

1 (b) Is a salaried employee of a private, nonprofit
2 organization providing counseling services to children, youth,
3 and families, if such services are provided for no charge, if
4 such employee is performing duties for which he or she was
5 trained and hired, so long as the employee is not held out to
6 the public as a psychologist pursuant to s. 490.012(1)(a).

7 (c) Is a student who is pursuing a course of study
8 which leads to a degree in medicine or a profession regulated
9 by this chapter who is providing services in a training
10 setting, provided such activities or services constitute part
11 of a supervised course of study, or is a graduate accumulating
12 the experience required for any licensure under this chapter,
13 provided such graduate or student is designated by a title
14 such as "intern" or "trainee" which clearly indicates the
15 in-training status of the student.

16 (d) Is certified in school psychology by the
17 Department of Education and is performing psychological
18 services as an employee of a public or private educational
19 institution. Such exemption shall not be construed to
20 authorize any unlicensed practice which is not performed as a
21 direct employee of an educational institution.

22 (e) Is not a resident of the state but offers services
23 in this state, provided:

24 1. Such services are performed for no more than 5 days
25 in any month and no more than 15 days in any calendar year;
26 and

27 2. Such nonresident is licensed or certified by a
28 state or territory of the United States, or by a foreign
29 country or province, the standards of which were, at the date
30 of his or her licensure or certification, equivalent to or
31 higher than the requirements of this chapter in the opinion of

1 the department or, in the case of psychologists, in the
2 opinion of the board.

3 (f) Is a rabbi, priest, minister, or member of the
4 clergy of any religious denomination or sect when engaging in
5 activities which are within the scope of the performance of
6 his or her regular or specialized ministerial duties and for
7 which no separate charge is made, or when such activities are
8 performed, with or without charge, for or under the auspices
9 or sponsorship, individually or in conjunction with others, of
10 an established and legally cognizable church, denomination, or
11 sect, and when the person rendering service remains
12 accountable to the established authority thereof.

13 (3) No provision of this chapter shall be construed to
14 limit the practice of any individual who solely engages in
15 behavior analysis so long as he or she does not hold himself
16 or herself out to the public as possessing a license issued
17 pursuant to this chapter or use a title or description
18 protected by this chapter.

19 (4) Nothing in this section shall exempt any person
20 from the provisions ~~provision~~ of s. 490.012(1)(a)-(d)~~(a)-(b)~~.

21 (5) Except as stipulated by the board, the exemptions
22 contained in this section do not apply to any person licensed
23 under this chapter whose license has been suspended or revoked
24 by the board or another jurisdiction.

25 Section 57. Paragraphs (i), (j), and (k) of subsection
26 (1) of section 491.012, Florida Statutes, are amended to read:

27 491.012 Violations; penalty; injunction.--

28 (1) It is unlawful and a violation of this chapter for
29 any person to:

30 (i) Practice clinical social work in this state, ~~as~~
31 ~~the practice is defined in s. 491.003(7),~~ for compensation,

1 unless the person holds a valid, active license to practice
2 clinical social work issued pursuant to this chapter or is an
3 intern registered pursuant to s. 491.0045.

4 (j) Practice marriage and family therapy in this
5 state, ~~as the practice is defined in s. 491.003(8),~~for
6 compensation, unless the person holds a valid, active license
7 to practice marriage and family therapy issued pursuant to
8 this chapter or is an intern registered pursuant to s.
9 491.0045.

10 (k) Practice mental health counseling in this state,
11 ~~as the practice is defined in s. 491.003(9),~~for compensation,
12 unless the person holds a valid, active license to practice
13 mental health counseling issued pursuant to this chapter or is
14 an intern registered pursuant to s. 491.0045.

15 Section 58. Paragraphs (a) and (b) of subsection (4)
16 of section 491.014, Florida Statutes, are amended to read:

17 491.014 Exemptions.--

18 (4) No person shall be required to be licensed,
19 provisionally licensed, registered, or certified under this
20 chapter who:

21 (a) Is a salaried employee of a government agency;
22 developmental services program, mental health, alcohol, or
23 drug abuse facility operating pursuant to chapter 393, chapter
24 394, or chapter 397; subsidized child care program, subsidized
25 child care case management program, or child care resource and
26 referral program operating pursuant to chapter 402;
27 child-placing or child-caring agency licensed pursuant to
28 chapter 409; domestic violence center certified pursuant to
29 chapter 39; accredited academic institution; or research
30 institution, if such employee is performing duties for which
31 he or she was trained and hired solely within the confines of

1 such agency, facility, or institution, so long as the employee
2 is not held out to the public as a clinical social worker,
3 mental health counselor, or marriage and family therapist and
4 does not use a title, name, or description protected by this
5 chapter.

6 (b) Is a salaried employee of a private, nonprofit
7 organization providing counseling services to children, youth,
8 and families, if such services are provided for no charge, if
9 such employee is performing duties for which he or she was
10 trained and hired, so long as the employee is not held out to
11 the public as a clinical social worker, mental health
12 counselor, or marriage and family therapist and does not use a
13 title, name, or description protected by this chapter.

14 Section 59. Subsection (4) of section 458.319, Florida
15 Statutes, is amended to read:

16 458.319 Renewal of license.--

17 (4) Notwithstanding the provisions of s. 456.033, a
18 physician may complete continuing education on end-of-life
19 care and palliative ~~health~~ care in lieu of continuing
20 education in AIDS/HIV, if that physician has completed the
21 AIDS/HIV continuing education in the immediately preceding
22 biennium.

23 Section 60. Subsection (5) of section 459.008, Florida
24 Statutes, is amended to read:

25 459.008 Renewal of licenses and certificates.--

26 (5) Notwithstanding the provisions of s. 456.033, an
27 osteopathic physician may complete continuing education on
28 end-of-life and palliative ~~health~~ care in lieu of continuing
29 education in AIDS/HIV, if that physician has completed the
30 AIDS/HIV continuing education in the immediately preceding
31 biennium.

1 Section 61. Subsection (4) of section 765.101, Florida
2 Statutes, is amended to read:

3 765.101 Definitions.--As used in this chapter:

4 (4) "End-stage condition" means a condition that is
5 caused by injury, disease, or illness which has resulted in
6 progressively severe and permanent deterioration, indicated by
7 incapacity and complete physical dependency, and for which the
8 patient or resident, or his or her authorized representative,
9 would consider life-prolonging treatment to be more of a
10 burden than a benefit, ~~to a reasonable degree of medical~~
11 ~~certainty, treatment of the irreversible condition would be~~
12 ~~medically ineffective.~~

13 Section 62. Subsection (4) of section 765.102, Florida
14 Statutes, is amended to read:

15 765.102 Legislative findings and intent.--

16 (4) The Legislature recognizes the need for all health
17 care professionals to rapidly increase their understanding of
18 end-of-life and palliative ~~health~~ care. Therefore, the
19 Legislature encourages the professional regulatory boards to
20 adopt appropriate standards and guidelines regarding
21 end-of-life care and pain management and encourages
22 educational institutions established to train health care
23 professionals and allied health professionals to implement
24 curricula to train such professionals to provide end-of-life
25 care, including pain management and palliative care.

26 Section 63. Section 765.1025, Florida Statutes, is
27 created to read:

28 765.1025 Palliative care.--For purposes of this
29 chapter:

30 (1) Palliative care is the comprehensive management of
31 the physical, psychological, social, spiritual, and

1 existential needs of patients. Palliative care is especially
2 suited to the care of persons who have incurable, progressive
3 illness.
4 (2) Palliative care must include:
5 (a) An opportunity to discuss and plan for end-of-life
6 care.
7 (b) Assurance that physical and mental suffering will
8 be carefully attended to.
9 (c) Assurance that preferences for withholding and
10 withdrawing life-sustaining interventions will be honored.
11 (d) Assurance that the personal goals of the dying
12 person will be addressed.
13 (e) Assurance that the dignity of the dying person
14 will be a priority.
15 (f) Assurance that health care providers will not
16 abandon the dying person.
17 (g) Assurance that the burden to family and others
18 will be addressed.
19 (h) Assurance that advance directives for care will be
20 respected regardless of the location of care.
21 (i) Assurance that organizational mechanisms are in
22 place to evaluate the availability and quality of end-of-life
23 and palliative care services, including the removal of
24 administrative and regulatory barriers.
25 (j) Assurance that necessary health care services will
26 be provided and that relevant reimbursement policies are
27 available.
28 (k) Assurance that the goals expressed in paragraphs
29 (a)-(j) will be accomplished in a culturally appropriate
30 manner.
31

1 Section 64. Subsection (2) of section 765.1103,
2 Florida Statutes, is amended to read:

3 765.1103 Pain management and palliative care.--

4 (2) Health care providers and practitioners regulated
5 under chapter 458, chapter 459, or chapter 464 must, as
6 appropriate, comply with a request for pain management or
7 palliative care from a patient under their care or, for an
8 incapacitated patient under their care, from a surrogate,
9 proxy, guardian, or other representative permitted to make
10 health care decisions for the incapacitated patient.

11 Facilities regulated under chapter 400 or chapter 395 must
12 comply with the pain management or palliative care measures
13 ordered by the patient's physician.~~When the patient is~~

14 ~~receiving care as an admitted patient of a facility or a~~
15 ~~provider or is a subscriber of a health care facility, health~~
16 ~~care provider, or health care practitioner regulated under~~
17 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~
18 ~~464, or chapter 641, such facility, provider, or practitioner~~
19 ~~must, when appropriate, comply with a request for pain~~
20 ~~management or palliative care from a capacitated patient or an~~
21 ~~incapacitated patient's health care surrogate or proxy,~~
22 ~~court-appointed guardian as provided in chapter 744, or~~
23 ~~attorney in fact as provided in chapter 709. The~~
24 ~~court-appointed guardian or attorney in fact must have been~~
25 ~~delegated authority to make health care decisions on behalf of~~
26 ~~the patient.~~

27 Section 65. Paragraph (b) of subsection (1) of section
28 765.205, Florida Statutes, is amended to read:

29 765.205 Responsibility of the surrogate.--

30
31

1 (1) The surrogate, in accordance with the principal's
2 instructions, unless such authority has been expressly limited
3 by the principal, shall:

4 (b) Consult expeditiously with appropriate health care
5 providers to provide informed consent, and make only health
6 care decisions for the principal which he or she believes the
7 principal would have made under the circumstances if the
8 principal were capable of making such decisions. This
9 substituted-judgment standard is the preferred standard of
10 decisionmaking to be used by health care surrogates, persons
11 who have durable powers of attorney for health care, and proxy
12 decisionmakers. However, if there is no indication of what the
13 principal would have chosen, the surrogate, the person who has
14 the durable power of attorney for health care, or the proxy
15 decisionmaker may use a best-interest standard in deciding
16 that proposed treatments are to be withheld or that treatments
17 currently in effect are to be withdrawn.

18 Section 66. Subsections (2) and (3) of section
19 765.401, Florida Statutes, are amended to read:

20 765.401 The proxy.--

21 (2) Any health care decision made under this part must
22 be based on the proxy's informed consent and on the decision
23 the proxy reasonably believes the patient would have made
24 under the circumstances. This substituted-judgment standard is
25 the preferred standard of decisionmaking to be used by a
26 proxy. However, if there is no indication of what the patient
27 would have chosen, the proxy may use a best-interest standard
28 in deciding that proposed treatments are to be withheld or
29 that treatments currently in effect are to be withdrawn.

30 (3) Before exercising the incapacitated patient's
31 rights to select or decline health care, the proxy must comply

1 with the provisions of ss. 765.205 and 765.305, except that a
2 proxy's decision to withhold or withdraw life-prolonging
3 procedures must be supported by clear and convincing evidence
4 that the decision would have been the one the patient would
5 have chosen had the patient been competent or, if there is no
6 indication of what the patient would have chosen, that the
7 decision is in the patient's best interest.

8 Section 67. The Legislature finds that the area of
9 physician specialty training is of great importance to the
10 citizens of this state and that specialty training and
11 certification creates a higher level of proficiency for the
12 physician and improves the delivery of health care to
13 Floridians. Because much confusion exists among the patient
14 population and physicians as to the requirements for board
15 certification, the Legislature directs the Department of
16 Health to conduct an interim study of the area of specialty
17 certification for the Board of Medicine and the Board of
18 Osteopathic Medicine. The study should review current Florida
19 Statutes and board rules to determine if any barriers exist in
20 board recognition of certifying and physician-certifying
21 organizations and if restrictions placed on a licensee's
22 speech both target an identifiable harm and mitigate against
23 such harm in a direct and effective manner. A final report
24 shall be provided no later than January 1, 2002, to the
25 President of the Senate and the Speaker of the House of
26 Representatives for distribution to the chairs of the
27 health-care-related committees.

28 Section 68. Paragraph (d) of subsection (2) of section
29 499.012, Florida Statutes, is amended to read:

30 499.012 Wholesale distribution; definitions; permits;
31 general requirements.--

1 (2) The following types of wholesaler permits are
2 established:

3 (d) A retail pharmacy wholesaler's permit. A retail
4 pharmacy wholesaler is a retail pharmacy engaged in wholesale
5 distribution of prescription drugs within this state under the
6 following conditions:

7 1. The pharmacy must obtain a retail pharmacy
8 wholesaler's permit pursuant to ss. 499.001-499.081 and the
9 rules adopted under those sections.

10 2. The wholesale distribution activity does not exceed
11 30 percent of the total annual purchases of prescription
12 drugs. If the wholesale distribution activity exceeds the
13 30-percent maximum, the pharmacy must obtain a prescription
14 drug wholesaler's permit.

15 3. The transfer of prescription drugs that appear in
16 any schedule contained in chapter 893 is subject to chapter
17 893 and the federal Comprehensive Drug Abuse Prevention and
18 Control Act of 1970.

19 4. The transfer is between a retail pharmacy and
20 another retail pharmacy, a Modified Class II institutional
21 pharmacy, or a health care practitioner licensed in this state
22 and authorized by law to dispense or prescribe prescription
23 drugs.

24 5. All records of sales of prescription drugs subject
25 to this section must be maintained separate and distinct from
26 other records and comply with the recordkeeping requirements
27 of ss. 499.001-499.081.

28 Section 69. Except as otherwise provided herein, this
29 act shall take effect July 1, 2001.

30
31