

By the Committee on Health, Aging and Long-Term Care; and
Senator Saunders

317-1850A-01

1 A bill to be entitled
2 An act relating to health care; amending s.
3 395.0197, F.S.; revising provisions relating to
4 hospital and ambulatory surgical center
5 internal risk management programs; modifying
6 requirements for risk management and prevention
7 education and training; restricting
8 participation of unlicensed persons in surgical
9 procedures; requiring ongoing evaluation of
10 surgical procedures and protocols; eliminating
11 an annual report summarizing facility incident
12 reports and disciplinary actions; requiring the
13 Agency for Health Care Administration to
14 publish website summaries of adverse incident
15 reports; requiring facility reporting of
16 allegations of sexual misconduct by health care
17 practitioners; providing certain civil
18 liability for licensed risk managers;
19 prohibiting intimidation of a risk manager;
20 providing a penalty; amending s. 395.10972,
21 F.S.; increasing membership on the Health Care
22 Risk Management Advisory Council; amending s.
23 395.701, F.S.; limiting the financial
24 information the agency may require to determine
25 the amount of hospital annual assessments;
26 amending s. 456.013, F.S.; providing a
27 professional continuing education requirement
28 relating to prevention of medical errors;
29 amending s. 456.063, F.S.; requiring licensed
30 health care practitioners to report to the
31 Department of Health any allegations of sexual

1 misconduct; amending s. 456.072, F.S.;
2 providing additional grounds for disciplinary
3 actions; clarifying a penalty involving
4 restriction of professional practice or
5 license; providing additional penalties;
6 requiring assessment of costs related to
7 investigation and prosecution; amending s.
8 456.073, F.S.; requiring the department to
9 notify the patient or legal representative of
10 the status of a disciplinary case; requiring
11 the agency to provide certain information to
12 the complainant; amending s. 456.077, F.S.;
13 specifying violations for which the department
14 or a regulatory board may issue citations;
15 amending s. 456.074, F.S.; revising grounds for
16 the emergency suspension of a license; amending
17 s. 456.081, F.S.; requiring the department and
18 regulatory boards to maintain a website
19 containing specified information; amending ss.
20 458.331, 459.015, F.S.; conforming provisions
21 and cross-references to changes made by the
22 act; amending ss. 465.019, 465.0196, F.S.;
23 requiring institutional pharmacies and special
24 pharmacy permittees that use pharmacy
25 technicians to have a written policy and
26 procedures manual; directing the department and
27 agency to review health care practitioner and
28 facility reporting requirements; requiring a
29 report to the Legislature; amending s.
30 468.1755, F.S.; providing an additional ground
31 for disciplinary action against a nursing home

1 administrator; reenacting ss. 468.1695(3),
2 468.1735, F.S., to incorporate the amendment in
3 references; reenacting s. 484.056(1)(a), F.S.,
4 relating to disciplinary action against hearing
5 aid specialists, to incorporate the amendment
6 to s. 456.072(1) in a reference; amending s.
7 766.101, F.S.; providing that a continuous
8 quality improvement committee of a licensed
9 pharmacy is a medical review committee for
10 purposes of immunity from liability, and
11 reenacting ss. 440.105(1)(a), 626.989(6), F.S.,
12 to incorporate the amendment in references;
13 amending s. 766.1115, F.S.; conforming
14 provisions and cross-references to changes made
15 by the act; amending s. 456.047, F.S.;
16 providing intent; revising and providing
17 definitions; revising duties of the Department
18 of Health relating to file maintenance;
19 providing that primary source data verified by
20 the department or its designee may be relied
21 upon to meet accreditation purposes; amending
22 s. 240.4075, F.S.; transferring the Nursing
23 Student Loan Forgiveness Program from the
24 Department of Education to the Department of
25 Health; including public schools, family
26 practice teaching hospitals, and specialty
27 hospitals for children as eligible facilities
28 under the program; exempting such facilities
29 from the fund-matching requirements of the
30 program; amending s. 240.4076, F.S.; providing
31 requirements under the nursing scholarship

1 program for students seeking to qualify for a
2 nursing faculty position and receive credit for
3 work in such a position; including nursing
4 homes, hospitals, public schools, colleges of
5 nursing, and community college nursing programs
6 as eligible facilities under the program;
7 transferring powers, duties, functions, rules,
8 records, personnel, property, and
9 appropriations and other funds relating to the
10 Nursing Student Loan Forgiveness Program and
11 the nursing scholarship program from the
12 Department of Education to the Department of
13 Health; amending s. 464.005, F.S.; providing
14 for future relocation of the headquarters of
15 the Board of Nursing; amending s. 464.008,
16 F.S.; revising education requirements for
17 licensure by examination; amending s. 464.009,
18 F.S.; revising requirements for licensure by
19 endorsement; requiring submission of
20 fingerprints for a criminal history check and a
21 fee to cover the costs of such check; providing
22 for an electronic applicant-notification
23 process; amending s. 464.0205, F.S.; deleting
24 the application and processing fee for
25 applicants for a retired volunteer nurse
26 certificate; requiring study by the Office of
27 Program Policy Analysis and Government
28 Accountability of the feasibility of
29 maintaining all of Medical Quality Assurance in
30 one state agency; amending s. 627.419, F.S.;
31 providing for appeals from certain adverse

1 determinations relating to dental claims;
2 amending s. 456.031, F.S.; providing an
3 alternative by which licensees may comply with
4 a general requirement that they take domestic
5 violence courses; amending s. 456.033, F.S.;
6 providing an alternative by which licensees may
7 comply with a general requirement that they
8 take AIDS/HIV education courses; amending s.
9 468.302, F.S.; revising requirements for an
10 exemption from certification under part IV of
11 ch. 468, F.S.; providing additional exemptions
12 from certification; amending ss. 468.352,
13 468.355, 468.357, 468.358, 468.359, F.S.;
14 revising definitions and provisions relating to
15 licensure and use of titles and abbreviations
16 to correct and conform terminology with respect
17 to respiratory therapists and respiratory care
18 practitioners; amending s. 468.1155, F.S.;
19 revising provisions governing provisional
20 licensure to practice speech-language pathology
21 or audiology; amending s. 468.1215, F.S.;
22 revising accreditation provisions applicable to
23 certification of speech-language pathology or
24 audiology assistants; amending s. 480.033,
25 F.S.; conforming terminology in the definition
26 of "massage"; amending s. 484.0445, F.S.;
27 revising provisions governing training
28 programs; amending s. 484.045, F.S.; revising
29 licensing requirements and procedures;
30 conforming a cross-reference; amending s.
31 490.012, F.S.; revising provisions relating to

1 titles and descriptions; amending s. 490.014,
2 F.S.; revising provisions relating to
3 exemptions; amending s. 491.012, F.S.; revising
4 prohibitions against the unlicensed practice of
5 clinical social work, marriage and family
6 therapy, and mental health counseling to
7 provide that practice by registered interns is
8 lawful; amending s. 456.057, F.S.; authorizing
9 the regulatory boards or the department to
10 appoint a medical records custodian; creating
11 the Florida Center for Nursing; providing for a
12 board of directors; providing goals, powers,
13 and duties of the board; providing objectives
14 for the center; providing for appointment,
15 terms, and expense reimbursement of board
16 members; amending s. 499.012, F.S.; providing
17 an additional condition under which a retail
18 pharmacy wholesaler's permit may be issued;
19 providing a short title; defining the term
20 "pharmaceutical adverse incident" and requiring
21 that such incidents be reported to the
22 Department of Health; providing for the
23 adoption of rules and forms; amending s.
24 484.002, F.S.; redefining the term "opticianry"
25 and defining the term "contact lenses";
26 amending ss. 484.002, 484.006, 484.012, F.S.;
27 replacing references to the term "medical
28 doctor" with the term "allopathic or
29 osteopathic physician"; amending s. 484.013,
30 F.S.; revising provisions prescribing
31 violations and penalties applicable to the

1 practice of opticianry; amending s. 484.015,
2 F.S.; revising inspection authority; amending
3 s. 921.0022, F.S., relating to the Criminal
4 Punishment Code; providing an offense severity
5 ranking for the offense of practicing
6 opticianry without a license; amending s.
7 483.245, F.S.; revising provisions governing
8 prohibited referrals to licensed clinical
9 laboratories; providing effective dates.

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11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Section 395.0197, Florida Statutes, is
14 amended to read:

15 395.0197 Internal risk management program.--

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

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

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

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

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

30 b. At least 1 hour of such education and training
31 annually for all ~~nonphysician~~ personnel of the licensed

1 facility working in clinical areas and providing patient care,
2 except those persons licensed as health care practitioners who
3 are required to complete continuing education coursework
4 pursuant to chapter 456 or the respective practice act.

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

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

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

23 4. Development, implementation, and ongoing evaluation
24 of procedures, protocols, and systems to accurately identify
25 patients, planned procedures, and the correct site of the
26 planned procedure so as to minimize the performance of a
27 surgical procedure on the wrong patient, a wrong surgical
28 procedure, a wrong-site surgical procedure, or a surgical
29 procedure otherwise unrelated to the patient's diagnosis or
30 medical condition.

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

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

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

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

29 (4) The agency shall, ~~after consulting with the~~
30 ~~Department of Insurance~~, adopt rules governing the
31 establishment of internal risk management programs to meet the

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

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

- 25 (a) Results in one of the following injuries:
- 26 1. Death;
 - 27 2. Brain or spinal damage;
 - 28 3. Permanent disfigurement;
 - 29 4. Fracture or dislocation of bones or joints;

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1 5. A resulting limitation of neurological, physical,
2 or sensory function which continues after discharge from the
3 facility;

4 6. Any condition that required specialized medical
5 attention or surgical intervention resulting from nonemergency
6 medical intervention, other than an emergency medical
7 condition, to which the patient has not given his or her
8 informed consent; or

9 7. Any condition that required the transfer of the
10 patient, within or outside the facility, to a unit providing a
11 more acute level of care due to the adverse incident, rather
12 than the patient's condition prior to the adverse incident;

13 (b) Was the performance of a surgical procedure on the
14 wrong patient, a wrong surgical procedure, a wrong-site
15 surgical procedure, or a surgical procedure otherwise
16 unrelated to the patient's diagnosis or medical condition;

17 (c) Required the surgical repair of damage resulting
18 to a patient from a planned surgical procedure, where the
19 damage was not a recognized specific risk, as disclosed to the
20 patient and documented through the informed-consent process;
21 or

22 (d) Was a procedure to remove unplanned foreign
23 objects remaining from a surgical procedure.

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

28 1. The total number of adverse incidents.

29 2. A listing, by category, of the types of operations,
30 diagnostic or treatment procedures, or other actions causing
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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.
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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.

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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. ~~†~~

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.

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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 2. 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 3. 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 4. Present subsections (7) through (11) of
4 section 456.013, Florida Statutes, are renumbered as
5 subsections (8) through (12), respectively, and a new
6 subsection (7) is added to that section to read:

7 456.013 Department; general licensing provisions.--

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

21 Section 5. Subsection (3) is added to section 456.063,
22 Florida Statutes, to read:

23 456.063 Sexual misconduct; disqualification for
24 license, certificate, or registration.--

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

29 Section 6. Paragraph (c) of subsection (1) of section
30 456.072, Florida Statutes, is amended, paragraphs (aa) and
31 (bb) are added to that subsection, paragraphs (c) and (d) of

1 subsection (2) and subsection (4) are amended, and paragraphs
2 (i) and (j) are added to subsection (2) of that section, to
3 read:

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

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

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

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

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

29 (2) When the board, or the department when there is no
30 board, finds any person guilty of the grounds set forth in
31 subsection (1) or of any grounds set forth in the applicable

1 practice act, including conduct constituting a substantial
2 violation of subsection (1) or a violation of the applicable
3 practice act which occurred prior to obtaining a license, it
4 may enter an order imposing one or more of the following
5 penalties:

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

15 (d) Imposition of an administrative fine not to exceed
16 \$10,000 for each count or separate offense. If the violation
17 is for fraud or making a false or fraudulent representation,
18 the board, or department if there is no board, shall impose a
19 fine of \$10,000 per count or offense.

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

22 (j) Requirement that the practitioner undergo remedial
23 education.

24
25 In determining what action is appropriate, the board, or
26 department when there is no board, must first consider what
27 sanctions are necessary to protect the public or to compensate
28 the patient. Only after those sanctions have been imposed may
29 the disciplining authority consider and include in the order
30 requirements designed to rehabilitate the practitioner. All
31

1 costs associated with compliance with orders issued under this
2 subsection are the obligation of the practitioner.

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

16 Section 7. Paragraphs (a) and (c) of subsection (9) of
17 section 456.073, Florida Statutes, are amended to read:

18 456.073 Disciplinary proceedings.--Disciplinary
19 proceedings for each board shall be within the jurisdiction of
20 the department.

21 (9)(a) The department shall periodically notify the
22 person who filed the complaint, as well as the patient or the
23 patient's legal representative,of the status of the
24 investigation, indicating whether probable cause has been
25 found and the status of any civil action or administrative
26 proceeding or appeal.

27 (c) In any disciplinary case for which probable cause
28 is not found, the department shall so inform the person who
29 filed the complaint and notify that person that he or she may,
30 within 60 days, provide any additional information to the
31 department ~~probable cause panel~~ which may be relevant to the

1 decision. To facilitate the provision of additional
2 information, the person who filed the complaint may receive,
3 upon request, a copy of the department's expert report that
4 supported the recommendation for closure, if such a report was
5 relied upon by the department. In no way does this require the
6 department to procure an expert opinion or report if none was
7 used. Additionally, the identity of the expert shall remain
8 confidential.In any administrative proceeding under s.
9 120.57, the person who filed the disciplinary complaint shall
10 have the right to present oral or written communication
11 relating to the alleged disciplinary violations or to the
12 appropriate penalty.

13 Section 8. Subsections (2) and (6) of section 456.077,
14 Florida Statutes, are amended to read:

15 456.077 Authority to issue citations.--

16 (2) The board, or the department if there is no board,
17 shall adopt rules designating violations for which a citation
18 may be issued. Such rules shall designate as citation
19 violations those violations for which there is no substantial
20 threat to the public health, safety, and welfare. Violations
21 for which a citation may be issued shall include violations of
22 continuing education requirements, failure to timely pay
23 required fees and fines, failure to comply with the
24 requirements of ss. 381.026 and 381.0261 regarding the
25 dissemination of information regarding patient rights, failure
26 to comply with advertising requirements, failure to timely
27 update practitioner profile and credentialing files, failure
28 to display signs, licenses, and permits, failure to have
29 required reference books available, and all other violations
30 that do not pose a direct and serious threat to the health and
31 safety of the patient.

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

8 Section 9. Subsection (1) of section 456.074, Florida
9 Statutes, is amended to read:

10 456.074 Certain health care practitioners; immediate
11 suspension of license.--

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

21 Section 10. Section 456.081, Florida Statutes, is
22 amended to read:

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

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

14 Section 11. Subsection (9) of section 458.331, Florida
15 Statutes, is amended to read:

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

18 (9) When an investigation of a physician is
19 undertaken, the department shall promptly furnish to the
20 physician or the physician's attorney a copy of the complaint
21 or document which resulted in the initiation of the
22 investigation. For purposes of this subsection, such
23 documents include, but are not limited to: the pertinent
24 portions of an annual report submitted to the department
25 pursuant to s. 395.0197(6); a report of an adverse incident
26 which is provided to the department pursuant to s.
27 395.0197~~(8)~~; a report of peer review disciplinary action
28 submitted to the department pursuant to s. 395.0193(4) or s.
29 458.337, providing that the investigations, proceedings, and
30 records relating to such peer review disciplinary action shall
31 continue to retain their privileged status even as to the

1 licensee who is the subject of the investigation, as provided
2 by ss. 395.0193(8) and 458.337(3); a report of a closed claim
3 submitted pursuant to s. 627.912; a presuit notice submitted
4 pursuant to s. 766.106(2); and a petition brought under the
5 Florida Birth-Related Neurological Injury Compensation Plan,
6 pursuant to s. 766.305(2). The physician may submit a written
7 response to the information contained in the complaint or
8 document which resulted in the initiation of the investigation
9 within 45 days after service to the physician of the complaint
10 or document. The physician's written response shall be
11 considered by the probable cause panel.

12 Section 12. Subsection (9) of section 459.015, Florida
13 Statutes, is amended to read:

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

16 (9) When an investigation of an osteopathic physician
17 is undertaken, the department shall promptly furnish to the
18 osteopathic physician or his or her attorney a copy of the
19 complaint or document which resulted in the initiation of the
20 investigation. For purposes of this subsection, such documents
21 include, but are not limited to: the pertinent portions of an
22 annual report submitted to the department pursuant to s.
23 395.0197(6); a report of an adverse incident which is provided
24 to the department pursuant to s. 395.0197~~(8)~~; a report of peer
25 review disciplinary action submitted to the department
26 pursuant to s. 395.0193(4) or s. 459.016, provided that the
27 investigations, proceedings, and records relating to such peer
28 review disciplinary action shall continue to retain their
29 privileged status even as to the licensee who is the subject
30 of the investigation, as provided by ss. 395.0193(8) and
31 459.016(3); a report of a closed claim submitted pursuant to

1 s. 627.912; a presuit notice submitted pursuant to s.
2 766.106(2); and a petition brought under the Florida
3 Birth-Related Neurological Injury Compensation Plan, pursuant
4 to s. 766.305(2). The osteopathic physician may submit a
5 written response to the information contained in the complaint
6 or document which resulted in the initiation of the
7 investigation within 45 days after service to the osteopathic
8 physician of the complaint or document. The osteopathic
9 physician's written response shall be considered by the
10 probable cause panel.

11 Section 13. Subsection (5) of section 465.019, Florida
12 Statutes, is amended to read:

13 465.019 Institutional pharmacies; permits.--

14 (5) All institutional pharmacies shall be under the
15 professional supervision of a consultant pharmacist, and the
16 compounding and dispensing of medicinal drugs shall be done
17 only by a licensed pharmacist. Every institutional pharmacy
18 that employs or otherwise uses pharmacy technicians shall have
19 a written policy and procedures manual specifying those
20 duties, tasks, and functions that a pharmacy technician is
21 allowed to perform.

22 Section 14. Section 465.0196, Florida Statutes, is
23 amended to read:

24 465.0196 Special pharmacy permits.--Any person
25 desiring a permit to operate a pharmacy which does not fall
26 within the definitions set forth in s. 465.003(11)(a)1., 2.,
27 and 3. shall apply to the department for a special pharmacy
28 permit. If the board certifies that the application complies
29 with the applicable laws and rules of the board governing the
30 practice of the profession of pharmacy, the department shall
31 issue the permit. No permit shall be issued unless a licensed

1 pharmacist is designated to undertake the professional
2 supervision of the compounding and dispensing of all drugs
3 dispensed by the pharmacy. The licensed pharmacist shall be
4 responsible for maintaining all drug records and for providing
5 for the security of the area in the facility in which the
6 compounding, storing, and dispensing of medicinal drugs
7 occurs. The permittee shall notify the department within 10
8 days of any change of the licensed pharmacist responsible for
9 such duties. Every permittee that employs or otherwise uses
10 pharmacy technicians shall have a written policy and
11 procedures manual specifying those duties, tasks, and
12 functions that a pharmacy technician is allowed to perform.

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

22 Section 16. Paragraph (r) is added to subsection (1)
23 of section 468.1755, Florida Statutes, and, for the purpose of
24 incorporating the amendment to section 456.072(1), Florida
25 Statutes, in a reference thereto, paragraph (a) of subsection
26 (1) of that section is reenacted, to read:

27 468.1755 Disciplinary proceedings.--

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

30 (a) Violation of any provision of s. 456.072(1) or s.
31 468.1745(1).

1 (r) Failing to implement an ongoing quality-assurance
2 program directed by an interdisciplinary team that meets at
3 least every other month.

4 Section 17. For the purpose of incorporating the
5 amendment to section 468.1755(1), Florida Statutes, in
6 reference thereto, subsection (3) of section 468.1695, Florida
7 Statutes, and section 468.1735, Florida Statutes, are
8 reenacted to read:

9 468.1695 Licensure by examination.--

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

19 468.1735 Provisional license.--The board may establish
20 by rule requirements for issuance of a provisional license. A
21 provisional license shall be issued only to fill a position of
22 nursing home administrator that unexpectedly becomes vacant
23 due to illness, sudden death of the administrator, or
24 abandonment of position and shall be issued for one single
25 period as provided by rule not to exceed 6 months. The
26 department shall not issue a provisional license to any
27 applicant who is under investigation in this state or another
28 jurisdiction for an offense which would constitute a violation
29 of s. 468.1745 or s. 468.1755. Upon completion of the
30 investigation, the provisions of s. 468.1755 shall apply. The
31 provisional license may be issued to a person who does not

1 meet all of the licensing requirements established by this
2 part, but the board shall by rule establish minimal
3 requirements to ensure protection of the public health,
4 safety, and welfare. The provisional license shall be issued
5 to the person who is designated as the responsible person next
6 in command in the event of the administrator's departure. The
7 board may set an application fee not to exceed \$500 for a
8 provisional license.

9 Section 18. For the purpose of incorporating the
10 amendment to section 456.072(1), Florida Statutes, in a
11 reference thereto, paragraph (a) of subsection (1) of section
12 484.056, Florida Statutes, is reenacted to read:

13 484.056 Disciplinary proceedings.--

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

21 (a) Violation of any provision of s. 456.072(1), s.
22 484.0512, or s. 484.053.

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

26 766.101 Medical review committee, immunity from
27 liability.--

28 (1) As used in this section:

29 (a) The term "medical review committee" or "committee"
30 means:

31

- 1 1.a. A committee of a hospital or ambulatory surgical
2 center licensed under chapter 395 or a health maintenance
3 organization certificated under part I of chapter 641,
4 b. A committee of a physician-hospital organization, a
5 provider-sponsored organization, or an integrated delivery
6 system,
7 c. A committee of a state or local professional
8 society of health care providers,
9 d. A committee of a medical staff of a licensed
10 hospital or nursing home, provided the medical staff operates
11 pursuant to written bylaws that have been approved by the
12 governing board of the hospital or nursing home,
13 e. A committee of the Department of Corrections or the
14 Correctional Medical Authority as created under s. 945.602, or
15 employees, agents, or consultants of either the department or
16 the authority or both,
17 f. A committee of a professional service corporation
18 formed under chapter 621 or a corporation organized under
19 chapter 607 or chapter 617, which is formed and operated for
20 the practice of medicine as defined in s. 458.305(3), and
21 which has at least 25 health care providers who routinely
22 provide health care services directly to patients,
23 g. A committee of a mental health treatment facility
24 licensed under chapter 394 or a community mental health center
25 as defined in s. 394.907, provided the quality assurance
26 program operates pursuant to the guidelines which have been
27 approved by the governing board of the agency,
28 h. A committee of a substance abuse treatment and
29 education prevention program licensed under chapter 397
30 provided the quality assurance program operates pursuant to
31

1 the guidelines which have been approved by the governing board
2 of the agency,

3 i. A peer review or utilization review committee
4 organized under chapter 440, ~~or~~

5 j. A committee of the Department of Health, a county
6 health department, healthy start coalition, or certified rural
7 health network, when reviewing quality of care, or employees
8 of these entities when reviewing mortality records, or

9 k. A continuous quality-improvement committee of a
10 pharmacy licensed pursuant to chapter 465,

11
12 which committee is formed to evaluate and improve the quality
13 of health care rendered by providers of health service or to
14 determine that health services rendered were professionally
15 indicated or were performed in compliance with the applicable
16 standard of care or that the cost of health care rendered was
17 considered reasonable by the providers of professional health
18 services in the area; or

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

22 (7)(a) It is the intent of the Legislature to
23 encourage medical review committees to contribute further to
24 the quality of health care in this state by reviewing
25 complaints against physicians in the manner described in this
26 paragraph. Accordingly, the Department of Health ~~Business and~~
27 ~~Professional Regulation~~ may enter into a letter of agreement
28 with a professional society of physicians licensed under
29 chapter 458 or chapter 459, under which agreement the medical
30 or peer review committees of the professional society will
31 conduct a review of any complaint or case referred to the

1 society by the department which involves a question as to
2 whether a physician's actions represented a breach of the
3 prevailing professional standard of care. The prevailing
4 professional standard of care is that level of care, skill,
5 and treatment which, in light of all relevant surrounding
6 circumstances, is recognized as acceptable and appropriate by
7 reasonably prudent similar health care providers. The letter
8 of agreement must specify that the professional society will
9 submit an advisory report to the department within a
10 reasonable time following the department's written and
11 appropriately supported request to the professional society.
12 The advisory report, which is not binding upon the department,
13 constitutes the professional opinion of the medical review
14 committee and must include:

15 1. A statement of relevant factual findings.

16 2. The judgment of the committee as to whether the
17 physician's actions represented a breach of the prevailing
18 professional standard of care.

19 (8) No cause of action of any nature by a person
20 licensed pursuant to chapter 458, chapter 459, chapter 461,
21 chapter 463, part I of chapter 464, chapter 465, or chapter
22 466 shall arise against another person licensed pursuant to
23 chapter 458, chapter 459, chapter 461, chapter 463, part I of
24 chapter 464, chapter 465, or chapter 466 for furnishing
25 information to a duly appointed medical review committee, to
26 an internal risk management program established under s.
27 395.0197, to the Department of Health or the Agency for Health
28 Care Administration ~~Business and Professional Regulation~~, or
29 to the appropriate regulatory board if the information
30 furnished concerns patient care at a facility licensed
31 pursuant to part I of chapter 395 where both persons provide

1 health care services, if the information is not intentionally
2 fraudulent, and if the information is within the scope of the
3 functions of the committee, department, or board. However, if
4 such information is otherwise available from original sources,
5 it is not immune from discovery or use in a civil action
6 merely because it was presented during a proceeding of the
7 committee, department, or board.

8 Section 20. For the purpose of incorporating the
9 amendment to section 766.101(1)(a) in references thereto,
10 paragraph (a) of subsection (1) of section 440.105, Florida
11 Statutes, and subsection (6) of section 626.989, Florida
12 Statutes, are reenacted to read:

13 440.105 Prohibited activities; reports; penalties;
14 limitations.--

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

1 investigation. It shall then cause an independent examination
2 of the facts surrounding such information or report to be made
3 to determine the extent, if any, to which a fraudulent act or
4 any other act or practice which, upon conviction, constitutes
5 a felony or a misdemeanor under this chapter is being
6 committed. The bureau shall report any alleged violations of
7 law which its investigations disclose to the appropriate
8 licensing agency and state attorney or other prosecuting
9 agency having jurisdiction with respect to any such violations
10 of this chapter. If prosecution by the state attorney or other
11 prosecuting agency having jurisdiction with respect to such
12 violation is not begun within 60 days of the bureau's report,
13 the state attorney or other prosecuting agency having
14 jurisdiction with respect to such violation shall inform the
15 bureau of the reasons for the lack of prosecution.

16 626.989 Investigation by department or Division of
17 Insurance Fraud; compliance; immunity; confidential
18 information; reports to division; division investigator's
19 power of arrest.--

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

1 766.101, any private medical review committee, and any
2 insurer, agent, or other person licensed under the code, or an
3 employee thereof, having knowledge or who believes that a
4 fraudulent insurance act or any other act or practice which,
5 upon conviction, constitutes a felony or a misdemeanor under
6 the code, or under s. 817.234, is being or has been committed
7 shall send to the Division of Insurance Fraud a report or
8 information pertinent to such knowledge or belief and such
9 additional information relative thereto as the department may
10 require. The Division of Insurance Fraud shall review such
11 information or reports and select such information or reports
12 as, in its judgment, may require further investigation. It
13 shall then cause an independent examination of the facts
14 surrounding such information or report to be made to determine
15 the extent, if any, to which a fraudulent insurance act or any
16 other act or practice which, upon conviction, constitutes a
17 felony or a misdemeanor under the code, or under s. 817.234,
18 is being committed. The Division of Insurance Fraud shall
19 report any alleged violations of law which its investigations
20 disclose to the appropriate licensing agency and state
21 attorney or other prosecuting agency having jurisdiction with
22 respect to any such violation, as provided in s. 624.310. If
23 prosecution by the state attorney or other prosecuting agency
24 having jurisdiction with respect to such violation is not
25 begun within 60 days of the division's report, the state
26 attorney or other prosecuting agency having jurisdiction with
27 respect to such violation shall inform the division of the
28 reasons for the lack of prosecution.

29 Section 21. Paragraph (c) of subsection (4) of section
30 766.1115, Florida Statutes, is amended to read:

31

1 766.1115 Health care providers; creation of agency
2 relationship with governmental contractors.--

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

16 (c) Adverse incidents and information on treatment
17 outcomes must be reported by any health care provider to the
18 governmental contractor if such incidents and information
19 pertain to a patient treated pursuant to the contract. The
20 health care provider shall submit the reports required by s.
21 395.0197 ~~annually submit an adverse incident report that~~
22 ~~includes all information required by s. 395.0197(6)(a), unless~~
23 ~~the adverse incident involves a result described by s.~~
24 ~~395.0197(8), in which case it shall be reported within 15 days~~
25 ~~after the occurrence of such incident.~~ If an incident involves
26 a professional licensed by the Department of Health or a
27 facility licensed by the Agency for Health Care
28 Administration, the governmental contractor shall submit such
29 incident reports to the appropriate department or agency,
30 which shall review each incident and determine whether it
31 involves conduct by the licensee that is subject to

1 disciplinary action. All patient medical records and any
2 identifying information contained in adverse incident reports
3 and treatment outcomes which are obtained by governmental
4 entities pursuant to this paragraph are confidential and
5 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
6 I of the State Constitution.

7 Section 22. Section 456.047, Florida Statutes, is
8 amended to read:

9 456.047 Standardized credentialing for health care
10 practitioners.--

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

1 board, include other professions under the jurisdiction of the
2 Division of Medical Quality Assurance in this program,
3 provided they meet the requirements of s. 456.039 or s.
4 456.0391.

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

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

15 (b) "Core credentials data" means data that is
16 primary-source-verified and includes the following data:
17 ~~current name, any former name, and any alias, any professional~~
18 ~~education, professional training, licensure, current Drug~~
19 ~~Enforcement Administration certification, ~~social security~~~~
20 ~~number, specialty board certification, Educational Commission~~
21 ~~for Foreign Medical Graduates certification, and hospital or~~
22 ~~other institutional affiliations, evidence of professional~~
23 ~~liability coverage or evidence of financial responsibility as~~
24 ~~required by s. 458.320, s. 459.0085, or s. 456.048, history of~~
25 ~~claims, suits, judgments, or settlements, final disciplinary~~
26 ~~action reported pursuant to s. 456.039(1)(a)8. or s.~~
27 456.0391(1)(a)8. The department may by rule designate
28 additional core credentials data elements, and Medicare or
29 Medicaid sanctions.

30 (c) "Credential" or "credentialing" means the process
31 of assessing and verifying the qualifications of a licensed

1 health care practitioner or applicant for licensure as a
2 health care practitioner.

3 (d) "Credentials verification organization" means any
4 organization certified or accredited as a credentials
5 verification organization.

6 (e) "Department" means the Department of Health,
7 Division of Medical Quality Assurance.

8 (f) "Designated credentials verification organization"
9 means the credentials verification organization which is
10 selected by the health care practitioner, if the health care
11 practitioner chooses to make such a designation.

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

19 (h) "Health care entity" means:

20 1. Any health care facility or other health care
21 organization licensed or certified to provide approved medical
22 and allied health services in this state;

23 2. Any entity licensed by the Department of Insurance
24 as a prepaid health care plan or health maintenance
25 organization or as an insurer to provide coverage for health
26 care services through a network of providers or similar
27 organization licensed under chapter 627, chapter 636, chapter
28 641, or chapter 651; or

29 3. Any accredited medical school in this state.

30 (i) "Health care practitioner" means any person
31 licensed, or, for credentialing purposes only, any person

1 applying for licensure, under chapter 458, chapter 459,
2 chapter 460, chapter 461, or s. 464.012 or any person licensed
3 or applying for licensure under a chapter subsequently made
4 subject to this section by the department with the approval of
5 the applicable board, except a person registered or applying
6 for registration pursuant to s. 458.345 or s. 459.021.

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

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

24 (k) "Primary-source verification" means verification
25 of professional qualifications based on evidence obtained
26 directly from the issuing source of the applicable
27 qualification or from any other source considered a primary
28 source for such verification by the department or by an
29 accrediting body approved by the department.

30
31

1 (1) "Professional training" means any internship,
2 residency, or fellowship relating to the profession for which
3 the health care practitioner is licensed or seeking licensure.

4 (m) "Specialty board certification" means
5 certification in a specialty issued by a specialty board
6 recognized by the board in this state that regulates the
7 profession for which the health care practitioner is licensed
8 or seeking licensure.

9 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

10 (a) Every health care practitioner shall:

11 1. Report all core credentials data to the department
12 which is not already on file with the department, either by
13 designating a credentials verification organization to submit
14 the data or by submitting the data directly.

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

23 (b) The department shall:

24 1. Maintain a complete, current file of applicable
25 core credentials data on each health care practitioner, which
26 shall include data provided in accordance with subparagraph
27 (a)1. and all updates provided in accordance with subparagraph
28 (a)2.

29 2. Release the core credentials data that is otherwise
30 confidential or exempt from the provisions of chapter 119 and
31 s. 24(a), Art. I of the State Constitution and any

1 corrections, updates, and modifications thereto, if authorized
2 by the health care practitioner.

3 3. Charge a fee to access the core credentials data,
4 which may not exceed the actual cost, including prorated setup
5 and operating costs, pursuant to the requirements of chapter
6 119.

7 4. Develop standardized forms to be used by the health
8 care practitioner or designated credentials verification
9 organization for the initial reporting of core credentials
10 data, for the health care practitioner to authorize the
11 release of core credentials data, and for the subsequent
12 reporting of corrections, updates, and modifications thereto.

13 (c) A registered credentials verification organization
14 may be designated by a health care practitioner to assist the
15 health care practitioner to comply with the requirements of
16 subparagraph (a)2. A designated credentials verification
17 organization shall:

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

20 2. Not provide the health care practitioner's core
21 credentials data, including all corrections, updates, and
22 modifications, without the authorization of the practitioner.

23 (d) This section shall not be construed to restrict in
24 any way the authority of the health care entity to credential
25 and to approve or deny an application for hospital staff
26 membership, clinical privileges, or managed care network
27 participation.

28 (4) DUPLICATION OF DATA PROHIBITED.--

29 (a) A health care entity or credentials verification
30 organization is prohibited from collecting or attempting to
31 collect duplicate core credentials data from any health care

1 practitioner if the information is available from the
2 department. This section shall not be construed to restrict
3 the right of any health care entity or credentials
4 verification organization to collect additional information
5 from the health care practitioner which is not included in the
6 core credentials data file. This section shall not be
7 construed to prohibit a health care entity or credentials
8 verification organization from obtaining all necessary
9 attestation and release form signatures and dates.

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

20 (5) STANDARDS AND REGISTRATION.--Any credentials
21 verification organization that does business in this state
22 must be fully accredited or certified as a credentials
23 verification organization by a national accrediting
24 organization as specified in paragraph (2)(a) and must
25 register with the department. The department may charge a
26 reasonable registration fee, not to exceed an amount
27 sufficient to cover its actual expenses in providing and
28 enforcing such registration. The department shall establish by
29 rule for biennial renewal of such registration. Failure by a
30 registered credentials verification organization to maintain
31 full accreditation or certification, to provide data as

1 authorized by the health care practitioner, to report to the
2 department changes, updates, and modifications to a health
3 care practitioner's records within the time period specified
4 in subparagraph (3)(a)2., or to comply with the prohibition
5 against collection of duplicate core credentials data from a
6 practitioner may result in denial of an application for
7 renewal of registration or in revocation or suspension of a
8 registration.

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

14 (7)(6) LIABILITY.--No civil, criminal, or
15 administrative action may be instituted, and there shall be no
16 liability, against any registered credentials verification
17 organization or health care entity on account of its reliance
18 on any data obtained directly from the department.

19 (8)(7) LIABILITY INSURANCE REQUIREMENTS.--Each
20 credentials verification organization doing business in this
21 state shall maintain liability insurance appropriate to meet
22 the certification or accreditation requirements established in
23 this section.

24 (9)(8) RULES.--The department shall adopt rules
25 necessary to develop and implement the standardized core
26 credentials data collection program established by this
27 section.

28 Section 23. Section 240.4075, Florida Statutes, is
29 amended to read:

30 240.4075 Nursing Student Loan Forgiveness Program.--
31

1 (1) To encourage qualified personnel to seek
2 employment in areas of this state in which critical nursing
3 shortages exist, there is established the Nursing Student Loan
4 Forgiveness Program. The primary function of the program is
5 to increase employment and retention of registered nurses and
6 licensed practical nurses in nursing homes and hospitals in
7 the state and in state-operated medical and health care
8 facilities, public schools, birth centers, and federally
9 sponsored community health centers ~~and teaching hospitals~~ by
10 making repayments toward loans received by students from
11 federal or state programs or commercial lending institutions
12 for the support of postsecondary study in accredited or
13 approved nursing programs.

14 (2) To be eligible, a candidate must have graduated
15 from an accredited or approved nursing program and have
16 received a Florida license as a licensed practical nurse or a
17 registered nurse or a Florida certificate as an advanced
18 registered nurse practitioner.

19 (3) Only loans to pay the costs of tuition, books, and
20 living expenses shall be covered, at an amount not to exceed
21 \$4,000 for each year of education towards the degree obtained.

22 (4) Receipt of funds pursuant to this program shall be
23 contingent upon continued proof of employment in the
24 designated facilities in this state. Loan principal payments
25 shall be made by the Department of Health Education ~~Education~~ directly
26 to the federal or state programs or commercial lending
27 institutions holding the loan as follows:

28 (a) Twenty-five percent of the loan principal and
29 accrued interest shall be retired after the first year of
30 nursing;

31

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

3 (c) Seventy-five percent of the loan principal and
4 accrued interest shall be retired after the third year of
5 nursing; and

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

8
9 In no case may payment for any nurse exceed \$4,000 in any
10 12-month period.

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

23 (6) In addition to licensing fees imposed under part I
24 of chapter 464, there is hereby levied and imposed an
25 additional fee of \$5, which fee shall be paid upon licensure
26 or renewal of nursing licensure. Revenues collected from the
27 fee imposed in this subsection shall be deposited in the
28 Nursing Student Loan Forgiveness Trust Fund of the Department
29 of Health Education and will be used solely for the purpose of
30 carrying out the provisions of this section and s. 240.4076.
31 Up to 50 percent of the revenues appropriated to implement

1 this subsection may be used for the nursing scholarship
2 program established pursuant to s. 240.4076.

3 (7)(a) Funds contained in the Nursing Student Loan
4 Forgiveness Trust Fund which are to be used for loan
5 forgiveness for those nurses employed by hospitals, birth
6 centers, and nursing homes must be matched on a
7 dollar-for-dollar basis by contributions from the employing
8 institutions, except that this provision shall not apply to
9 state-operated medical and health care facilities, public
10 schools, county health departments, federally sponsored
11 community health centers, ~~or~~ teaching hospitals as defined in
12 s. 408.07, family practice teaching hospitals as defined in s.
13 395.805, or specialty hospitals for children as used in s.
14 409.9119. If in any given fiscal quarter there are
15 insufficient funds in the trust fund to grant all eligible
16 applicant requests, awards shall be based on the following
17 priority of employer: county health departments; federally
18 sponsored community health centers; state-operated medical and
19 health care facilities; public schools; teaching hospitals as
20 defined in s. 408.07; family practice teaching hospitals as
21 defined in s. 395.805; specialty hospitals for children as
22 used in s. 409.9119; and other hospitals, birth centers, and
23 nursing homes.

24 (b) All Nursing Student Loan Forgiveness Trust Fund
25 moneys shall be invested pursuant to s. 18.125. Interest
26 income accruing to that portion of the trust fund not matched
27 shall increase the total funds available for loan forgiveness
28 and scholarships. Pledged contributions shall not be eligible
29 for matching prior to the actual collection of the total
30 private contribution for the year.

31

1 (8) The Department of Health ~~Education~~ may solicit
2 technical assistance relating to the conduct of this program
3 from the Department of Education ~~Health~~.

4 (9) The Department of Health ~~Education~~ is authorized
5 to recover from the Nursing Student Loan Forgiveness Trust
6 Fund its costs for administering the Nursing Student Loan
7 Forgiveness Program.

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

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

12 Section 24. Section 240.4076, Florida Statutes, is
13 amended to read:

14 240.4076 Nursing scholarship program.--

15 (1) There is established within the Department of
16 Education a scholarship program for the purpose of attracting
17 capable and promising students to the nursing profession.

18 (2) A scholarship applicant shall be enrolled as a
19 full-time or part-time student in the upper division of an
20 approved nursing program leading to the award of a
21 baccalaureate degree or graduate degree to qualify for a
22 nursing faculty position or as an ~~or any~~ advanced registered
23 nurse practitioner ~~degree~~ or be enrolled as a full-time or
24 part-time student in an approved program leading to the award
25 of an associate degree in nursing ~~or a diploma in nursing~~.

26 (3) A scholarship may be awarded for no more than 2
27 years, in an amount not to exceed \$8,000 per year. However,
28 registered nurses pursuing a graduate degree for a faculty
29 position or to practice as an advanced registered nurse
30 practitioner ~~degree~~ may receive up to \$12,000 per year.
31 Beginning July 1, 1998, these amounts shall be adjusted by the

1 amount of increase or decrease in the consumer price index for
2 urban consumers published by the United States Department of
3 Commerce.

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

6 (a) For each full year of scholarship assistance, the
7 recipient agrees to work for 12 months in a faculty position
8 in a college of nursing or community college nursing program
9 in this state or at a health care facility in a medically
10 underserved area as approved by the Department of Health
11 ~~Education~~. Scholarship recipients who attend school on a
12 part-time basis shall have their employment service obligation
13 prorated in proportion to the amount of scholarship payments
14 received.

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

26 (c) Any recipient who does not complete an appropriate
27 program of studies or who does not become licensed shall repay
28 to the Department of Education, on a schedule to be determined
29 by the department, the entire amount of the scholarship plus
30 18 percent interest accruing from the date of the scholarship
31 payment. Moneys repaid shall be deposited into the Nursing

1 Student Loan Forgiveness Trust Fund established in s.
2 240.4075. However, the department may provide additional time
3 for repayment if the department finds that circumstances
4 beyond the control of the recipient caused or contributed to
5 the default.

6 (d) Any recipient who does not accept employment as a
7 nurse at an approved health care facility or who does not
8 complete 12 months of approved employment for each year of
9 scholarship assistance received shall repay to the Department
10 of Education an amount equal to two times the entire amount of
11 the scholarship plus interest accruing from the date of the
12 scholarship payment at the maximum allowable interest rate
13 permitted by law. Repayment shall be made within 1 year of
14 notice that the recipient is considered to be in default.
15 However, the department may provide additional time for
16 repayment if the department finds that circumstances beyond
17 the control of the recipient caused or contributed to the
18 default.

19 (5) Scholarship payments shall be transmitted to the
20 recipient upon receipt of documentation that the recipient is
21 enrolled in an approved nursing program. The Department of
22 Education shall develop a formula to prorate payments to
23 scholarship recipients so as not to exceed the maximum amount
24 per academic year.

25 (6) The Department of Education shall adopt rules,
26 including rules to address extraordinary circumstances that
27 may cause a recipient to default on either the school
28 enrollment or employment contractual agreement, to implement
29 this section and may solicit technical assistance relating to
30 the conduct of this program from the Department of Health.

31

1 (7) The Department of Education is authorized to
2 recover from the Nursing Student Loan Forgiveness Trust Fund
3 its costs for administering the nursing scholarship program.

4 Section 25. All powers, duties, functions, rules,
5 records, personnel, property, and unexpended balances of
6 appropriations, allocations, or other funds of the Department
7 of Education relating to the Nursing Student Loan Forgiveness
8 Program are transferred by a type two transfer, as defined in
9 section 20.06(2), Florida Statutes, to the Department of
10 Health.

11 Section 26. Effective July 1, 2003, section 464.005,
12 Florida Statutes, is amended to read:

13 464.005 Board headquarters.--The board shall maintain
14 its official headquarters in Tallahassee ~~the city in which it~~
15 ~~has been domiciled for the past 5 years.~~

16 Section 27. Subsections (1) and (2) of section
17 464.008, Florida Statutes, are amended to read:

18 464.008 Licensure by examination.--

19 (1) Any person desiring to be licensed as a registered
20 nurse or licensed practical nurse shall apply to the
21 department to take the licensure examination. The department
22 shall examine each applicant who:

23 (a) Has completed the application form and remitted a
24 fee set by the board not to exceed \$150 and has remitted an
25 examination fee set by the board not to exceed \$75 plus the
26 actual per applicant cost to the department for purchase of
27 the examination from the National Council of State Boards of
28 Nursing or a similar national organization.

29 (b) Has provided sufficient information on or after
30 October 1, 1989, which must be submitted by the department for
31

1 a statewide criminal records correspondence check through the
2 Department of Law Enforcement.

3 (c) Is in good mental and physical health, is a
4 recipient of a high school diploma or the equivalent, and has
5 completed the requirements for graduation from an approved
6 program, or its equivalent as determined by the board, for the
7 preparation of registered nurses or licensed practical nurses,
8 whichever is applicable. Courses successfully completed in a
9 professional nursing program which are at least equivalent to
10 a practical nursing program may be used to satisfy the
11 education requirements for licensure as a licensed practical
12 nurse.

13 (d) Has the ability to communicate in the English
14 language, which may be determined by an examination given by
15 the department.

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

22 Section 28. Section 464.009, Florida Statutes, is
23 amended to read:

24 464.009 Licensure by endorsement.--

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

30 (a) Holds a valid license to practice professional or
31 practical nursing in another state of the United States,

1 provided that, when the applicant secured his or her original
2 license, the requirements for licensure were substantially
3 equivalent to or more stringent than those existing in Florida
4 at that time; or

5 (b) Meets the qualifications for licensure in s.
6 464.008 and has successfully completed a state, regional, or
7 national examination which is substantially equivalent to or
8 more stringent than the examination given by the department.

9 (2) Such examinations and requirements from other
10 states shall be presumed to be substantially equivalent to or
11 more stringent than those in this state. Such presumption
12 shall not arise until January 1, 1980. However, the board may,
13 by rule, specify states the examinations and requirements of
14 which shall not be presumed to be substantially equivalent to
15 those of this state.

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

1 ~~(4)(3)~~ The department shall not issue a license by
2 endorsement to any applicant who is under investigation in
3 another state for an act which would constitute a violation of
4 this part or chapter 456 until such time as the investigation
5 is complete, at which time the provisions of s. 464.018 shall
6 apply.

7 (5) The department shall develop an electronic
8 applicant-notification process and provide electronic
9 notification when the application has been received and when
10 background screenings have been completed, and shall issue a
11 license within 30 days after completion of all required data
12 collection and verification. This 30-day period to issue a
13 license shall be tolled if the applicant must appear before
14 the board due to information provided on the application or
15 obtained through screening and data collection and
16 verification procedures.

17 Section 29. Subsection (1) of section 464.0205,
18 Florida Statutes, is amended to read:

19 464.0205 Retired volunteer nurse certificate.--

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

24 (a) A complete application.

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

26 (b)(c) Verification that the applicant had been
27 licensed to practice nursing in any jurisdiction in the United
28 States for at least 10 years, had retired or plans to retire,
29 intends to practice nursing only pursuant to the limitations
30 provided by the retired volunteer nurse certificate, and has
31

1 not committed any act that would constitute a violation under
2 s. 464.018(1).

3 (c)~~(d)~~ Proof that the applicant meets the requirements
4 for licensure under s. 464.008 or s. 464.009.

5 Section 30. The Florida Legislature's Office of
6 Program Policy Analysis and Government Accountability shall
7 study the feasibility of maintaining the entire Medical
8 Quality Assurance function, including enforcement, within one
9 department, as recommended by the Auditor General in
10 Operational Report Number 01-063. The study shall be completed
11 and a report issued to the Legislature on or before November
12 30, 2001.

13 Section 31. Subsection (3) of section 456.031, Florida
14 Statutes, is amended to read:

15 456.031 Requirement for instruction on domestic
16 violence.--

17 (3)(a) In lieu of completing a course as required in
18 subsection (1), a licensee or certificateholder may complete a
19 course in end-of-life care and palliative health care, if the
20 licensee or certificateholder has completed an approved
21 domestic violence course in the immediately preceding
22 biennium.

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

28 Section 32. Subsection (9) of section 456.033, Florida
29 Statutes, is amended to read:

30
31

1 456.033 Requirement for instruction for certain
2 licensees on human immunodeficiency virus and acquired immune
3 deficiency syndrome.--

4 (9)(a) In lieu of completing a course as required in
5 subsection (1), the licensee may complete a course in
6 end-of-life care and palliative health care, so long as the
7 licensee completed an approved AIDS/HIV course in the
8 immediately preceding biennium.

9 (b) In lieu of completing a course as required by
10 subsection (1), a person licensed under chapter 466 who has
11 completed an approved AIDS/HIV course in the immediately
12 preceding 2 years may complete a course approved by the Board
13 of Dentistry.

14 Section 33. Subsection (9) is added to section
15 627.419, Florida Statutes, to read:

16 627.419 Construction of policies.--

17 (9) With respect to any group or individual insurer
18 covering dental services, each claimant, or dentist acting for
19 a claimant, who has had a claim denied as not medically or
20 dentally necessary or who has had a claim payment based on an
21 alternate dental service in accordance with accepted dental
22 standards for adequate and appropriate care must be provided
23 an opportunity for an appeal to the insurer's licensed dentist
24 who is responsible for the medical necessity reviews under the
25 plan or is a member of the plan's peer review group. The
26 appeal may be by telephone, and the insurer's dentist must
27 respond within a reasonable time, not to exceed 15 business
28 days.

29 Section 34. Section 33 of this act, amending section
30 627.419, Florida Statutes, shall apply to policies issued or
31 renewed after July 1, 2001.

1 Section 35. Paragraph (c) of subsection (6) of section
2 468.302, Florida Statutes, is amended, and paragraph (d) is
3 added to that subsection, to read:

4 468.302 Use of radiation; identification of certified
5 persons; limitations; exceptions.--

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

7 (c) A person who is trained and skilled in invasive
8 cardiovascular ~~cardiopulmonary~~ technology, including the
9 radiologic technology duties associated with these procedures,
10 and who provides invasive cardiovascular ~~cardiopulmonary~~
11 technology services at the direction, and under the direct
12 supervision, of a physician licensed under chapter 458 or
13 chapter 459 who is trained and skilled in performing invasive
14 cardiovascular procedures ~~practitioner~~. Such persons must
15 successfully complete a didactic and clinical training program
16 in the following areas before performing radiologic technology
17 duties:

18 1. Principles of x-ray production and equipment
19 operation;

20 2. Biological effects of radiation;

21 3. Radiation exposure and monitoring;

22 4. Radiation safety and protection;

23 5. Evaluation of radiographic equipment and
24 accessories;

25 6. Radiographic exposure and technique factors;

26 7. Film processing;

27 8. Image quality assurance;

28 9. Patient positioning;

29 10. Administration and complications of contrast
30 media; and

31

1 11. Specific fluoroscopic and digital x-ray imaging
2 procedures related to invasive cardiovascular technology.

3 (d) A registered nurse licensed under chapter 464 or a
4 general radiographer certified under this section, if a person
5 certified in radiation therapy by the American Registry of
6 Radiologic Technologists is in the immediate vicinity during
7 the use of radiation.

8 Section 36. 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 37. 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 38. 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 39. 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 40. 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" which would lead the
11 public to believe that such person is licensed pursuant to
12 this part unless such person is so licensed; or take any other
13 action that would lead the public to believe that such person
14 is licensed pursuant to this part unless such person is so
15 licensed.

16 Section 41. Paragraph (b) of subsection (2),
17 paragraphs (b) and (c) of subsection (3), and subsection (4)
18 of section 468.1155, Florida Statutes, are amended to read:

19 468.1155 Provisional license; requirements.--

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

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

1 Canada. An applicant who graduated from a program at a
2 university or college outside the United States or Canada must
3 present documentation of the determination of equivalency to
4 standards established by the Council for Higher Education
5 ~~Commission on Recognition of Postsecondary~~ Accreditation in
6 order to qualify. The applicant must have completed 60
7 semester hours that include:

8 1. Fundamental information applicable to the normal
9 development and use of speech, hearing, and language;
10 information about training in management of speech, hearing,
11 and language disorders; and information supplementary to these
12 fields.

13 2. Six semester hours in audiology.

14 3. Thirty of the required 60 semester hours in courses
15 acceptable toward a graduate degree by the college or
16 university in which these courses were taken, of which 24
17 semester hours or the number of clock hours required by an
18 accredited institution meeting national certification
19 standards, must be in speech-language pathology.

20 (3) The department shall issue a provisional license
21 to practice audiology to each applicant who the board
22 certifies has:

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

1 applicant who graduated from or is currently enrolled in a
2 program at a university or college outside the United States
3 or Canada must present documentation of the determination of
4 equivalency to standards established by the Council for Higher
5 Education Commission on Recognition of Postsecondary
6 Accreditation in order to qualify. The applicant must have
7 completed 60 semester hours that include:
8 1. Fundamental information applicable to the normal
9 development and use of speech, hearing, and language;
10 information about training in management of speech, hearing,
11 and language disorders; and information supplementary to these
12 fields.
13 2. Six semester hours in speech-language pathology.
14 3. Thirty of the required 60 semester hours in courses
15 acceptable toward a graduate degree by the college or
16 university in which these courses were taken, of which 24
17 semester hours must be in audiology.
18 (c) Completed 300 supervised clinical clock hours with
19 200 clock hours, or the number of clock hours required by an
20 accredited institution meeting national certification
21 standards, in the area of audiology. The supervised clinical
22 clock hours institution or one of its cooperating programs.
23 (4) An applicant ~~for a provisional license~~ who has
24 received a master's degree or is currently enrolled in a
25 doctoral degree program with a major emphasis in
26 speech-language pathology as provided in subsection (2), or
27 audiology as provided in subsection (3), and who seeks
28 licensure in the area in which the applicant is not currently
29 licensed, must have completed 30 semester hours in courses
30 acceptable toward a graduate degree and 200 supervised
31

1 clinical clock hours in the second discipline from an
2 accredited institution.

3 Section 42. Paragraph (b) of subsection (1) and
4 paragraph (b) of subsection (2) of section 468.1215, Florida
5 Statutes, are amended to read:

6 468.1215 Speech-language pathology assistant and
7 audiology assistant; certification.--

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

11 (b) Earned a bachelor's degree from a college or
12 university accredited by a regional association of colleges
13 and schools recognized by the Department of Education which
14 includes at least 24 semester hours of coursework as approved
15 by the board at an institution accredited by an accrediting
16 agency recognized by the Council for Higher Education
17 ~~Commission on Recognition of Postsecondary Accreditation.~~

18 (2) The department shall issue a certificate as an
19 audiology assistant to each applicant who the board certifies
20 has:

21 (b) Completed at least 24 semester hours of coursework
22 as approved by the board at an institution accredited by an
23 accrediting agency recognized by the Council for Higher
24 Education Commission on Recognition of Postsecondary
25 Accreditation.

26 Section 43. Subsection (3) of section 480.033, Florida
27 Statutes, is amended to read:

28 480.033 Definitions.--As used in this act:

29 (3) "Massage" means the manipulation of the soft
30 ~~superficial~~ tissues of the human body with the hand, foot,
31 arm, or elbow, whether or not such manipulation is aided by

1 hydrotherapy, including colonic irrigation, or thermal
2 therapy; any electrical or mechanical device; or the
3 application to the human body of a chemical or herbal
4 preparation.

5 Section 44. Subsection (1) of section 484.0445,
6 Florida Statutes, is amended to read:

7 484.0445 Training program.--

8 (1) The board shall establish by rule a training
9 program for a minimum of ~~not to exceed~~ 6 months in length,
10 which may include a board-approved home study course. ~~Upon~~
11 ~~submitting to the department the registration fee, the~~
12 ~~applicant may register and enter the training program. Upon~~
13 ~~completion of the training program, the trainee shall take the~~
14 ~~first available written and practical examinations offered by~~
15 ~~the department. The department shall administer the written~~
16 ~~and practical examinations as prescribed by board rule. If~~
17 ~~the trainee fails either the written or the practical~~
18 ~~examination, she or he may repeat the training program one~~
19 ~~time and retake the failed examination, provided she or he~~
20 ~~takes the next available examination. No person may remain in~~
21 ~~trainee status or further perform any services authorized for~~
22 ~~a trainee if she or he fails either the written or the~~
23 ~~practical examination twice; but, a trainee may continue to~~
24 ~~function as a trainee until she or he has received the results~~
25 ~~of the examinations. Any applicant who has failed an~~
26 ~~examination twice and is no longer functioning as a trainee~~
27 ~~shall be eligible for reexamination as provided in s.~~
28 ~~484.045(2).~~

29 Section 45. Section 484.045, Florida Statutes, is
30 amended to read:

31 484.045 Licensure by examination.--

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

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

7 (a) Has completed the application form and remitted
8 the required fees ~~applicable fee to the board and has paid the~~
9 ~~examination fee;~~

10 (b) Is of good moral character;

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

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

14 (e)1. Has met the requirements set forth in the
15 training program ~~s. 484.0445;~~ or

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

20 b. Is currently certified by the National Board for
21 Certification in Hearing Instrument Sciences and has been
22 actively practicing for at least 12 months.

23 (f) Has passed an examination, as prescribed by board
24 rule; and

25 (g) Has demonstrated, in a manner designated by rule
26 of the board, knowledge of the laws and rules in this state
27 relating to the fitting and dispensing of hearing aids.

28 ~~Persons qualifying under this sub-subparagraph need not take~~
29 ~~the written or practical examination, but must take and pass a~~
30 ~~test on Florida laws and rules relating to the fitting and~~
31 ~~dispensing of hearing aids.~~

1 (3) A person who fails the examination may apply for
2 reexamination to the appropriate examining entity, as
3 prescribed by board rule.

4 ~~(2) On or after October 1, 1990, every applicant who~~
5 ~~is qualified to take the examination shall be allowed to take~~
6 ~~the examination three times. If, after October 1, 1990, an~~
7 ~~applicant fails the examination three times, the applicant~~
8 ~~shall no longer be eligible to take the examination.~~

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

12 Section 46. Subsection (1) of section 490.012, Florida
13 Statutes, is amended to read:

14 490.012 Violations; penalties; injunction.--

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

19 (b) No person shall hold herself or himself out by any
20 professional title, name or description incorporating the
21 words "school psychologist" unless such person holds a valid,
22 active license as a school psychologist under this chapter or
23 is certified as a school psychologist by the Department of
24 Education.

25 (c) No person shall hold herself or himself out by any
26 title or description incorporating the words, or permutations
27 of them, "psychologist," "psychology," "psychological," or
28 "psychodiagnostic," or "school psychologist," or describe any
29 test or report as psychological, unless such person holds a
30 valid, active license under this chapter or is exempt from the
31 provisions of this chapter.

1 ~~(d)(b)~~ No person shall hold herself or himself out by
2 any title or description incorporating the word, or a
3 permutation of the word, "psychotherapy" unless such person
4 holds a valid, active license under chapter 458, chapter 459,
5 chapter 490, or chapter 491, or such person is certified as an
6 advanced registered nurse practitioner, pursuant to s.
7 464.012, who has been determined by the Board of Nursing as a
8 specialist in psychiatric mental health.

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

13 Section 47. Paragraphs (a) and (b) of subsection (2)
14 of section 490.014, Florida Statutes, are amended to read:

15 490.014 Exemptions.--

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
30 employee is not held out to the public as a psychologist under
31 s. 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
6 to the public as a psychologist under s. 490.012(1)(a).

7 Section 48. Paragraphs (i), (j), and (k) of subsection
8 (1) of section 491.012, Florida Statutes, are amended to read:

9 491.012 Violations; penalty; injunction.--

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

12 (i) Practice clinical social work in this state, ~~as~~
13 ~~the practice is defined in s. 491.003(7),~~for compensation,
14 unless the person holds a valid, active license to practice
15 clinical social work issued pursuant to this chapter or is an
16 intern registered pursuant to s. 491.0045.

17 (j) Practice marriage and family therapy in this
18 state, ~~as the practice is defined in s. 491.003(8),~~for
19 compensation, unless the person holds a valid, active license
20 to practice marriage and family therapy issued pursuant to
21 this chapter or is an intern registered pursuant to s.
22 491.0045.

23 (k) Practice mental health counseling in this state,
24 ~~as the practice is defined in s. 491.003(9),~~for compensation,
25 unless the person holds a valid, active license to practice
26 mental health counseling issued pursuant to this chapter or is
27 an intern registered pursuant to s. 491.0045.

28 Section 49. Subsection (19) is added to section
29 456.057, Florida Statutes, to read:

30 456.057 Ownership and control of patient records;
31 report or copies of records to be furnished.--

1 (19) Each board, or department when there is no board,
2 may temporarily or permanently appoint a health care
3 practitioner who agrees to serve as a custodian of medical
4 records in the event of the death or mental or physical
5 incapacitation of a practitioner or the abandonment of medical
6 records by a practitioner. The custodian must comply with all
7 provisions of this section, including the release of patient
8 records.

9 Section 50. (1) There is established the Florida
10 Center for Nursing to address issues of supply and demand for
11 nursing, including recruitment, retention, and utilization of
12 nurse workforce resources. The center shall:

13 (a) Develop a strategic statewide plan for nursing
14 manpower in this state by:

15 1. Establishing and maintaining a database on current
16 and future nursing supply and demand in this state; and

17 2. Selecting priorities to be addressed.

18 (b) Convene representatives of nurses, other health
19 care providers, business and industry, consumers, legislators,
20 and educators to:

21 1. Review and comment on data analysis prepared for
22 the center;

23 2. Recommend systemic changes, including strategies
24 for implementation of recommended changes; and

25 3. Evaluate such data and report the results to the
26 Legislature and others.

27 (c) Enhance and promote recognition, reward, and
28 renewal activities for nurses by:

29 1. Promoting nursing excellence programs such as
30 magnet recognition by the American Nurses Credentialing
31 Center;

1 2. Proposing and creating additional reward,
2 recognition, and renewal activities for nurses; and

3 3. Promoting media and positive image-building efforts
4 for nursing.

5 (2) The Florida Center for Nursing shall be governed
6 by a board of directors composed of 16 members, with a simple
7 majority being nurses representative of various practice
8 areas. Other members shall include representatives of other
9 health care professions, business and industry, health care
10 providers, and consumers.

11 (a) The members shall be appointed as follows:

12 1. Four members appointed by the President of the
13 Senate, at least one of whom shall be a registered nurse
14 recommended by the Florida Organization of Nurse Executives
15 and at least one of whom shall be a representative of the
16 hospital industry recommended by the Florida Hospital
17 Association;

18 2. Four members appointed by the Speaker of the House
19 of Representatives, at least one of whom shall be a registered
20 nurse recommended by the Florida Nurses Association and at
21 least one of whom shall be a representative of the long-term
22 care industry;

23 3. Four members appointed by the Governor, two of whom
24 shall be registered nurses; and

25 4. Four members who are nurse educators appointed by
26 the State Board of Education, one of whom shall be a dean of a
27 state university college of nursing and one of whom shall be a
28 director of an nursing program in a state community college.

29 (b) The initial terms of the members shall be as
30 follows:

31

1 1. Of the members appointed by the President of the
2 Senate, two shall be appointed for terms expiring June 30,
3 2005, one for a term expiring June 30, 2004, and one for a
4 term expiring June 30, 2003;

5 2. Of the members appointed by the Speaker of the
6 House of Representatives, one shall be appointed for a term
7 expiring June 30, 2005, two for terms expiring June 30, 2004,
8 and one for a term expiring June 20, 2003;

9 3. Of the members appointed by the Governor, one shall
10 be appointed for a term expiring June 30, 2005, one for a term
11 expiring June 30, 2004, and two for terms expiring June 30,
12 2003; and

13 4. Of the members appointed by the State Board of
14 Education, the terms of the member who is a dean of a college
15 of nursing shall expire June 30, 2004; and the term of the
16 member who is a director of a community college nursing
17 program shall expire June 30, 2003; and the terms of the other
18 two members shall expire June 30, 2005.

19 (c) After the initial appointments expire, the terms
20 of all members shall be 3 years, with no member serving more
21 than two consecutive terms.

22 (d) The board may:

23 1. Employ an executive director;

24 2. Determine operational policy;

25 3. Elect a chairperson and officers, to serve 2-year
26 terms. The chairperson and officers may not succeed
27 themselves;

28 4. Establish committees;

29 5. Appoint a multidisciplinary advisory council for
30 input and advice on policy matters;

31

1 6. Implement the major functions of the center
2 established in subsection (1); and

3 7. Seek and accept nonstate funds to operate the
4 center and implement center policy.

5 (e) Board members are entitled to reimbursement for
6 per diem and travel expenses pursuant to section 112.061,
7 Florida Statutes.

8 Section 51. Paragraph (d) of subsection (2) of section
9 499.012, Florida Statutes, is amended to read:

10 499.012 Wholesale distribution; definitions; permits;
11 general requirements.--

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

14 (d) A retail pharmacy wholesaler's permit. A retail
15 pharmacy wholesaler is a retail pharmacy engaged in wholesale
16 distribution of prescription drugs within this state under the
17 following conditions:

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

21 2. The wholesale distribution activity does not exceed
22 30 percent of the total annual purchases of prescription
23 drugs. If the wholesale distribution activity exceeds the
24 30-percent maximum, the pharmacy must obtain a prescription
25 drug wholesaler's permit.

26 3. The transfer of prescription drugs that appear in
27 any schedule contained in chapter 893 is subject to chapter
28 893 and the federal Comprehensive Drug Abuse Prevention and
29 Control Act of 1970.

30 4. The transfer is between a retail pharmacy, a
31 modified class II institutional pharmacy, and another retail

1 pharmacy or a health care practitioner licensed in this state
2 and authorized by law to dispense or prescribe prescription
3 drugs.

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

8 Section 52. (1) This section may be cited as the
9 "Ernest Belles Act."

10 (2) As used in this section, the term "pharmaceutical
11 adverse incident" means the dispensing of a different
12 medication, a different dose, or the correct medication in a
13 container with different instructions than that specified in
14 the prescription, but does not include the dispensing of a
15 generic equivalent medication with the patient's consent.

16 (3) A pharmacist licensed under chapter 465, Florida
17 Statutes, or other health care practitioner, as defined in
18 section 456.001, Florida Statutes, who becomes aware of a
19 pharmaceutical adverse incident must report such incident to
20 the Department of Health on forms provided by the department.

21 (4) The required notification to the department must
22 be submitted in writing by certified mail and postmarked
23 within 15 days after the occurrence of the adverse incident.

24 (5) The Department of Health shall adopt forms and
25 rules for administering this section.

26 Section 53. Effective October 1, 2001, subsection (3)
27 of section 484.002, Florida Statutes, is amended, and
28 subsection (8) is added to that section, to read:

29 484.002 Definitions.--As used in this part:

30 (3) "Opticianry" means the preparation and dispensing
31 of lenses, spectacles, eyeglasses, contact lenses, and other

1 optical devices to the intended user or agent thereof, upon
2 the written prescription of a licensed allopathic or
3 osteopathic physician ~~medical doctor~~ or optometrist who is
4 duly licensed to practice or upon presentation of a duplicate
5 prescription. The selection of frame designs, the actual
6 sales transaction, and the transfer of physical possession of
7 lenses, spectacles, eyeglasses, contact lenses, and other
8 optical devices subsequent to performance of all services of
9 the optician shall not be considered the practice of
10 opticianry; however, such physical possession shall not be
11 transferred until the optician has completed the fitting of
12 the optical device upon the customer. The practice of
13 opticianry also includes the duplication of lenses accurately
14 as to power, without prescription. A board-certified optician
15 qualified and operating under rules established by the board
16 may fill, fit, adapt, or dispense any soft contact lens
17 prescription. Such optician may fill, fit, adapt, or dispense
18 any extended wear or hard contact lens prescription to the
19 extent authorized to do so by the prescribing allopathic or
20 osteopathic physician ~~medical doctor~~ or optometrist.

21 (8) "Contact lenses" means a prescribed medical device
22 intended to be worn directly against the cornea of the eye to
23 correct vision conditions, act as a therapeutic device, or
24 provide a cosmetic effect.

25 Section 54. Effective October 1, 2001, subsection (2)
26 of section 484.006, Florida Statutes, is amended to read:

27 484.006 Certain rules prohibited.--

28 (2) No rule or policy of the board shall prohibit any
29 optician from practicing jointly with optometrists or
30 allopathic or osteopathic physicians ~~medical doctors~~ licensed
31 in this state.

1 Section 55. Effective October 1, 2001, subsections (1)
2 and (2) of section 484.012, Florida Statutes, are amended to
3 read:

4 484.012 Prescriptions; filing; duplication of
5 prescriptions; duplication of lenses.--

6 (1) Any prescription written by a duly licensed
7 allopathic or osteopathic physician ~~medical doctor~~ or
8 optometrist for any lenses, spectacles, eyeglasses, contact
9 lenses, or other optical devices shall be kept on file for a
10 period of 2 years with the optical establishment that fills
11 such prescription. However, the licensed optician may
12 maintain a copy of the prescription.

13 (2) Upon request by the intended user of the
14 prescribed lenses, spectacles, eyeglasses, contact lenses, or
15 other optical devices, or by an agent of the intended user,
16 the optician who fills the original prescription shall
17 duplicate, on a form prescribed by rule of the board, the
18 original prescription. However, for medical reasons only, the
19 prescribing allopathic or osteopathic physician ~~medical doctor~~
20 or optometrist may, upon the original prescription, prohibit
21 its duplication. Any duplication shall be considered a valid
22 prescription to be filled for a period of 5 years from the
23 date of the original prescription, except that a contact lens
24 prescription shall be considered a valid prescription to be
25 filled for a period of 2 years from the date of the original
26 prescription.

27 Section 56. Effective October 1, 2001, section
28 484.013, Florida Statutes, is amended to read:

29 484.013 Violations and penalties.--

30 (1) It is unlawful for any person:

31

1 (a) To intentionally make a false or fraudulent
2 statement, either for herself or himself or for another
3 person, in any application, affidavit, or statement presented
4 to the board or in any proceeding before the board.

5 (b) To prepare or dispense lenses, spectacles,
6 eyeglasses, contact lenses, or other optical devices when such
7 person is not licensed as an optician in this state.

8 (c) To prepare or dispense lenses, spectacles,
9 eyeglasses, contact lenses, or other optical devices without
10 first being furnished with a prescription as provided for in
11 s. 484.012.

12 (2) It is unlawful for any person other than an
13 optician licensed under this part to use the title "optician"
14 or otherwise lead the public to believe that she or he is
15 engaged in the practice of opticianry.

16 (3) It is unlawful for any optician to engage in the
17 diagnosis of the human eyes, attempt to determine the
18 refractive powers of the human eyes, or, in any manner,
19 attempt to prescribe for or treat diseases or ailments of
20 human beings.

21 (4) It is unlawful for any person to open or operate,
22 either alone or with any other person or persons, an optical
23 establishment which does not have the permit required by this
24 part.

25 (5) A ~~Any~~ person who violates any ~~a~~ provision of this
26 section commits a felony ~~misdemeanor~~ of the third ~~second~~
27 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083,
28 or s. 775.084.

29
30 This section does not apply to an individual transferring her
31 or his personal lenses, spectacles, eyeglasses, contact

1 lenses, or other optical devices that are exclusively cosmetic
2 to another individual without any compensation or any
3 incidental or peripheral compensation.

4 Section 57. Effective October 1, 2001, section
5 484.015, Florida Statutes, is amended to read:

6 484.015 Authority to inspect.--Duly authorized agents
7 and employees of the department shall have the power to
8 inspect in a lawful manner at all reasonable hours an any
9 establishment of any kind in the state in which lenses,
10 spectacles, eyeglasses, contact lenses, and any other optical
11 devices are prepared or ~~and~~ dispensed, for the purposes of:

12 (1) Determining if any provision of this part, or any
13 rule promulgated under its authority, is being violated;

14 (2) Securing samples or specimens of any lenses,
15 spectacles, eyeglasses, contact lenses, or other optical
16 devices, after paying or offering to pay for such sample or
17 specimen; or

18 (3) Securing such other evidence as may be needed for
19 prosecution under this part.

20 Section 58. Effective October 1, 2001, paragraph (g)
21 of subsection (3) of section 921.0022, Florida Statutes, is
22 amended to read:

23 921.0022 Criminal Punishment Code; offense severity
24 ranking chart.--

25 (3) OFFENSE SEVERITY RANKING CHART

26
27 Florida Felony
28 Statute Degree Description

29
30 (g) LEVEL 7
31

1	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
2			injury.
3	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
4			bodily injury.
5	402.319(2)	2nd	Misrepresentation and negligence
6			or intentional act resulting in
7			great bodily harm, permanent
8			disfiguration, permanent
9			disability, or death.
10	409.920(2)	3rd	Medicaid provider fraud.
11	456.065(2)	3rd	Practicing a health care
12			profession without a license.
13	456.065(2)	2nd	Practicing a health care
14			profession without a license
15			which results in serious bodily
16			injury.
17	458.327(1)	3rd	Practicing medicine without a
18			license.
19	459.013(1)	3rd	Practicing osteopathic medicine
20			without a license.
21	460.411(1)	3rd	Practicing chiropractic medicine
22			without a license.
23	461.012(1)	3rd	Practicing podiatric medicine
24			without a license.
25	462.17	3rd	Practicing naturopathy without a
26			license.
27	463.015(1)	3rd	Practicing optometry without a
28			license.
29	464.016(1)	3rd	Practicing nursing without a
30			license.
31			

1	465.015(2)	3rd	Practicing pharmacy without a
2			license.
3	466.026(1)	3rd	Practicing dentistry or dental
4			hygiene without a license.
5	467.201	3rd	Practicing midwifery without a
6			license.
7	468.366	3rd	Delivering respiratory care
8			services without a license.
9	483.828(1)	3rd	Practicing as clinical laboratory
10			personnel without a license.
11	483.901(9)	3rd	Practicing medical physics
12			without a license.
13	<u>484.013</u>	<u>3rd</u>	<u>Practicing opticianry without a</u>
14			<u>license.</u>
15	484.053	3rd	Dispensing hearing aids without a
16			license.
17	494.0018(2)	1st	Conviction of any violation of
18			ss. 494.001-494.0077 in which the
19			total money and property
20			unlawfully obtained exceeded
21			\$50,000 and there were five or
22			more victims.
23	560.123(8)(b)1.	3rd	Failure to report currency or
24			payment instruments exceeding
25			\$300 but less than \$20,000 by
26			money transmitter.
27	560.125(5)(a)	3rd	Money transmitter business by
28			unauthorized person, currency or
29			payment instruments exceeding
30			\$300 but less than \$20,000.
31			

1	655.50(10)(b)1.	3rd	Failure to report financial
2			transactions exceeding \$300 but
3			less than \$20,000 by financial
4			institution.
5	782.051(3)	2nd	Attempted felony murder of a
6			person by a person other than the
7			perpetrator or the perpetrator of
8			an attempted felony.
9	782.07(1)	2nd	Killing of a human being by the
10			act, procurement, or culpable
11			negligence of another
12			(manslaughter).
13	782.071	2nd	Killing of human being or viable
14			fetus by the operation of a motor
15			vehicle in a reckless manner
16			(vehicular homicide).
17	782.072	2nd	Killing of a human being by the
18			operation of a vessel in a
19			reckless manner (vessel
20			homicide).
21	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
22			causing great bodily harm or
23			disfigurement.
24	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
25			weapon.
26	784.045(1)(b)	2nd	Aggravated battery; perpetrator
27			aware victim pregnant.
28	784.048(4)	3rd	Aggravated stalking; violation of
29			injunction or court order.
30	784.07(2)(d)	1st	Aggravated battery on law
31			enforcement officer.

1	784.08(2)(a)	1st	Aggravated battery on a person 65
2			years of age or older.
3	784.081(1)	1st	Aggravated battery on specified
4			official or employee.
5	784.082(1)	1st	Aggravated battery by detained
6			person on visitor or other
7			detainee.
8	784.083(1)	1st	Aggravated battery on code
9			inspector.
10	790.07(4)	1st	Specified weapons violation
11			subsequent to previous conviction
12			of s. 790.07(1) or (2).
13	790.16(1)	1st	Discharge of a machine gun under
14			specified circumstances.
15	790.166(3)	2nd	Possessing, selling, using, or
16			attempting to use a hoax weapon
17			of mass destruction.
18	796.03	2nd	Procuring any person under 16
19			years for prostitution.
20	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
21			victim less than 12 years of age;
22			offender less than 18 years.
23	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
24			victim 12 years of age or older
25			but less than 16 years; offender
26			18 years or older.
27	806.01(2)	2nd	Maliciously damage structure by
28			fire or explosive.
29	810.02(3)(a)	2nd	Burglary of occupied dwelling;
30			unarmed; no assault or battery.
31			

1	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(d)	2nd	Burglary of occupied conveyance;
4			unarmed; no assault or battery.
5	812.014(2)(a)	1st	Property stolen, valued at
6			\$100,000 or more; property stolen
7			while causing other property
8			damage; 1st degree grand theft.
9	812.019(2)	1st	Stolen property; initiates,
10			organizes, plans, etc., the theft
11			of property and traffics in
12			stolen property.
13	812.131(2)(a)	2nd	Robbery by sudden snatching.
14	812.133(2)(b)	1st	Carjacking; no firearm, deadly
15			weapon, or other weapon.
16	825.102(3)(b)	2nd	Neglecting an elderly person or
17			disabled adult causing great
18			bodily harm, disability, or
19			disfigurement.
20	825.1025(2)	2nd	Lewd or lascivious battery upon
21			an elderly person or disabled
22			adult.
23	825.103(2)(b)	2nd	Exploiting an elderly person or
24			disabled adult and property is
25			valued at \$20,000 or more, but
26			less than \$100,000.
27	827.03(3)(b)	2nd	Neglect of a child causing great
28			bodily harm, disability, or
29			disfigurement.
30			
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1	827.04(3)	3rd	Impregnation of a child under 16
2			years of age by person 21 years
3			of age or older.
4	837.05(2)	3rd	Giving false information about
5			alleged capital felony to a law
6			enforcement officer.
7	872.06	2nd	Abuse of a dead human body.
8	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
9			cocaine (or other drug prohibited
10			under s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4.) within 1,000 feet of a
13			child care facility or school.
14	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
15			cocaine or other drug prohibited
16			under s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4., within 1,000 feet of
19			property used for religious
20			services or a specified business
21			site.
22	893.13(4)(a)	1st	Deliver to minor cocaine (or
23			other s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), (2)(b), or
25			(2)(c)4. drugs).
26	893.135(1)(a)1.	1st	Trafficking in cannabis, more
27			than 50 lbs., less than 2,000
28			lbs.
29	893.135		
30	(1)(b)1.a.	1st	Trafficking in cocaine, more than
31			28 grams, less than 200 grams.

1	893.135		
2	(1)(c)1.a.	1st	Trafficking in illegal drugs,
3			more than 4 grams, less than 14
4			grams.
5	893.135		
6	(1)(d)1.	1st	Trafficking in phencyclidine,
7			more than 28 grams, less than 200
8			grams.
9	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
10			than 200 grams, less than 5
11			kilograms.
12	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
13			than 14 grams, less than 28
14			grams.
15	893.135		
16	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
17			grams or more, less than 14
18			grams.
19	893.135		
20	(1)(h)1.a.	1st	Trafficking in
21			gamma-hydroxybutyric acid (GHB),
22			1 kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
26			kilogram or more, less than 5
27			kilograms.
28	893.135		
29	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
30			10 grams or more, less than 200
31			grams.

1 896.101(5)(a) 3rd Money laundering, financial
2 transactions exceeding \$300 but
3 less than \$20,000.
4 896.104(4)(a)1. 3rd Structuring transactions to evade
5 reporting or registration
6 requirements, financial
7 transactions exceeding \$300 but
8 less than \$20,000.
9 Section 59. Subsection (1) of section 483.245, Florida
10 Statutes, is amended to read:
11 483.245 Rebates prohibited; penalties.--
12 (1) It is unlawful for any person to pay or receive
13 any commission, bonus, kickback, or rebate or engage in any
14 split-fee arrangement in any form whatsoever with any dialysis
15 facility,physician, surgeon, organization, agency, or person,
16 either directly or indirectly, for patients referred to a
17 clinical laboratory licensed under this part.
18 Section 60. Except as otherwise expressly provided in
19 this act, this act shall take effect July 1, 2001.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2158

4 The bill incorporates many of the recommendations of the
5 Florida Commission on Excellence in Health Care that was
6 established to facilitate the development of a comprehensive
7 statewide strategy for improving the health care delivery
8 system. The bill: exempts licensed health care practitioners
9 in hospitals and ambulatory surgical centers from the required
10 annual 1 hour of risk management and risk prevention
11 education, but requires health care practitioners to complete
12 a 2-hour department or board-approved course relating to the
13 prevention of medical errors as part of licensure; requires
14 risk management programs in hospitals and ambulatory surgical
15 centers to implement measures to minimize surgical mistakes;
16 requires the Agency for Health Care Administration to publish
17 certain information regarding adverse incident reports and
18 malpractice claims on its website; requires risk managers to
19 report every allegation of sexual misconduct by a licensed
20 health care practitioner to the Department of Health; creates
21 a privilege against civil liability for any licensed risk
22 manager or facility with regard to information furnished under
23 ch. 395, F.S., unless it involved bad faith or malice; makes
24 it unlawful to interfere with a risk manager in the
25 performance of his or her reporting obligations; revises the
26 composition of the Health Care Risk Manager Advisory Council;
27 specifies additional grounds for discipline related to medical
28 errors and penalties for licensed health care practitioners;
29 requires the Department of Health to notify the patient named
30 in a complaint regarding the status of disciplinary
31 investigations and authorizes the complainant to receive the
department's expert report; specifies additional disciplinary
violations which boards may subject to resolution by the
issuance of a citation; provides for emergency suspension of a
health care licensee for fraud; provides requirements for
pharmacy technicians; and makes nursing home administrators
subject to discipline for failing to implement an ongoing
quality-assurance program.

22 The bill revises requirements for the annual hospital
23 assessment to fund public medical assistance and requires the
24 Department of Health and the Agency for Health Care
25 Administration to conduct a review of all statutorily imposed
26 reporting requirements for health care providers and report to
27 the Legislature by November 1, 2001.

26 The bill does not transfer, by a type two transfer, the
27 Nursing Scholarship Program from the Department of Education
28 to the Department of Health. The bill creates the Florida
29 Center for Nursing to address issues of supply and demand for
30 nursing.

28 The Board of Nursing is transferred from Jacksonville to
29 Tallahassee, effective July 1, 2003.

30 The bill requires the Office of Program Policy Analysis and
31 Governmental Accountability to study the feasibility of
maintaining the entire Medical Quality Assurance function
within one department.

1 The bill makes additional regulatory changes for the practice
2 of dentistry, respiratory therapy, hearing aid specialists,
3 speech-language pathology and audiology, radiation therapy,
4 massage, psychotherapy, psychology, opticianry, and pharmacy.
5 The bill revises provisions governing prohibited referrals to
6 clinical laboratories to include dialysis facilities.
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