

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Farkas offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof: Subsections (6) is added to
section 456.003, Florida Statutes, to read:

456.003 Legislative intent; requirements.--

(6) Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the assessment of the lawful scope of practice of the profession regulated by the boards.

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

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

(2) The task force shall consist of up to 15 members.

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1 The task force chairperson shall be selected by majority vote
2 of a quorum present. Eight members shall constitute a quorum.
3 The membership shall include, but not be limited to, a balance
4 of members representing the Agency for Health Care
5 Administration, health care facilities that have existing
6 organ transplantation programs, individual organ transplant
7 health care practitioners, pediatric organ transplantation
8 programs, organ procurement agencies, and organ transplant
9 recipients or family members.

10 (3) The task force shall meet for the purpose of
11 studying and making recommendations regarding current and
12 future supply of organs in relation to the number of existing
13 organ transplantation programs and the future necessity of the
14 issuance of a certificate of need for proposed organ
15 transplantation programs. At a minimum, the task force shall
16 submit a report to the Legislature which includes a summary of
17 the method of allocation and distribution of organs; a list of
18 facilities performing multiple organ transplants and the
19 number being performed; the number of Medicaid and charity
20 care patients who have received organ transplants by existing
21 organ transplant programs; suggested mechanisms for funding
22 organ transplants, which shall include, but need not limited
23 to, an organ transplant trust fund for the treatment of
24 Medicaid and charity patients; the impact of trends in health
25 care delivery and financing on organ transplantation; and the
26 number of certificates of need applications reviewed by the
27 Agency for Health Care Administration in the last 5 years,
28 including the number approved or denied and the number
29 litigated.

30 (4) The task force shall meet at the call of the
31 chairperson. The task force shall submit a report to the

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1 Governor, the President of the Senate, and the Speaker of the
2 House of Representatives by January 15, 2002. The task force
3 is abolished effective December 31, 2002.

4 Section 2. Section 409.9205, Florida Statutes, is
5 amended to read:

6 409.9205 Medicaid Fraud Control Unit; ~~law enforcement~~
7 ~~officers.~~--

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

11 (2) All investigators employed by the Medicaid Fraud
12 Control Unit who have been certified under s. 943.1395 are law
13 enforcement officers of the state. Such investigators have
14 the authority to conduct criminal investigations, bear arms,
15 make arrests, and apply for, serve, and execute search
16 warrants, arrest warrants, capias, and other process
17 throughout the state pertaining to Medicaid fraud as described
18 in this chapter. The Attorney General shall provide
19 reasonable notice of criminal investigations conducted by the
20 Medicaid Fraud Control Unit to, and coordinate those
21 investigations with, the sheriffs of the respective counties.
22 ~~Investigators employed by the Medicaid Fraud Control Unit are~~
23 ~~not eligible for membership in the Special Risk Class of the~~
24 ~~Florida Retirement System under s. 121.0515.~~

25 Section 3. Subsection (1) of section 483.245, Florida
26 Statutes, is amended to read:

27 483.245 Rebates prohibited; penalties.--

28 (1) It is unlawful for any person to pay or receive
29 any commission, bonus, kickback, or rebate or engage in any
30 split-fee arrangement in any form whatsoever with any dialysis
31 facility, physician, surgeon, organization, agency, or person,

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1 either directly or indirectly, for patients referred to a
2 clinical laboratory licensed under this part.

3 Section 4. Subsection (3) of section 232.435, Florida
4 Statutes, is amended to read:

5 232.435 Extracurricular athletic activities; athletic
6 trainers.--

7 (3)~~(a)~~ To the extent practicable, a school district
8 program should include the following employment classification
9 and advancement scheme:

10 1. First responder - To qualify as a first responder,
11 a person must possess a professional, temporary, part-time,
12 adjunct, or substitute certificate pursuant to s. 231.17, be
13 certified in cardiopulmonary resuscitation, first aid, and
14 have 15 semester hours in courses such as care and prevention
15 of athletic injuries, anatomy, physiology, nutrition,
16 counseling, and other similar courses approved by the
17 Commissioner of Education. This person may only administer
18 first aid and similar care.

19 ~~1. Teacher apprentice trainer I.--To qualify as a~~
20 ~~teacher apprentice trainer I, a person must possess a~~
21 ~~professional, temporary, part-time, adjunct, or substitute~~
22 ~~certificate pursuant to s. 231.17, be certified in first aid~~
23 ~~and cardiopulmonary resuscitation, and have earned a minimum~~
24 ~~of 6 semester hours or the equivalent number of inservice~~
25 ~~education points in the basic prevention and care of athletic~~
26 ~~injuries.~~

27 ~~2. Teacher apprentice trainer II.--To qualify as a~~
28 ~~teacher apprentice trainer II, a person must meet the~~
29 ~~requirements of teacher apprentice trainer I and also have~~
30 ~~earned a minimum of 15 additional semester hours or the~~
31 ~~equivalent number of inservice education points in such~~

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1 ~~courses as anatomy, physiology, use of modalities, nutrition,~~
2 ~~counseling, and other courses approved by the Commissioner of~~
3 ~~Education.~~

4 ~~2.3. Teacher athletic trainer.--To qualify as a~~
5 ~~teacher athletic trainer, a person must possess a~~
6 ~~professional, temporary, part-time, adjunct, or substitute~~
7 ~~certificate pursuant to s. 232.17, and be licensed as required~~
8 ~~by part XIII of chapter 468 meet the requirements of teacher~~
9 ~~apprentice trainer II, be certified by the Department of~~
10 ~~Education or a nationally recognized athletic trainer~~
11 ~~association, and perform one or more of the following~~
12 ~~functions: preventing athletic injuries; recognizing,~~
13 ~~evaluating, managing, treating, and rehabilitating athletic~~
14 ~~injuries; administering an athletic training program; and~~
15 ~~educating and counseling athletes.~~

16 ~~(b) If a school district uses the services of an~~
17 ~~athletic trainer who is not a teacher athletic trainer or a~~
18 ~~teacher apprentice trainer within the requirements of this~~
19 ~~section, such athletic trainer must be licensed as required by~~
20 ~~part XIII of chapter 468.~~

21 Section 5. Paragraph (b) of subsection (1) of section
22 383.14, Florida Statutes, is amended to read:

23 383.14 Screening for metabolic disorders, other
24 hereditary and congenital disorders, and environmental risk
25 factors.--

26 (1) SCREENING REQUIREMENTS.--To help ensure access to
27 the maternal and child health care system, the Department of
28 Health shall promote the screening of all infants born in
29 Florida for phenylketonuria and other metabolic, hereditary,
30 and congenital disorders known to result in significant
31 impairment of health or intellect, as screening programs

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1 accepted by current medical practice become available and
2 practical in the judgment of the department. The department
3 shall also promote the identification and screening of all
4 infants born in this state and their families for
5 environmental risk factors such as low income, poor education,
6 maternal and family stress, emotional instability, substance
7 abuse, and other high-risk conditions associated with
8 increased risk of infant mortality and morbidity to provide
9 early intervention, remediation, and prevention services,
10 including, but not limited to, parent support and training
11 programs, home visitation, and case management.

12 Identification, perinatal screening, and intervention efforts
13 shall begin prior to and immediately following the birth of
14 the child by the attending health care provider. Such efforts
15 shall be conducted in hospitals, perinatal centers, county
16 health departments, school health programs that provide
17 prenatal care, and birthing centers, and reported to the
18 Office of Vital Statistics.

19 (b) Postnatal screening.--A risk factor analysis using
20 the department's designated risk assessment instrument shall
21 also be conducted as part of the medical screening process
22 upon the birth of a child and submitted to the department's
23 Office of Vital Statistics for recording and other purposes
24 provided for in this chapter. The department's screening
25 process for risk assessment shall include a scoring mechanism
26 and procedures that establish thresholds for notification,
27 further assessment, referral, and eligibility for services by
28 professionals or paraprofessionals consistent with the level
29 of risk. Procedures for developing and using the screening
30 instrument, notification, referral, and care coordination
31 services, reporting requirements, management information, and

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1 maintenance of a computer-driven registry in the Office of
2 Vital Statistics which ensures privacy safeguards must be
3 consistent with the provisions and plans established under
4 chapter 411, Pub. L. No. 99-457, and this chapter. Procedures
5 established for reporting information and maintaining a
6 confidential registry must include a mechanism for a
7 centralized information depository at the state and county
8 levels. The department shall coordinate with existing risk
9 assessment systems and information registries. The department
10 must ensure, to the maximum extent possible, that the
11 screening information registry is integrated with the
12 department's automated data systems, including the Florida
13 On-line Recipient Integrated Data Access (FLORIDA) system.
14 Tests and screenings must be performed by the State Public
15 Health Laboratory, in coordination with Children's Medical
16 Services, at such times and in such manner as is prescribed by
17 the department after consultation with the Genetics and Infant
18 Screening Advisory Council and the State Coordinating Council
19 for School Readiness Programs.

20 Section 6. Section 395.0197, Florida Statutes, is
21 amended to read:

22 395.0197 Internal risk management program.--

23 (1) Every licensed facility shall, as a part of its
24 administrative functions, establish an internal risk
25 management program that includes all of the following
26 components:

27 (a) The investigation and analysis of the frequency
28 and causes of general categories and specific types of adverse
29 incidents to patients.

30 (b) The development of appropriate measures to
31 minimize the risk of adverse incidents to patients, including,

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1 but not limited to:

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

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

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

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

19 a. Live visual observation;

20 b. Electronic observation; or

21 c. Any other reasonable measure taken to ensure
22 patient protection and privacy.

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

30 4. Development, implementation, and ongoing evaluation
31 of procedures, protocols, and systems to accurately identify

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1 patients, planned procedures, and the correct site of the
2 planned procedure so as to minimize the performance of a
3 surgical procedure on the wrong patient, a wrong surgical
4 procedure, a wrong-site surgical procedure, or a surgical
5 procedure otherwise unrelated to the patient's diagnosis or
6 medical condition.

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

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

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

26 (3) In addition to the programs mandated by this
27 section, other innovative approaches intended to reduce the
28 frequency and severity of medical malpractice and patient
29 injury claims shall be encouraged and their implementation and
30 operation facilitated. Such additional approaches may include
31 extending internal risk management programs to health care

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1 providers' offices and the assuming of provider liability by a
2 licensed health care facility for acts or omissions occurring
3 within the licensed facility.

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

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

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

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

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- 1 1. The total number of adverse incidents.
- 2 2. A listing, by category, of the types of operations,
3 diagnostic or treatment procedures, or other actions causing
4 the injuries, and the number of incidents occurring within
5 each category.
- 6 3. A listing, by category, of the types of injuries
7 caused and the number of incidents occurring within each
8 category.
- 9 4. A code number using the health care professional's
10 licensure number and a separate code number identifying all
11 other individuals directly involved in adverse incidents to
12 patients, the relationship of the individual to the licensed
13 facility, and the number of incidents in which each individual
14 has been directly involved. Each licensed facility shall
15 maintain names of the health care professionals and
16 individuals identified by code numbers for purposes of this
17 section.
- 18 5. A description of all malpractice claims filed
19 against the licensed facility, including the total number of
20 pending and closed claims and the nature of the incident which
21 led to, the persons involved in, and the status and
22 disposition of each claim. Each report shall update status and
23 disposition for all prior reports.
- 24 (b) The information reported to the agency pursuant to
25 paragraph (a) which relates to persons licensed under chapter
26 458, chapter 459, chapter 461, or chapter 466 shall be
27 reviewed by the agency. The agency shall determine whether
28 any of the incidents potentially involved conduct by a health
29 care professional who is subject to disciplinary action, in
30 which case the provisions of s. 456.073 shall apply.
- 31 (c) The report submitted to the agency shall also

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

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

26 (a) The death of a patient;

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

28 (c) The performance of a surgical procedure on the
29 wrong patient;

30 (d) The performance of a wrong-site surgical
31 procedure; or

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- 1 (e) The performance of a wrong surgical procedure.
2
3 The notification must be made in writing and be provided by
4 facsimile device or overnight mail delivery. The notification
5 must include information regarding the identity of the
6 affected patient, the type of adverse incident, the initiation
7 of an investigation by the facility, and whether the events
8 causing or resulting in the adverse incident represent a
9 potential risk to other patients.
- 10 (8) Any of the following adverse incidents, whether
11 occurring in the licensed facility or arising from health care
12 prior to admission in the licensed facility, shall be reported
13 by the facility to the agency within 15 calendar days after
14 its occurrence:
- 15 (a) The death of a patient;
16 (b) Brain or spinal damage to a patient;
17 (c) The performance of a surgical procedure on the
18 wrong patient;
19 (d) The performance of a wrong-site surgical
20 procedure;
21 (e) The performance of a wrong surgical procedure;
22 (f) The performance of a surgical procedure that is
23 medically unnecessary or otherwise unrelated to the patient's
24 diagnosis or medical condition;
25 (g) The surgical repair of damage resulting to a
26 patient from a planned surgical procedure, where the damage is
27 not a recognized specific risk, as disclosed to the patient
28 and documented through the informed-consent process; or
29 (h) The performance of procedures to remove unplanned
30 foreign objects remaining from a surgical procedure.
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1 The agency may grant extensions to this reporting requirement
2 for more than 15 days upon justification submitted in writing
3 by the facility administrator to the agency. The agency may
4 require an additional, final report. These reports shall not
5 be available to the public pursuant to s. 119.07(1) or any
6 other law providing access to public records, nor be
7 discoverable or admissible in any civil or administrative
8 action, except in disciplinary proceedings by the agency or
9 the appropriate regulatory board, nor shall they be available
10 to the public as part of the record of investigation for and
11 prosecution in disciplinary proceedings made available to the
12 public by the agency or the appropriate regulatory board.
13 However, the agency or the appropriate regulatory board shall
14 make available, upon written request by a health care
15 professional against whom probable cause has been found, any
16 such records which form the basis of the determination of
17 probable cause. The agency may investigate, as it deems
18 appropriate, any such incident and prescribe measures that
19 must or may be taken in response to the incident. The agency
20 shall review each incident and determine whether it
21 potentially involved conduct by the health care professional
22 who is subject to disciplinary action, in which case the
23 provisions of s. 456.073 shall apply.

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

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1 provided by facilities in their annual reports, which shall
2 not include information that would identify the patient, the
3 reporting facility, or the practitioners involved. The
4 purpose of the publication of the summary and trend analysis
5 is to promote the rapid dissemination of information relating
6 to adverse incidents and malpractice claims to assist in
7 avoidance of similar incidents and reduce morbidity and
8 mortality.

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

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

16 (b) Report every allegation of sexual misconduct to
17 the administrator of the licensed facility.

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

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

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

28 (a) Notify the local police; and

29 (b) Notify the hospital risk manager and the
30 administrator.

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

13 (12)~~(11)~~ A person who, with malice or with intent to
14 discredit or harm a licensed facility or any person, makes a
15 false allegation of sexual misconduct against a member of a
16 licensed facility's personnel is guilty of a misdemeanor of
17 the second degree, punishable as provided in s. 775.082 or s.
18 775.083.

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

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1 for each intentional and willful violation may not exceed
2 \$25,000 per violation, per day. The fine for an intentional
3 and willful violation of this section may not exceed \$250,000.
4 In determining the amount of fine to be levied, the agency
5 shall be guided by s. 395.1065(2)(b). This subsection does not
6 apply to the notice requirements under subsection (7).

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

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

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1 ~~(16)(15)~~ The agency shall review, as part of its
2 licensure inspection process, the internal risk management
3 program at each licensed facility regulated by this section to
4 determine whether the program meets standards established in
5 statutes and rules, whether the program is being conducted in
6 a manner designed to reduce adverse incidents, and whether the
7 program is appropriately reporting incidents under this
8 section ~~subsections (5), (6), (7), and (8)~~.

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

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

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

30 ~~(18) The agency shall annually publish a report~~
31 ~~summarizing the information contained in the annual incident~~

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1 ~~reports submitted by licensed facilities pursuant to~~
2 ~~subsection (6) and disciplinary actions reported to the agency~~
3 ~~pursuant to s. 395.0193. The report must, at a minimum,~~
4 ~~summarize:~~

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

7 ~~(b) Types of malpractice claims filed, by type of~~
8 ~~professional involved.~~

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

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

16 Section 7. Section 395.10972, Florida Statutes, is
17 amended to read:

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

30 (1) Two shall be active health care risk managers,
31 including one risk manager who is recommended by and a member

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1 of the Florida Society of Healthcare Risk Management.

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

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

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

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

10 Section 8. Paragraph (b) of subsection (2) of section
11 395.701, Florida Statutes, is amended to read:

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

16 (2)

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

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

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1 calendar quarter that occurs after the agency certifies the
2 amount of the assessment for each hospital. All moneys
3 collected pursuant to this subsection shall be deposited into
4 the Public Medical Assistance Trust Fund.

5 Section 9. Section 409.905, Florida Statutes, is
6 amended to read:

7 409.905 Mandatory Medicaid services.--The agency may
8 make payments for the following services, which are required
9 of the state by Title XIX of the Social Security Act,
10 furnished by Medicaid providers to recipients who are
11 determined to be eligible on the dates on which the services
12 were provided. Any service under this section shall be
13 provided only when medically necessary and in accordance with
14 state and federal law. Mandatory services rendered by
15 providers in mobile units to Medicaid recipients may be
16 restricted by the agency.Nothing in this section shall be
17 construed to prevent or limit the agency from adjusting fees,
18 reimbursement rates, lengths of stay, number of visits, number
19 of services, or any other adjustments necessary to comply with
20 the availability of moneys and any limitations or directions
21 provided for in the General Appropriations Act or chapter 216.

22 (1) ADVANCED REGISTERED NURSE PRACTITIONER
23 SERVICES.--The agency shall pay for services provided to a
24 recipient by a licensed advanced registered nurse practitioner
25 who has a valid collaboration agreement with a licensed
26 physician on file with the Department of Health or who
27 provides anesthesia services in accordance with established
28 protocol required by state law and approved by the medical
29 staff of the facility in which the anesthetic service is
30 performed. Reimbursement for such services must be provided in
31 an amount that equals not less than 80 percent of the

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1 reimbursement to a physician who provides the same services,
2 unless otherwise provided for in the General Appropriations
3 Act.

4 (2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND
5 TREATMENT SERVICES.--The agency shall pay for early and
6 periodic screening and diagnosis of a recipient under age 21
7 to ascertain physical and mental problems and conditions and
8 provide treatment to correct or ameliorate these problems and
9 conditions. These services include all services determined by
10 the agency to be medically necessary for the treatment,
11 correction, or amelioration of these problems, including
12 personal care, private duty nursing, durable medical
13 equipment, physical therapy, occupational therapy, speech
14 therapy, respiratory therapy, and immunizations.

15 (3) FAMILY PLANNING SERVICES.--The agency shall pay
16 for services necessary to enable a recipient voluntarily to
17 plan family size or to space children. These services include
18 information; education; counseling regarding the availability,
19 benefits, and risks of each method of pregnancy prevention;
20 drugs and supplies; and necessary medical care and followup.
21 Each recipient participating in the family planning portion of
22 the Medicaid program must be provided freedom to choose any
23 alternative method of family planning, as required by federal
24 law.

25 (4) HOME HEALTH CARE SERVICES.--The agency shall pay
26 for nursing and home health aide services, supplies,
27 appliances, and durable medical equipment, necessary to assist
28 a recipient living at home. An entity that provides services
29 pursuant to this subsection shall be licensed under part IV of
30 chapter 400 or part II of chapter 499, if appropriate. These
31 services, equipment, and supplies, or reimbursement therefor,

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1 may be limited as provided in the General Appropriations Act
2 and do not include services, equipment, or supplies provided
3 to a person residing in a hospital or nursing facility. In
4 providing home health care services, the agency may require
5 prior authorization of care based on diagnosis.

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

14 (a) The agency is authorized to implement
15 reimbursement and utilization management reforms in order to
16 comply with any limitations or directions in the General
17 Appropriations Act, which may include, but are not limited to:
18 prior authorization for inpatient psychiatric days; enhanced
19 utilization and concurrent review programs for highly utilized
20 services; reduction or elimination of covered days of service;
21 adjusting reimbursement ceilings for variable costs; adjusting
22 reimbursement ceilings for fixed and property costs; and
23 implementing target rates of increase.

24 (b) A licensed hospital maintained primarily for the
25 care and treatment of patients having mental disorders or
26 mental diseases is not eligible to participate in the hospital
27 inpatient portion of the Medicaid program except as provided
28 in federal law. However, the department shall apply for a
29 waiver, within 9 months after June 5, 1991, designed to
30 provide hospitalization services for mental health reasons to
31 children and adults in the most cost-effective and lowest cost

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1 setting possible. Such waiver shall include a request for the
2 opportunity to pay for care in hospitals known under federal
3 law as "institutions for mental disease" or "IMD's." The
4 waiver proposal shall propose no additional aggregate cost to
5 the state or Federal Government, and shall be conducted in
6 Hillsborough County, Highlands County, Hardee County, Manatee
7 County, and Polk County. The waiver proposal may incorporate
8 competitive bidding for hospital services, comprehensive
9 brokering, prepaid capitated arrangements, or other mechanisms
10 deemed by the department to show promise in reducing the cost
11 of acute care and increasing the effectiveness of preventive
12 care. When developing the waiver proposal, the department
13 shall take into account price, quality, accessibility,
14 linkages of the hospital to community services and family
15 support programs, plans of the hospital to ensure the earliest
16 discharge possible, and the comprehensiveness of the mental
17 health and other health care services offered by participating
18 providers.

19 (c) Agency for Health Care Administration shall adjust
20 a hospital's current inpatient per diem rate to reflect the
21 cost of serving the Medicaid population at that institution
22 if:

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

27 2. The hospital's Medicaid per diem rate is at least
28 25 percent below the Medicaid per patient cost for that year.

29
30 No later than November 1, 2000, the agency must provide
31 estimated costs for any adjustment in a hospital inpatient per

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1 diem pursuant to this paragraph to the Executive Office of the
2 Governor, the House of Representatives General Appropriations
3 Committee, and the Senate Budget Committee. Before the agency
4 implements a change in a hospital's inpatient per diem rate
5 pursuant to this paragraph, the Legislature must have
6 specifically appropriated sufficient funds in the 2001-2002
7 General Appropriations Act to support the increase in cost as
8 estimated by the agency. This paragraph is repealed on July 1,
9 2001.

10 (6) HOSPITAL OUTPATIENT SERVICES.--The agency shall
11 pay for preventive, diagnostic, therapeutic, or palliative
12 care and other services provided to a recipient in the
13 outpatient portion of a hospital licensed under part I of
14 chapter 395, and provided under the direction of a licensed
15 physician or licensed dentist, except that payment for such
16 care and services is limited to \$1,500 per state fiscal year
17 per recipient, unless an exception has been made by the
18 agency, and with the exception of a Medicaid recipient under
19 age 21, in which case the only limitation is medical
20 necessity.

21 (7) INDEPENDENT LABORATORY SERVICES.--The agency shall
22 pay for medically necessary diagnostic laboratory procedures
23 ordered by a licensed physician or other licensed practitioner
24 of the healing arts which are provided for a recipient in a
25 laboratory that meets the requirements for Medicare
26 participation and is licensed under chapter 483, if required.

27 (8) NURSING FACILITY SERVICES.--The agency shall pay
28 for 24-hour-a-day nursing and rehabilitative services for a
29 recipient in a nursing facility licensed under part II of
30 chapter 400 or in a rural hospital, as defined in s. 395.602,
31 or in a Medicare certified skilled nursing facility operated

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1 by a hospital, as defined by s. 395.002(11), that is licensed
2 under part I of chapter 395, and in accordance with provisions
3 set forth in s. 409.908(2)(a), which services are ordered by
4 and provided under the direction of a licensed physician.
5 However, if a nursing facility has been destroyed or otherwise
6 made uninhabitable by natural disaster or other emergency and
7 another nursing facility is not available, the agency must pay
8 for similar services temporarily in a hospital licensed under
9 part I of chapter 395 provided federal funding is approved and
10 available.

11 (9) PHYSICIAN SERVICES.--The agency shall pay for
12 covered services and procedures rendered to a recipient by, or
13 under the personal supervision of, a person licensed under
14 state law to practice medicine or osteopathic medicine. These
15 services may be furnished in the physician's office, the
16 Medicaid recipient's home, a hospital, a nursing facility, or
17 elsewhere, but shall be medically necessary for the treatment
18 of an injury, illness, or disease within the scope of the
19 practice of medicine or osteopathic medicine as defined by
20 state law. The agency shall not pay for services that are
21 clinically unproven, experimental, or for purely cosmetic
22 purposes.

23 (10) PORTABLE X-RAY SERVICES.--The agency shall pay
24 for professional and technical portable radiological services
25 ordered by a licensed physician or other licensed practitioner
26 of the healing arts which are provided by a licensed
27 professional in a setting other than a hospital, clinic, or
28 office of a physician or practitioner of the healing arts, on
29 behalf of a recipient.

30 (11) RURAL HEALTH CLINIC SERVICES.--The agency shall
31 pay for outpatient primary health care services for a

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1 recipient provided by a clinic certified by and participating
2 in the Medicare program which is located in a federally
3 designated, rural, medically underserved area and has on its
4 staff one or more licensed primary care nurse practitioners or
5 physician assistants, and a licensed staff supervising
6 physician or a consulting supervising physician.

7 (12) TRANSPORTATION SERVICES.--The agency shall ensure
8 that appropriate transportation services are available for a
9 Medicaid recipient in need of transport to a qualified
10 Medicaid provider for medically necessary and
11 Medicaid-compensable services, provided a client's ability to
12 choose a specific transportation provider shall be limited to
13 those options resulting from policies established by the
14 agency to meet the fiscal limitations of the General
15 Appropriations Act. The agency may pay for transportation and
16 other related travel expenses as necessary only if these
17 services are not otherwise available.

18 Section 10. Section 409.906, Florida Statutes, is
19 amended to read:

20 409.906 Optional Medicaid services.--Subject to
21 specific appropriations, the agency may make payments for
22 services which are optional to the state under Title XIX of
23 the Social Security Act and are furnished by Medicaid
24 providers to recipients who are determined to be eligible on
25 the dates on which the services were provided. Any optional
26 service that is provided shall be provided only when medically
27 necessary and in accordance with state and federal law.
28 Optional services rendered by providers in mobile units to
29 Medicaid recipients may be restricted or prohibited by the
30 agency.Nothing in this section shall be construed to prevent
31 or limit the agency from adjusting fees, reimbursement rates,

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1 lengths of stay, number of visits, or number of services, or
2 making any other adjustments necessary to comply with the
3 availability of moneys and any limitations or directions
4 provided for in the General Appropriations Act or chapter 216.
5 If necessary to safeguard the state's systems of providing
6 services to elderly and disabled persons and subject to the
7 notice and review provisions of s. 216.177, the Governor may
8 direct the Agency for Health Care Administration to amend the
9 Medicaid state plan to delete the optional Medicaid service
10 known as "Intermediate Care Facilities for the Developmentally
11 Disabled." Optional services may include:

12 (1) ADULT DENTURE SERVICES.--The agency may pay for
13 dentures, the procedures required to seat dentures, and the
14 repair and reline of dentures, provided by or under the
15 direction of a licensed dentist, for a recipient who is age 21
16 or older. However, Medicaid will not provide reimbursement for
17 dental services provided in a mobile dental unit, except for a
18 mobile dental unit:

19 (a) Owned by, operated by, or having a contractual
20 agreement with the Department of Health and complying with
21 Medicaid's county health department clinic services program
22 specifications as a county health department clinic services
23 provider.

24 (b) Owned by, operated by, or having a contractual
25 arrangement with a federally qualified health center and
26 complying with Medicaid's federally qualified health center
27 specifications as a federally qualified health center
28 provider.

29 (c) Rendering dental services to Medicaid recipients,
30 21 years of age and older, at nursing facilities.

31 (d) Owned by, operated by, or having a contractual

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1 agreement with a state-approved dental educational
2 institution.

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

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

13 (4) BIRTH CENTER SERVICES.--The agency may pay for
14 examinations and delivery, recovery, and newborn assessment,
15 and related services, provided in a licensed birth center
16 staffed with licensed physicians, certified nurse midwives,
17 and midwives licensed in accordance with chapter 467, to a
18 recipient expected to experience a low-risk pregnancy and
19 delivery.

20 (5) CASE MANAGEMENT SERVICES.--The agency may pay for
21 primary care case management services rendered to a recipient
22 pursuant to a federally approved waiver, and targeted case
23 management services for specific groups of targeted
24 recipients, for which funding has been provided and which are
25 rendered pursuant to federal guidelines. The agency is
26 authorized to limit reimbursement for targeted case management
27 services in order to comply with any limitations or directions
28 provided for in the General Appropriations Act.
29 Notwithstanding s. 216.292, the Department of Children and
30 Family Services may transfer general funds to the Agency for
31 Health Care Administration to fund state match requirements

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1 exceeding the amount specified in the General Appropriations
2 Act for targeted case management services.

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

14 (a) Owned by, operated by, or having a contractual
15 agreement with the Department of Health and complying with
16 Medicaid's county health department clinic services program
17 specifications as a county health department clinic services
18 provider.

19 (b) Owned by, operated by, or having a contractual
20 arrangement with a federally qualified health center and
21 complying with Medicaid's federally qualified health center
22 specifications as a federally qualified health center
23 provider.

24 (c) Rendering dental services to Medicaid recipients,
25 21 years of age and older, at nursing facilities.

26 (d) Owned by, operated by, or having a contractual
27 agreement with a state-approved dental educational
28 institution.

29 (7) CHIROPRACTIC SERVICES.--The agency may pay for
30 manual manipulation of the spine and initial services,
31 screening, and X rays provided to a recipient by a licensed

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1 chiropractic physician.

2 (8) COMMUNITY MENTAL HEALTH SERVICES.--The agency may
3 pay for rehabilitative services provided to a recipient by a
4 mental health or substance abuse provider licensed by the
5 agency and under contract with the agency or the Department of
6 Children and Family Services to provide such services. Those
7 services which are psychiatric in nature shall be rendered or
8 recommended by a psychiatrist, and those services which are
9 medical in nature shall be rendered or recommended by a
10 physician or psychiatrist. The agency must develop a provider
11 enrollment process for community mental health providers which
12 bases provider enrollment on an assessment of service need.
13 The provider enrollment process shall be designed to control
14 costs, prevent fraud and abuse, consider provider expertise
15 and capacity, and assess provider success in managing
16 utilization of care and measuring treatment outcomes.
17 Providers will be selected through a competitive procurement
18 or selective contracting process. In addition to other
19 community mental health providers, the agency shall consider
20 for enrollment mental health programs licensed under chapter
21 395 and group practices licensed under chapter 458, chapter
22 459, chapter 490, or chapter 491. The agency is also
23 authorized to continue operation of its behavioral health
24 utilization management program and may develop new services if
25 these actions are necessary to ensure savings from the
26 implementation of the utilization management system. The
27 agency shall coordinate the implementation of this enrollment
28 process with the Department of Children and Family Services
29 and the Department of Juvenile Justice. The agency is
30 authorized to utilize diagnostic criteria in setting
31 reimbursement rates, to preauthorize certain high-cost or

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1 highly utilized services, to limit or eliminate coverage for
2 certain services, or to make any other adjustments necessary
3 to comply with any limitations or directions provided for in
4 the General Appropriations Act.

5 (9) DIALYSIS FACILITY SERVICES.--Subject to specific
6 appropriations being provided for this purpose, the agency may
7 pay a dialysis facility that is approved as a dialysis
8 facility in accordance with Title XVIII of the Social Security
9 Act, for dialysis services that are provided to a Medicaid
10 recipient under the direction of a physician licensed to
11 practice medicine or osteopathic medicine in this state,
12 including dialysis services provided in the recipient's home
13 by a hospital-based or freestanding dialysis facility.

14 (10) DURABLE MEDICAL EQUIPMENT.--The agency may
15 authorize and pay for certain durable medical equipment and
16 supplies provided to a Medicaid recipient as medically
17 necessary.

18 (11) HEALTHY START SERVICES.--The agency may pay for a
19 continuum of risk-appropriate medical and psychosocial
20 services for the Healthy Start program in accordance with a
21 federal waiver. The agency may not implement the federal
22 waiver unless the waiver permits the state to limit enrollment
23 or the amount, duration, and scope of services to ensure that
24 expenditures will not exceed funds appropriated by the
25 Legislature or available from local sources. If the Health
26 Care Financing Administration does not approve a federal
27 waiver for Healthy Start services, the agency, in consultation
28 with the Department of Health and the Florida Association of
29 Healthy Start Coalitions, is authorized to establish a
30 Medicaid certified-match program for Healthy Start services.
31 Participation in the Healthy Start certified-match program

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1 shall be voluntary, and reimbursement shall be limited to the
2 federal Medicaid share to Medicaid-enrolled Healthy Start
3 coalitions for services provided to Medicaid recipients. The
4 agency shall take no action to implement a certified-match
5 program without ensuring that the amendment and review
6 requirements of ss. 216.177 and 216.181 have been met.

7 (12) HEARING SERVICES.--The agency may pay for hearing
8 and related services, including hearing evaluations, hearing
9 aid devices, dispensing of the hearing aid, and related
10 repairs, if provided to a recipient by a licensed hearing aid
11 specialist, otolaryngologist, otologist, audiologist, or
12 physician.

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

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

22 (15) INTERMEDIATE CARE FACILITY FOR THE
23 DEVELOPMENTALLY DISABLED SERVICES.--The agency may pay for
24 health-related care and services provided on a 24-hour-a-day
25 basis by a facility licensed and certified as a Medicaid
26 Intermediate Care Facility for the Developmentally Disabled,
27 for a recipient who needs such care because of a developmental
28 disability.

29 (16) INTERMEDIATE CARE SERVICES.--The agency may pay
30 for 24-hour-a-day intermediate care nursing and rehabilitation
31 services rendered to a recipient in a nursing facility

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1 licensed under part II of chapter 400, if the services are
2 ordered by and provided under the direction of a physician.

3 (17) OPTOMETRIC SERVICES.--The agency may pay for
4 services provided to a recipient, including examination,
5 diagnosis, treatment, and management, related to ocular
6 pathology, if the services are provided by a licensed
7 optometrist or physician.

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

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

19 (20) PRESCRIBED DRUG SERVICES.--The agency may pay for
20 medications that are prescribed for a recipient by a physician
21 or other licensed practitioner of the healing arts authorized
22 to prescribe medications and that are dispensed to the
23 recipient by a licensed pharmacist or physician in accordance
24 with applicable state and federal law.

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

31 (22) STATE HOSPITAL SERVICES.--The agency may pay for

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1 all-inclusive psychiatric inpatient hospital care provided to
2 a recipient age 65 or older in a state mental hospital.

3 (23) VISUAL SERVICES.--The agency may pay for visual
4 examinations, eyeglasses, and eyeglass repairs for a
5 recipient, if they are prescribed by a licensed physician
6 specializing in diseases of the eye or by a licensed
7 optometrist.

8 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The
9 Agency for Health Care Administration, in consultation with
10 the Department of Children and Family Services, may establish
11 a targeted case-management pilot project in those counties
12 identified by the Department of Children and Family Services
13 and for the community-based child welfare project in Sarasota
14 and Manatee counties, as authorized under s. 409.1671. These
15 projects shall be established for the purpose of determining
16 the impact of targeted case management on the child welfare
17 program and the earnings from the child welfare program.
18 Results of the pilot projects shall be reported to the Child
19 Welfare Estimating Conference and the Social Services
20 Estimating Conference established under s. 216.136. The number
21 of projects may not be increased until requested by the
22 Department of Children and Family Services, recommended by the
23 Child Welfare Estimating Conference and the Social Services
24 Estimating Conference, and approved by the Legislature. The
25 covered group of individuals who are eligible to receive
26 targeted case management include children who are eligible for
27 Medicaid; who are between the ages of birth through 21; and
28 who are under protective supervision or postplacement
29 supervision, under foster-care supervision, or in shelter care
30 or foster care. The number of individuals who are eligible to
31 receive targeted case management shall be limited to the

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1 number for whom the Department of Children and Family Services
2 has available matching funds to cover the costs. The general
3 revenue funds required to match the funds for services
4 provided by the community-based child welfare projects are
5 limited to funds available for services described under s.
6 409.1671. The Department of Children and Family Services may
7 transfer the general revenue matching funds as billed by the
8 Agency for Health Care Administration.

9 Section 11. Subsections (7) through (11) of section
10 456.013, Florida Statutes, are renumbered as subsections (8)
11 through (12), respectively, and a new subsection (7) is added
12 to said section to read:

13 456.013 Department; general licensing provisions.--

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

27 Section 12. Subsection (19) is added to section
28 456.057, Florida Statutes, to read:

29 456.057 Ownership and control of patient records;
30 report or copies of records to be furnished.--

31 (19) The board, or department when there is no board,

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1 may temporarily or permanently appoint a person or entity as a
2 custodian of medical records in the event of the death of a
3 practitioner, the mental or physical incapacitation of the
4 practitioner, or the abandonment of medical records by a
5 practitioner. The custodian appointed shall comply with all
6 provisions of this section, including the release of patient
7 records.

8 Section 13. Subsection (3) is added to section
9 456.063, Florida Statutes, to read:

10 456.063 Sexual misconduct; disqualification for
11 license, certificate, or registration; reports of allegation
12 of sexual misconduct.--

13 (3) Licensed health care practitioners shall report
14 allegations of sexual misconduct to the department, regardless
15 of the practice setting in which the alleged sexual misconduct
16 occurred.

17 Section 14. Paragraph (c) of subsection (1) of section
18 456.072, Florida Statutes, is amended, paragraphs (aa) and
19 (bb) are added to said subsection, paragraphs (c) and (d) of
20 subsection (2) and subsection (4) are amended, and paragraphs
21 (i) and (j) are added to subsection (2) of said section, to
22 read:

23 456.072 Grounds for discipline; penalties;
24 enforcement.--

25 (1) The following acts shall constitute grounds for
26 which the disciplinary actions specified in subsection (2) may
27 be taken:

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

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1 profession.

2 (aa) Performing or attempting to perform health care
3 services on the wrong patient, a wrong-site procedure, a wrong
4 procedure, or an unauthorized procedure or a procedure that is
5 medically unnecessary or otherwise unrelated to the patient's
6 diagnosis or medical condition. For the purposes of this
7 paragraph, performing or attempting to perform health care
8 services includes the preparation of the patient.

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

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

25 (c) Restriction of practice or license, including, but
26 not limited to, restricting the licensee from practicing in
27 certain settings, restricting the licensee to work only under
28 designated conditions or in certain settings, restricting the
29 licensee from performing or providing designated clinical and
30 administrative services, restricting the licensee from
31 practicing more than a designated number of hours, or any

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1 other restriction found to be necessary for the protection of
2 the public health, safety, and welfare.

3 (d) Imposition of an administrative fine not to exceed
4 \$10,000 for each count or separate offense. If the violation
5 is for fraud or making a false or fraudulent representation,
6 the board, or the department if there is no board, must impose
7 a fine of \$10,000 per count or offense.

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

10 (j) Requirement that the practitioner undergo remedial
11 education.

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

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

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1 of, or bring a civil action to recover, the fine or
2 assessment.

3 Section 15. Paragraphs (a) and (c) of subsection (9)
4 of section 456.073, Florida Statutes, are amended, and,
5 effective upon this act becoming a law, subsection (13) is
6 added to said section, to read:

7 456.073 Disciplinary proceedings.--Disciplinary
8 proceedings for each board shall be within the jurisdiction of
9 the department.

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

16 (c) In any disciplinary case for which probable cause
17 is not found, the department shall so inform the person who
18 filed the complaint and notify that person that he or she may,
19 within 60 days, provide any additional information to the
20 department ~~probable cause panel~~ which may be relevant to the
21 decision. To facilitate the provision of additional
22 information, the person who filed the complaint may receive,
23 upon request, a copy of the department's expert report that
24 supported the recommendation for closure, if such a report was
25 relied upon by the department. In no way does this require the
26 department to procure an expert opinion or report if none was
27 used. Additionally, the identity of the expert shall remain
28 confidential. In any administrative proceeding under s.
29 120.57, the person who filed the disciplinary complaint shall
30 have the right to present oral or written communication
31 relating to the alleged disciplinary violations or to the

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

16 Section 16. Subsection (1) of section 456.074, Florida
17 Statutes, is amended to read:

18 456.074 Certain health care practitioners; immediate
19 suspension of license.--

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

29 Section 17. Subsections (2) and (6) of section
30 456.077, Florida Statutes, are amended to read:

31 456.077 Authority to issue citations.--

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1 (2) The board, or the department if there is no board,
2 shall adopt rules designating violations for which a citation
3 may be issued. Such rules shall designate as citation
4 violations those violations for which there is no substantial
5 threat to the public health, safety, and welfare. Violations
6 for which a citation may be issued shall include violations of
7 continuing education requirements, failure to timely pay
8 required fees and fines, failure to comply with the
9 requirements of ss. 381.026 and 381.0261 regarding the
10 dissemination of information regarding patient rights, failure
11 to comply with advertising requirements, failure to timely
12 update practitioner profile and credentialing files, failure
13 to display signs, licenses, and permits, failure to have
14 required reference books available, and all other violations
15 that do not pose a direct and serious threat to the health and
16 safety of the patient.

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

24 Section 18. Section 456.081, Florida Statutes, is
25 amended to read:

26 456.081 Publication of information.--The department
27 and the boards shall have the authority to advise licensees
28 periodically, through the publication of a newsletter, about
29 information that the department or the board determines is of
30 interest to the industry. The department and the boards shall
31 maintain a website which contains copies of the newsletter;

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1 information relating to adverse incident reports without
2 identifying the patient, practitioner, or facility in which
3 the adverse incident occurred until 10 days after probable
4 cause is found, at which time the name of the practitioner and
5 facility shall become public as part of the investigative
6 file; information about error prevention and safety
7 strategies; and information concerning best practices.Unless
8 otherwise prohibited by law, the department and the boards
9 shall publish on the website a summary of final orders entered
10 after July 1, 2001, resulting in disciplinary action ~~finer,~~
11 ~~suspensions, or revocations,~~ and any other information the
12 department or the board determines is of interest to the
13 public. In order to provide useful and timely information at
14 minimal cost, the department and boards may consult with, and
15 include information provided by, professional associations and
16 national organizations.

17 Section 19. Section 458.3147, Florida Statutes, is
18 created to read:

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

26 Section 20. Subsection (9) of section 458.331, Florida
27 Statutes, is amended to read:

28 458.331 Grounds for disciplinary action; action by the
29 board and department.--

30 (9) When an investigation of a physician is
31 undertaken, the department shall promptly furnish to the

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

24 Section 21. Subsection (9) of section 459.015, Florida
25 Statutes, is amended to read:

26 459.015 Grounds for disciplinary action; action by the
27 board and department.--

28 (9) When an investigation of an osteopathic physician
29 is undertaken, the department shall promptly furnish to the
30 osteopathic physician or his or her attorney a copy of the
31 complaint or document which resulted in the initiation of the

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1 investigation. For purposes of this subsection, such documents
2 include, but are not limited to: the pertinent portions of an
3 annual report submitted to the department pursuant to s.
4 395.0197(6); a report of an adverse incident which is provided
5 to the department pursuant to s. 395.0197(8); a report of peer
6 review disciplinary action submitted to the department
7 pursuant to s. 395.0193(4) or s. 459.016, provided that the
8 investigations, proceedings, and records relating to such peer
9 review disciplinary action shall continue to retain their
10 privileged status even as to the licensee who is the subject
11 of the investigation, as provided by ss. 395.0193(8) and
12 459.016(3); a report of a closed claim submitted pursuant to
13 s. 627.912; a presuit notice submitted pursuant to s.
14 766.106(2); and a petition brought under the Florida
15 Birth-Related Neurological Injury Compensation Plan, pursuant
16 to s. 766.305(2). The osteopathic physician may submit a
17 written response to the information contained in the complaint
18 or document which resulted in the initiation of the
19 investigation within 45 days after service to the osteopathic
20 physician of the complaint or document. The osteopathic
21 physician's written response shall be considered by the
22 probable cause panel.

23 Section 22. Effective January 1, 2002, subsection (4)
24 of section 641.51, Florida Statutes, is amended to read:

25 641.51 Quality assurance program; second medical
26 opinion requirement.--

27 (4) The organization shall ensure that only a
28 physician with an active, unencumbered license ~~licensed~~ under
29 chapter 458 or chapter 459, ~~or an allopathic or osteopathic~~
30 ~~physician with an active, unencumbered license in another~~
31 ~~state with similar licensing requirements~~ may render an

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1 adverse determination regarding a service provided by a
2 physician licensed in this state. The organization shall
3 submit to the treating provider and the subscriber written
4 notification regarding the organization's adverse
5 determination within 2 working days after the subscriber or
6 provider is notified of the adverse determination. The written
7 notification must include the utilization review criteria or
8 benefits provisions used in the adverse determination,
9 identify the physician who rendered the adverse determination,
10 and be signed by an authorized representative of the
11 organization or the physician who rendered the adverse
12 determination. The organization must include with the
13 notification of an adverse determination information
14 concerning the appeal process for adverse determinations. This
15 provision does not create authority for the Board of Medicine
16 or Board of Osteopathic Medicine to regulate the organization;
17 however, the Board of Medicine and the Board of Osteopathic
18 Medicine continue to have jurisdiction over licensees of their
19 respective boards.

20 Section 23. Subsection (5) of section 465.019, Florida
21 Statutes, is amended to read:

22 465.019 Institutional pharmacies; permits.--
23 (5) All institutional pharmacies shall be under the
24 professional supervision of a consultant pharmacist, and the
25 compounding and dispensing of medicinal drugs shall be done
26 only by a licensed pharmacist. Every institutional pharmacy
27 that employs or otherwise utilizes pharmacy technicians shall
28 have a written policy and procedures manual specifying those
29 duties, tasks, and functions which a pharmacy technician is
30 allowed to perform.

31 Section 24. Section 465.0196, Florida Statutes, is

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1 amended to read:

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

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

31 Section 26. Paragraph (r) is added to subsection (1)

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

5 468.1755 Disciplinary proceedings.--

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

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

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

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

17 (a) Denial of an application for licensure.

18 (b) Revocation or suspension of a license.

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

21 (d) Issuance of a reprimand.

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

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

28 Section 27. For the purpose of incorporating the
29 amendment to section 468.1755(1), Florida Statutes, in
30 reference thereto, subsection (3) of section 468.1695, Florida
31 Statutes, and section 468.1735, Florida Statutes, are

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1 reenacted to read:

2 468.1695 Licensure by examination.--

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

12 468.1735 Provisional license.--The board may establish
13 by rule requirements for issuance of a provisional license. A
14 provisional license shall be issued only to fill a position of
15 nursing home administrator that unexpectedly becomes vacant
16 due to illness, sudden death of the administrator, or
17 abandonment of position and shall be issued for one single
18 period as provided by rule not to exceed 6 months. The
19 department shall not issue a provisional license to any
20 applicant who is under investigation in this state or another
21 jurisdiction for an offense which would constitute a violation
22 of s. 468.1745 or s. 468.1755. Upon completion of the
23 investigation, the provisions of s. 468.1755 shall apply. The
24 provisional license may be issued to a person who does not
25 meet all of the licensing requirements established by this
26 part, but the board shall by rule establish minimal
27 requirements to ensure protection of the public health,
28 safety, and welfare. The provisional license shall be issued
29 to the person who is designated as the responsible person next
30 in command in the event of the administrator's departure. The
31 board may set an application fee not to exceed \$500 for a

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1 provisional license.

2 Section 28. For the purpose of incorporating the
3 amendment to section 456.072(1), Florida Statutes, in a
4 reference thereto, paragraph (a) of subsection (1) of section
5 484.056, Florida Statutes, is reenacted to read:

6 484.056 Disciplinary proceedings.--

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

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

16 Section 29. Paragraph (a) of subsection (1), paragraph
17 (a) of subsection (7), and subsection (8) of section 766.101,
18 Florida Statutes, are amended to read:

19 766.101 Medical review committee, immunity from
20 liability.--

21 (1) As used in this section:

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

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

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

30 c. A committee of a state or local professional
31 society of health care providers,

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1 d. A committee of a medical staff of a licensed
2 hospital or nursing home, provided the medical staff operates
3 pursuant to written bylaws that have been approved by the
4 governing board of the hospital or nursing home,

5 e. A committee of the Department of Corrections or the
6 Correctional Medical Authority as created under s. 945.602, or
7 employees, agents, or consultants of either the department or
8 the authority or both,

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

15 g. A committee of a mental health treatment facility
16 licensed under chapter 394 or a community mental health center
17 as defined in s. 394.907, provided the quality assurance
18 program operates pursuant to the guidelines which have been
19 approved by the governing board of the agency,

20 h. A committee of a substance abuse treatment and
21 education prevention program licensed under chapter 397
22 provided the quality assurance program operates pursuant to
23 the guidelines which have been approved by the governing board
24 of the agency,

25 i. A peer review or utilization review committee
26 organized under chapter 440, ~~or~~

27 j. A committee of the Department of Health, a county
28 health department, healthy start coalition, or certified rural
29 health network, when reviewing quality of care, or employees
30 of these entities when reviewing mortality records, or

31 k. A continuous quality improvement committee of a

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

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1 reasonable time following the department's written and
2 appropriately supported request to the professional society.
3 The advisory report, which is not binding upon the department,
4 constitutes the professional opinion of the medical review
5 committee and must include:

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

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

30 Section 30. For the purpose of incorporating the
31 amendment to section 766.101(1)(a), Florida Statutes, in

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1 references thereto, paragraph (a) of subsection (1) of section
2 440.105, Florida Statutes, and subsection (6) of section
3 626.989, Florida Statutes, are reenacted to read:

4 440.105 Prohibited activities; reports; penalties;
5 limitations.--

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

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1 of this chapter. If prosecution by the state attorney or other
2 prosecuting agency having jurisdiction with respect to such
3 violation is not begun within 60 days of the bureau's report,
4 the state attorney or other prosecuting agency having
5 jurisdiction with respect to such violation shall inform the
6 bureau of the reasons for the lack of prosecution.

7 626.989 Investigation by department or Division of
8 Insurance Fraud; compliance; immunity; confidential
9 information; reports to division; division investigator's
10 power of arrest.--

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

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

20 Section 31. Effective on July 1, 2001 and applicable
21 to all contracts entered into or renewed on or after July 1,
22 2001, section 627.6474, Florida Statutes, is created to read:
23 627.6474 Provider contracts.--A health insurer shall
24 not require a contracted health care practitioner as defined
25 in s. 456.001(4) to accept the terms of other health care
26 practitioner contracts with the insurer or any other insurer,
27 or health maintenance organization, under common management
28 and control with the insurer, including Medicare and Medicaid
29 practitioner contracts and those authorized by s. 627.6471, s.
30 627.6472, or s. 641.315, except for a practitioner in a group
31 practice as defined in s. 456.053 who must accept the terms of

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1 a contract negotiated for the practitioner by the group, as a
2 condition of continuation or renewal of the contract. Any
3 contract provision that violates this section is void. A
4 violation of this section is not subject to the criminal
5 penalty specified in s. 624.15.

6 Section 32. Effective on July 1, 2001 and applicable
7 to all contracts entered into or renewed on or after July 1,
8 2001, subsection (11) is added to section 627.662, Florida
9 Statutes, to read:

10 627.662 Other provisions applicable.--The following
11 provisions apply to group health insurance, blanket health
12 insurance, and franchise health insurance:

13 (11) Section 627.6474, relating to provider contracts.

14 Section 33. Effective on July 1, 2001 and applicable
15 to all contracts entered into or renewed on or after July 1,
16 2001, subsection (10) is added to section 641.315, Florida
17 Statutes, to read:

18 641.315 Provider contracts.--

19 (10) A health maintenance organization shall not
20 require a contracted health care practitioner as defined in s.
21 456.001(4) to accept the terms of other health care
22 practitioner contracts with the health maintenance
23 organization or any insurer, or other health maintenance
24 organization, under common management and control with the
25 health maintenance organization, including Medicare and
26 Medicaid practitioner contracts and those authorized by s.
27 627.6471, s. 627.6472, or s. 641.315, except for a
28 practitioner in a group practice as defined in s. 456.053 who
29 must accept the terms of a contract negotiated for the
30 practitioner by the group, as a condition of continuation or
31 renewal of the contract. Any contract provision that violates

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1 this section is void. A violation of this section is not
2 subject to the criminal penalty specified in s. 624.15.

3 Section 34. Paragraph (c) of subsection (4) of section
4 766.1115, Florida Statutes, is amended to read:

5 766.1115 Health care providers; creation of agency
6 relationship with governmental contractors.--

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

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

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

11 Section 35. Section 456.047, Florida Statutes, is
12 amended to read:

13 456.047 Standardized credentialing for health care
14 practitioners.--

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

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1 accuracy of the program. Participation under this section
2 shall include those individuals licensed under chapter 458,
3 chapter 459, chapter 460, chapter 461, or s. 464.012. However,
4 the department shall, with the approval of the applicable
5 board, include other professions under the jurisdiction of the
6 Division of Medical Quality Assurance in this program,
7 provided they meet the requirements of s. 456.039 or s.
8 456.0391.

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

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

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

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1 credentials data elements, and Medicare or Medicaid sanctions.

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

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

9 (e) "Department" means the Department of Health,
10 Division of Medical Quality Assurance.

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

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

22 (h) "Health care entity" means:

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

26 2. Any entity licensed by the Department of Insurance
27 as a prepaid health care plan or health maintenance
28 organization or as an insurer to provide coverage for health
29 care services through a network of providers or similar
30 organization licensed under chapter 627, chapter 636, chapter
31 641, or chapter 651; or

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

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

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

27 (k) "Primary source verification" means verification
28 of professional qualifications based on evidence obtained
29 directly from the issuing source of the applicable
30 qualification or from any other source deemed as a primary
31 source for such verification by the department or an

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1 accrediting body approved by the department.

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

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

10 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

11 (a) Every health care practitioner shall:

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

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

24 (b) The department shall:

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

30 2. Release the core credentials data that is otherwise
31 confidential or exempt from the provisions of chapter 119 and

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1 s. 24(a), Art. I of the State Constitution and any
2 corrections, updates, and modifications thereto, if authorized
3 by the health care practitioner.

4 3. Charge a fee to access the core credentials data,
5 which may not exceed the actual cost, including prorated setup
6 and operating costs, pursuant to the requirements of chapter
7 119.

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

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

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

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

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

29 (4) DUPLICATION OF DATA PROHIBITED.--

30 (a) A health care entity or credentials verification
31 organization is prohibited from collecting or attempting to

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

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

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

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

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

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

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

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

29 Section 36. Section 232.61, Florida Statutes, is
30 amended to read:

31 232.61 Governing organization for athletics; adoption

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1 of bylaws.--

2 (1) The organization shall adopt bylaws that, unless
3 specifically provided by statute, establish eligibility
4 requirements for all students who participate in high school
5 athletic competition in its member schools. The bylaws
6 governing residence and transfer shall allow the student to be
7 eligible in the school in which he or she first enrolls each
8 school year, or makes himself or herself a candidate for an
9 athletic team by engaging in a practice prior to enrolling in
10 any member school. The student shall be eligible in that
11 school so long as he or she remains enrolled in that school.
12 Subsequent eligibility shall be determined and enforced
13 through the organization's bylaws.

14 (2) The organization shall ~~also~~ adopt bylaws that
15 specifically prohibit the recruiting of students for athletic
16 purposes. The bylaws shall prescribe penalties and an appeals
17 process for athletic recruiting violations.

18 (3) The organization shall adopt bylaws that require
19 all students participating in interscholastic athletic
20 competition or who are candidates for an interscholastic
21 athletic team to satisfactorily pass a medical evaluation each
22 year prior to participating in interscholastic athletic
23 competition or engaging in any practice, tryout, workout, or
24 other physical activity associated with the student's
25 candidacy for an interscholastic athletic team. Such medical
26 evaluation can only be administered by a practitioner licensed
27 under the provisions of chapter 458, chapter 459, chapter 460,
28 or s. 464.012, and in good standing with the practitioner's
29 regulatory board. The bylaws shall establish requirements for
30 eliciting a student's medical history and performing the
31 medical evaluation required under this subsection, which shall

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1 include minimum standards for the physical capabilities
2 necessary for participation in interscholastic athletic
3 competition as contained in a uniform preparticipation
4 physical evaluation form. The evaluation form shall provide
5 place for the signature of the practitioner performing the
6 evaluation with an attestation that each examination procedure
7 listed on the form was performed by the practitioner or by
8 someone under the direct supervision of the practitioner. The
9 form shall also contain a place for the practitioner to
10 indicate if a referral to another practitioner was made in
11 lieu of completion of a certain examination procedure. The
12 form shall provide a place for the practitioner to whom the
13 student was referred to complete the remaining sections and
14 attest to that portion of the examination. Practitioners
15 administering medical evaluations pursuant to this section
16 must know the minimum standards established by the
17 organization and certify that the student meets the standards.
18 If the practitioner determines that there are any abnormal
19 findings in the cardiovascular system, the student may not
20 participate unless a subsequent EKG or other cardiovascular
21 assessment indicates that the abnormality will not place the
22 student at risk during such participation. Results of such
23 medical evaluation must be provided to the school. No student
24 shall be eligible to participate in any interscholastic
25 athletic competition or engage in any practice, tryout,
26 workout, or other physical activity associated with the
27 student's candidacy for an interscholastic athletic team until
28 the results of the medical evaluation verifying that the
29 student has satisfactorily passed the evaluation have been
30 received and approved by the school.

31 (4) Notwithstanding the provisions of subsection (3),

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1 a student may participate in interscholastic athletic
2 competition or be a candidate for an interscholastic athletic
3 team if the parent or guardian of the student objects in
4 writing to the student undergoing a medical evaluation because
5 such evaluation is contrary to his or her religious tenets or
6 practices, provided that no person or entity shall be held
7 liable for any injury or other damages suffered by such
8 student resulting from his or her participation in
9 interscholastic athletic competition or in any practice,
10 tryout, workout, or other physical activity associated with
11 his or her candidacy for an interscholastic athletic team.

12 Section 37. Section 240.4075, Florida Statutes, is
13 amended to read:

14 240.4075 Nursing Student Loan Forgiveness Program.--

15 (1) To encourage qualified personnel to seek
16 employment in areas of this state in which critical nursing
17 shortages exist, there is established the Nursing Student Loan
18 Forgiveness Program. The primary function of the program is
19 to increase employment and retention of registered nurses and
20 licensed practical nurses in nursing homes and hospitals in
21 the state and in state-operated medical and health care
22 facilities, public schools, birth centers, and federally
23 sponsored community health centers ~~and teaching hospitals~~ by
24 making repayments toward loans received by students from
25 federal or state programs or commercial lending institutions
26 for the support of postsecondary study in accredited or
27 approved nursing programs.

28 (2) To be eligible, a candidate must have graduated
29 from an accredited or approved nursing program and have
30 received a Florida license as a licensed practical nurse or a
31 registered nurse or a Florida certificate as an advanced

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1 registered nurse practitioner.

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

5 (4) Receipt of funds pursuant to this program shall be
6 contingent upon continued proof of employment in the
7 designated facilities in this state. Loan principal payments
8 shall be made by the Department of Health Education directly
9 to the federal or state programs or commercial lending
10 institutions holding the loan as follows:

11 (a) Twenty-five percent of the loan principal and
12 accrued interest shall be retired after the first year of
13 nursing;

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

16 (c) Seventy-five percent of the loan principal and
17 accrued interest shall be retired after the third year of
18 nursing; and

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

21
22 In no case may payment for any nurse exceed \$4,000 in any
23 12-month period.

24 (5) There is created the Nursing Student Loan
25 Forgiveness Trust Fund to be administered by the Department of
26 Health Education pursuant to this section and s. 240.4076 and
27 department rules. The Comptroller shall authorize
28 expenditures from the trust fund upon receipt of vouchers
29 approved by the Department of Health Education. All moneys
30 collected from the private health care industry and other
31 private sources for the purposes of this section shall be

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1 deposited into the Nursing Student Loan Forgiveness Trust
2 Fund. Any balance in the trust fund at the end of any fiscal
3 year shall remain therein and shall be available for carrying
4 out the purposes of this section and s. 240.4076.

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

16 (7)(a) Funds contained in the Nursing Student Loan
17 Forgiveness Trust Fund which are to be used for loan
18 forgiveness for those nurses employed by hospitals, birth
19 centers, and nursing homes must be matched on a
20 dollar-for-dollar basis by contributions from the employing
21 institutions, except that this provision shall not apply to
22 state-operated medical and health care facilities, public
23 schools, county health departments, federally sponsored
24 community health centers, or teaching hospitals as defined in
25 s. 408.07, family practice teaching hospitals as defined in s.
26 395.805, or specialty hospitals for children as used in s.
27 409.9119. If in any given fiscal quarter there are
28 insufficient funds in the trust fund to grant all eligible
29 applicant requests, awards shall be based on the following
30 priority of employer: county health departments; federally
31 sponsored community health centers; state-operated medical and

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1 health care facilities; public schools; teaching hospitals as
2 defined in s. 408.07; family practice teaching hospitals as
3 defined in s. 395.805; specialty hospitals for children as
4 used in s. 409.9119; and other hospitals, birth centers, and
5 nursing homes.

6 (b) All Nursing Student Loan Forgiveness Trust Fund
7 moneys shall be invested pursuant to s. 18.125. Interest
8 income accruing to that portion of the trust fund not matched
9 shall increase the total funds available for loan forgiveness
10 and scholarships. Pledged contributions shall not be eligible
11 for matching prior to the actual collection of the total
12 private contribution for the year.

13 (8) The Department of Health ~~Education~~ may solicit
14 technical assistance relating to the conduct of this program
15 from the Department of Education ~~Health~~.

16 (9) The Department of Health ~~Education~~ is authorized
17 to recover from the Nursing Student Loan Forgiveness Trust
18 Fund its costs for administering the Nursing Student Loan
19 Forgiveness Program.

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

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

24 Section 38. Section 240.4076, Florida Statutes, is
25 amended to read:

26 240.4076 Nursing scholarship program.--

27 (1) There is established within the Department of
28 Health ~~Education~~ a scholarship program for the purpose of
29 attracting capable and promising students to the nursing
30 profession.

31 (2) A scholarship applicant shall be enrolled as a

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1 full-time or part-time student in the upper division of an
2 approved nursing program leading to the award of a
3 baccalaureate degree or graduate degree to qualify for a
4 nursing faculty position or as an ~~or any~~ advanced registered
5 nurse practitioner ~~degree~~ or be enrolled as a full-time or
6 part-time student in an approved program leading to the award
7 of an associate degree in nursing ~~or a diploma in nursing.~~

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

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

19 (a) For each full year of scholarship assistance, the
20 recipient agrees to work for 12 months in a faculty position
21 in a college of nursing or community college nursing program
22 in this state or at a health care facility in a medically
23 underserved area as approved by the Department of Health
24 Education. Scholarship recipients who attend school on a
25 part-time basis shall have their employment service obligation
26 prorated in proportion to the amount of scholarship payments
27 received.

28 (b) Eligible health care facilities include nursing
29 homes and hospitals in this state, state-operated medical or
30 health care facilities, public schools, county health
31 departments, federally sponsored community health centers,

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1 colleges of nursing in universities in this state, and
2 community college nursing programs in this state ~~or teaching~~
3 ~~hospitals as defined in s. 408.07.~~ The recipient shall be
4 encouraged to complete the service obligation at a single
5 employment site. If continuous employment at the same site is
6 not feasible, the recipient may apply to the department for a
7 transfer to another approved health care facility.

8 (c) Any recipient who does not complete an appropriate
9 program of studies or who does not become licensed shall repay
10 to the Department of Health Education, on a schedule to be
11 determined by the department, the entire amount of the
12 scholarship plus 18 percent interest accruing from the date of
13 the scholarship payment. Moneys repaid shall be deposited into
14 the Nursing Student Loan Forgiveness Trust Fund established in
15 s. 240.4075. However, the department may provide additional
16 time for repayment if the department finds that circumstances
17 beyond the control of the recipient caused or contributed to
18 the default.

19 (d) Any recipient who does not accept employment as a
20 nurse at an approved health care facility or who does not
21 complete 12 months of approved employment for each year of
22 scholarship assistance received shall repay to the Department
23 of Health Education an amount equal to two times the entire
24 amount of the scholarship plus interest accruing from the date
25 of the scholarship payment at the maximum allowable interest
26 rate permitted by law. Repayment shall be made within 1 year
27 of notice that the recipient is considered to be in default.
28 However, the department may provide additional time for
29 repayment if the department finds that circumstances beyond
30 the control of the recipient caused or contributed to the
31 default.

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1 (5) Scholarship payments shall be transmitted to the
2 recipient upon receipt of documentation that the recipient is
3 enrolled in an approved nursing program. The Department of
4 Health Education shall develop a formula to prorate payments
5 to scholarship recipients so as not to exceed the maximum
6 amount per academic year.

7 (6) The Department of Health Education shall adopt
8 rules, including rules to address extraordinary circumstances
9 that may cause a recipient to default on either the school
10 enrollment or employment contractual agreement, to implement
11 this section and may solicit technical assistance relating to
12 the conduct of this program from the Department of Health.

13 (7) The Department of Health Education is authorized
14 to recover from the Nursing Student Loan Forgiveness Trust
15 Fund its costs for administering the nursing scholarship
16 program.

17 Section 39. All powers, duties, and functions, rules,
18 records, personnel, property, and unexpended balances of
19 appropriations, allocations, or other funds of the Department
20 of Education relating to the Nursing Student Loan Forgiveness
21 Program and the nursing scholarship program are transferred by
22 a type two transfer, as defined in s. 20.06(2), Florida
23 Statutes, to the Department of Health.

24 Section 40. Effective July 1, 2003, section 464.005,
25 Florida Statutes, is amended to read:

26 464.005 Board headquarters.--The board shall maintain
27 its official headquarters in Tallahassee ~~the city in which it~~
28 ~~has been domiciled for the past 5 years.~~

29 Section 41. Subsections (1) and (2) of section
30 464.008, Florida Statutes, are amended to read:

31 464.008 Licensure by examination.--

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

5 (a) Has completed the application form and remitted a
6 fee set by the board not to exceed \$150 and has remitted an
7 examination fee set by the board not to exceed \$75 plus the
8 actual per applicant cost to the department for purchase of
9 the examination from the National Council of State Boards of
10 Nursing or a similar national organization.

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

15 (c) Is in good mental and physical health, is a
16 recipient of a high school diploma or the equivalent, and has
17 completed the requirements for graduation from an approved
18 program, or its equivalent as determined by the board, for the
19 preparation of registered nurses or licensed practical nurses,
20 whichever is applicable. Courses successfully completed in a
21 professional nursing program which are at least equivalent to
22 a practical nursing program may be used to satisfy the
23 education requirements for licensure as a licensed practical
24 nurse.

25 (d) Has the ability to communicate in the English
26 language, which may be determined by an examination given by
27 the department.

28 (2) Each applicant who passes the examination and
29 provides proof of meeting the educational requirements
30 specified in subsection (1)~~graduation from an approved~~
31 ~~nursing program~~ shall, unless denied pursuant to s. 464.018,

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1 be entitled to licensure as a registered professional nurse or
2 a licensed practical nurse, whichever is applicable.

3 Section 42. Section 464.009, Florida Statutes, is
4 amended to read:

5 464.009 Licensure by endorsement.--

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

11 (a) Holds a valid license to practice professional or
12 practical nursing in another state of the United States,
13 provided that, when the applicant secured his or her original
14 license, the requirements for licensure were substantially
15 equivalent to or more stringent than those existing in Florida
16 at that time; or

17 (b) Meets the qualifications for licensure in s.
18 464.008 and has successfully completed a state, regional, or
19 national examination which is substantially equivalent to or
20 more stringent than the examination given by the department.

21 (2) Such examinations and requirements from other
22 states shall be presumed to be substantially equivalent to or
23 more stringent than those in this state. Such presumption
24 shall not arise until January 1, 1980. However, the board may,
25 by rule, specify states the examinations and requirements of
26 which shall not be presumed to be substantially equivalent to
27 those of this state.

28 (3) The applicant must submit to the department a set
29 of fingerprints on a form and under procedures specified by
30 the department, along with a payment in an amount equal to the
31 costs incurred by the Department of Health for the criminal

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1 background check of the applicant. The Department of Health
2 shall submit the fingerprints provided by the applicant to the
3 Florida Department of Law Enforcement for a statewide criminal
4 history check, and the Florida Department of Law Enforcement
5 shall forward the fingerprints to the Federal Bureau of
6 Investigation for a national criminal history check of the
7 applicant. The Department of Health shall review the results
8 of the criminal history check, issue a license to an applicant
9 who has met all of the other requirements for licensure and
10 has no criminal history, and shall refer all applicants with
11 criminal histories back to the board for determination as to
12 whether a license should be issued and under what conditions.

13 (4)(3) The department shall not issue a license by
14 endorsement to any applicant who is under investigation in
15 another state for an act which would constitute a violation of
16 this part or chapter 456 until such time as the investigation
17 is complete, at which time the provisions of s. 464.018 shall
18 apply.

19 (5) The department shall develop an electronic
20 applicant notification process and provide electronic
21 notification when the application has been received and when
22 background screenings have been completed, and shall issue a
23 license within 30 days after completion of all required data
24 collection and verification. This 30-day period to issue a
25 license shall be tolled if the applicant must appear before
26 the board due to information provided on the application or
27 obtained through screening and data collection and
28 verification procedures.

29 Section 43. Section 464.0195, Florida Statutes, is
30 created to read:

31 464.0195 Florida Center for Nursing; goals.--There is

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1 established the Florida Center for Nursing to address issues
2 of supply and demand for nursing, including issues of
3 recruitment, retention, and utilization of nurse workforce
4 resources. The Legislature finds that the center will repay
5 the state's investment by providing an ongoing strategy for
6 the allocation of the state's resources directed towards
7 nursing. The primary goals for the center shall be to:
8 (1) Develop a strategic statewide plan for nursing
9 manpower in this state by:
10 (a) Establishing and maintaining a database on nursing
11 supply and demand in the state, to include current supply and
12 demand, and future projections; and
13 (b) Selecting from the plan priorities to be
14 addressed.
15 (2) Convene various groups representative of nurses,
16 other health care providers, business and industry, consumers,
17 legislators, and educators to:
18 (a) Review and comment on data analysis prepared for
19 the center;
20 (b) Recommend systemic changes, including strategies
21 for implementation of recommended changes; and
22 (c) Evaluate and report the results of these efforts
23 to the Legislature and others.
24 (3) Enhance and promote recognition, reward, and
25 renewal activities for nurses in the state by:
26 (a) Promoting nursing excellence programs such as
27 magnet recognition by the American Nurses Credentialing
28 Center;
29 (b) Proposing and creating additional reward,
30 recognition, and renewal activities for nurses; and
31 (c) Promoting media and positive image-building

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1 efforts for nursing.

2 Section 44. Section 464.0196, Florida Statutes, is
3 created to read:

4 464.0196 Florida Center for Nursing; board of
5 directors.--

6 (1) The Florida Center for Nursing shall be governed
7 by a policy-setting board of directors. The board shall
8 consist of 16 members, with a simple majority of the board
9 being nurses representative of various practice areas. Other
10 members shall include representatives of other health care
11 professions, business and industry, health care providers, and
12 consumers. The members of the board shall be appointed by the
13 Governor as follows:

14 (a) Four members recommended by the President of the
15 Senate, at least one of whom shall be a registered nurse
16 recommended by the Florida Organization of Nurse Executives
17 and at least one other representative of the hospital industry
18 recommended by the Florida Hospital Association;

19 (b) Four members recommended by the Speaker of the
20 House of Representatives, at least one of whom shall be a
21 registered nurse recommended by the Florida Nurses Association
22 and at least one other representative of the long-term care
23 industry;

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

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

30 (2) The initial terms of the members shall be as
31 follows:

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1 (a) Of the members appointed pursuant to paragraph
2 (1)(a), two shall be appointed for terms expiring June 30,
3 2005, one for a term expiring June 30, 2004, and one for a
4 term expiring June 30, 2003.

5 (b) Of the members appointed pursuant to paragraph
6 (1)(b), one shall be appointed for a term expiring June 30,
7 2005, two for terms expiring June 30, 2004, and one for a term
8 expiring June 20, 2003.

9 (c) Of the members appointed pursuant to paragraph
10 (1)(c), one shall be appointed for a term expiring June 30,
11 2005, one for a term expiring June 30, 2004, and two for terms
12 expiring June 30, 2003.

13 (d) Of the members appointed pursuant to paragraph
14 (1)(d), the terms of two members recommended by the State
15 Board of Education shall expire June 30, 2005; the term of the
16 member who is a dean of a College of Nursing at a state
17 university shall expire June 30, 2004; and the term of the
18 member who is a director of a state community college nursing
19 program shall expire June 30, 2003.

20
21 After the initial appointments expire, the terms of all the
22 members shall be for 3 years, with no member serving more than
23 two consecutive terms.

24 (3) The board shall have the following powers and
25 duties:

26 (a) To employ an executive director.

27 (b) To determine operational policy.

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

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

31 (e) To appoint a multidisciplinary advisory council

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1 for input and advice on policy matters.

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

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

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

9 Section 45. Section 464.0197, Florida Statutes, is
10 created to read:

11 464.0197 Florida Center for Nursing; state budget
12 support.--The Legislature finds that it is imperative that the
13 state protect its investment and progress made in nursing
14 efforts to date. The Legislature finds that the Florida Center
15 for Nursing is the appropriate means to do so. The center
16 shall have state budget support for its operations so that it
17 may have adequate resources for the tasks the Legislature has
18 set out in s. 464.0195.

19 Section 46. The Board of Nursing within the Department
20 of Health shall hold in abeyance until July 1, 2002, the
21 development of any rule pursuant to s. 464.019(2), Florida
22 Statutes, which relates to the establishment of
23 faculty/student clinical ratios. The Board of Nursing and the
24 Department of Education shall submit to the President of the
25 Senate and the Speaker of the House of Representatives by
26 December 31, 2001, an implementation plan that details both
27 the impact and the cost of any such proposed rule change.

28 Section 47. Subsection (1) of section 464.0205,
29 Florida Statutes, is amended to read:

30 464.0205 Retired volunteer nurse certificate.--

31 (1) Any retired practical or registered nurse desiring

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1 to serve indigent, underserved, or critical need populations
2 in this state may apply to the department for a retired
3 volunteer nurse certificate by providing:

4 (a) A complete application.

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

6 (b)~~(c)~~ Verification that the applicant had been
7 licensed to practice nursing in any jurisdiction in the United
8 States for at least 10 years, had retired or plans to retire,
9 intends to practice nursing only pursuant to the limitations
10 provided by the retired volunteer nurse certificate, and has
11 not committed any act that would constitute a violation under
12 s. 464.018(1).

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

15 Section 48. The Florida Legislature's Office of
16 Program Policy Analysis and Government Accountability shall
17 study the feasibility of maintaining the entire Medical
18 Quality Assurance function, including enforcement, within one
19 department, as recommended by the Auditor General in
20 Operational Report Number 01-063. The study shall be completed
21 and a report issued to the Legislature on or before November
22 30, 2001.

23 Section 49. Effective October 1, 2001, section
24 456.0375, Florida Statutes, is created to read:

25 456.0375 Registration of certain clinics;
26 requirements; discipline; exemptions.--

27 (1)(a) As used in this section, the term "clinic"
28 means a business operating in a single structure or facility
29 or group of adjacent structures or facilities operating under
30 the same business name or management at which health care
31 services are provided to individuals and which tenders charges

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1 for reimbursement for such services.

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

5 1. Entities licensed or registered by the state
6 pursuant to chapter 390, chapter 394, chapter 395, chapter
7 397, chapter 400, chapter 463, chapter 465, chapter 466,
8 chapter 478, chapter 480, or chapter 484.

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

11 3. Sole proprietorships, group practices,
12 partnerships, or corporations which provide health care
13 services by licensed health care practitioners pursuant to
14 chapter 457, chapter 458, chapter 459, chapter 460, chapter
15 461, chapter 462, chapter 463, chapter 466, chapter 467,
16 chapter 484, chapter 486, chapter 490, or chapter 491; part I,
17 part III, part X, part XIII, or part XIV of chapter 468; or s.
18 464.012, which are wholly owned by licensed health care
19 practitioners or wholly owned by licensed health care
20 practitioners and the spouse, parent, or child of a licensed
21 health care practitioner, so long as one of the owners who is
22 a licensed health care practitioner is supervising the
23 services performed therein and is legally responsible for the
24 entity's compliance with all federal and state laws. However,
25 no health care practitioner may supervise services beyond the
26 scope of the practitioner's license.

27 (2)(a) Every clinic, as defined in paragraph (1)(a),
28 must register, and at all times maintain a valid registration,
29 with the department. Each clinic location must be registered
30 separately even though operated under the same business name
31 or management, and each clinic must appoint a medical director

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1 or clinic director.

2 (b) The department shall adopt rules necessary to
3 administer the registration program, including rules
4 establishing the specific registration procedures, forms, and
5 fees. Registration may be conducted electronically.
6 Registration fees must be calculated to reasonably cover the
7 cost of registration and must be of such amount that the total
8 fees collected do not exceed the cost of administering and
9 enforcing compliance with this section. The registration
10 program must require:

11 1. The clinic to file the registration form with the
12 department within 60 days after the effective date of this
13 section or prior to the inception of operation. The
14 registration expires automatically 2 years after its date of
15 issuance and must be renewed biennially thereafter.

16 2. The registration form to contain the name,
17 residence, and business address, phone number, and license
18 number of the medical director or clinic director for the
19 clinic.

20 3. The clinic to display the registration certificate
21 in a conspicuous location within the clinic which is readily
22 visible to all patients.

23 (3)(a) Each clinic must employ or contract with a
24 physician maintaining a full and unencumbered physician
25 license in accordance with chapter 458, chapter 459, chapter
26 460, or chapter 461 to serve as the medical director. However,
27 if the clinic is limited to providing health care services
28 pursuant to chapter 457, chapter 484, chapter 486, chapter
29 490, or chapter 491 or part I, part III, part X, part XIII, or
30 part XIV of chapter 468, the clinic may appoint a health care
31 practitioner licensed under that chapter to serve as the

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1 clinic director who is responsible for the clinic's
2 activities. A health care practitioner may not serve as the
3 clinic director if the services provided at the clinic are
4 beyond the scope of that practitioner's license.

5 (b) The medical director or clinic director must agree
6 in writing to accept responsibility for the following
7 activities on behalf of the clinic. The medical director or
8 the clinic director shall:

9 1. Have signs identifying the medical director or
10 clinic director posted in a conspicuous location within the
11 clinic which is readily visible to all patients.

12 2. Ensure that all practitioners providing health care
13 services or supplies to patients maintain a current, active,
14 and unencumbered Florida license.

15 3. Review any patient-referral contracts or agreements
16 executed by the clinic.

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

20 5. Serve as the clinic records owner as defined in s.
21 456.057.

22 6. Ensure compliance with the recordkeeping, office
23 surgery, and adverse incident reporting requirements of
24 chapter 456, the respective practice acts, and the rules
25 adopted thereunder.

26 7. Conduct systematic reviews of clinic billings to
27 ensure that the billings are not fraudulent or unlawful. Upon
28 discovery of an unlawful charge, the medical director or
29 clinic director must take immediate corrective action.

30 (c) Any contract to serve as a medical director or
31 clinic director entered into or renewed by a physician or

1 licensed health care practitioner in violation of this section
2 is void as contrary to public policy. This section applies to
3 contracts entered into or renewed on or after the effective
4 date of this section.

5 (d) The department, in consultation with the boards,
6 shall adopt rules specifying limitations on the number of
7 registered clinics and licensees for which a medical director
8 or clinic director may assume responsibility for purposes of
9 this section. In determining the quality of supervision a
10 medical director or clinic director can provide, the
11 department shall consider the number of clinic employees, the
12 clinic location, and the services provided by the clinic.

13 (4)(a) All charges or reimbursement claims made by or
14 on behalf of a clinic that is required to be registered under
15 this section but that is not so registered are unlawful
16 charges and therefore are noncompensable and unenforceable.

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

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

24 (d) The department shall revoke the registration of
25 any clinic registered under this section for operating in
26 violation of the requirements of this section or the rules
27 adopted pursuant to this section.

28 (e) The department shall investigate allegations of
29 noncompliance with this section and the rules adopted pursuant
30 to this section.

31 Section 50. The sum of \$100,000 is appropriated from

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1 the registration fees collected from clinics pursuant to s.
2 456.0375, Florida Statutes, and one-half of one full-time
3 equivalent position is authorized, to the Department of Health
4 for the purposes of regulating medical clinics pursuant to s.
5 456.0375, Florida Statutes. The appropriated funds shall be
6 deposited into the Medical Quality Assurance Trust Fund.

7 Section 51. Subsection (3) of section 456.031, Florida
8 Statutes, is amended to read:

9 456.031 Requirement for instruction on domestic
10 violence.--

11 (3)(a) In lieu of completing a course as required in
12 subsection (1), a licensee or certificateholder may complete a
13 course in end-of-life care and palliative health care, if the
14 licensee or certificateholder has completed an approved
15 domestic violence course in the immediately preceding
16 biennium.

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

22 Section 52. Subsection (9) of section 456.033, Florida
23 Statutes, is amended to read:

24 456.033 Requirement for instruction for certain
25 licensees on human immunodeficiency virus and acquired immune
26 deficiency syndrome.--

27 (9)(a) In lieu of completing a course as required in
28 subsection (1), the licensee may complete a course in
29 end-of-life care and palliative health care, so long as the
30 licensee completed an approved AIDS/HIV course in the
31 immediately preceding biennium.

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

6 Section 53. (1) Subsection (9) is added to section
7 627.419, Florida Statutes, to read:

8 627.419 Construction of policies.--

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

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

23 Section 54. Paragraph (c) of subsection (6) of section
24 468.302, Florida Statutes, is amended to read:

25 468.302 Use of radiation; identification of certified
26 persons; limitations; exceptions.--

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

28 (c) A person who is trained and skilled in invasive
29 cardiovascular ~~cardiopulmonary~~ technology, including the
30 radiologic technology duties associated with these procedures,
31 and who provides invasive cardiovascular ~~cardiopulmonary~~

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1 technology services at the direction, and under the direct
2 supervision, of a licensed practitioner who is trained and
3 skilled in performing invasive cardiovascular procedures. Such
4 persons must have successfully completed a didactic and
5 clinical training program in the following areas before
6 performing radiologic technology duties:

7 1. Principles of X-ray production and equipment
8 operation.

9 2. Biological effects of radiation.

10 3. Radiation exposure and monitoring.

11 4. Radiation safety and protection.

12 5. Evaluation of radiographic equipment and
13 accessories.

14 6. Radiographic exposure and technique factors.

15 7. Film processing.

16 8. Image quality assurance.

17 9. Patient positioning.

18 10. Administration and complications of contrast
19 media.

20 11. Specific fluoroscopic and digital X-ray imaging
21 procedures related to invasive cardiovascular technology.

22 Section 55. Subsections (8) and (9) of section
23 468.352, Florida Statutes, are amended to read:

24 468.352 Definitions.--As used in this part, unless the
25 context otherwise requires, the term:

26 (8) "Registered respiratory therapist" means any
27 person licensed pursuant to this part who is employed to
28 deliver respiratory care services under the order of a
29 physician licensed pursuant to chapter 458 or chapter 459, and
30 in accordance with protocols established by a hospital, other
31 health care provider, or the board, and who functions in

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1 situations of unsupervised patient contact requiring
2 individual judgment.

3 (9) "Certified respiratory therapist" or "respiratory
4 care practitioner" means any person licensed pursuant to this
5 part who is employed to deliver respiratory care services
6 under the order of a physician licensed pursuant to chapter
7 458 or chapter 459, and in accordance with protocols
8 established by a hospital, other health care provider, or the
9 board.

10 Section 56. Subsections (1) and (2) of section
11 468.355, Florida Statutes, are amended to read:

12 468.355 Eligibility for licensure; temporary
13 licensure.--

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

17 (a) Be at least 18 years old.

18 (b) Possess a high school diploma or a graduate
19 equivalency diploma.

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

21 1. The applicant has successfully completed a training
22 program for respiratory therapy technicians or respiratory
23 therapists approved by the Commission on Accreditation of
24 Allied Health Education Programs, or the equivalent thereof,
25 as accepted by the board.

26 2. The applicant is currently a "Certified Respiratory
27 Therapist ~~Therapy Technician~~" certified by the National Board
28 for Respiratory Care, or the equivalent thereof, as accepted
29 by the board.

30 3. The applicant is currently a "Registered
31 Respiratory Therapist" registered by the National Board for

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1 Respiratory Care, or the equivalent thereof, as accepted by
2 the board.

3
4 The criteria set forth in subparagraphs 2. and 3.
5 notwithstanding, the board shall periodically review the
6 examinations and standards of the National Board for
7 Respiratory Care and may reject those examinations and
8 standards if they are deemed inappropriate.

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

11 (a) Be at least 18 years old.

12 (b) Possess a high school diploma or a graduate
13 equivalency diploma.

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

15 1. The applicant has successfully completed a training
16 program for registered respiratory therapists approved by the
17 Commission on Accreditation of Allied Health Education
18 Programs, or the equivalent thereof, as accepted by the board.

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

23
24 The criteria set forth in subparagraphs 1. and 2.
25 notwithstanding, the board shall periodically review the
26 examinations and standards of the National Board for
27 Respiratory Care and may reject those examinations and
28 standards if they are deemed inappropriate.

29 Section 57. Section 468.357, Florida Statutes, is
30 amended to read:

31 468.357 Licensure by examination.--

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

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

7 1. Completed the application form and remitted the
8 applicable fee set by the board;

9 2. Submitted required documentation as required in s.
10 468.355; and

11 3. Remitted an examination fee set by the examination
12 provider.

13 (b) Examinations for licensure of certified
14 respiratory therapist ~~respiratory care practitioners~~ must be
15 conducted no less than two times a year in such geographical
16 locations or by such methods as are deemed advantageous to the
17 majority of the applicants.

18 (c) The examination given for certified respiratory
19 therapist ~~respiratory care practitioners~~ shall be the same as
20 that given by the National Board for Respiratory Care for
21 entry-level certification of respiratory therapists ~~therapy~~
22 ~~technicians~~. However, an equivalent examination may be
23 accepted by the board in lieu of that examination.

24 (2) Each applicant who passes the examination shall be
25 entitled to licensure as a certified respiratory therapist
26 ~~respiratory care practitioner~~, and the department shall issue
27 a license pursuant to this part to any applicant who
28 successfully completes the examination in accordance with this
29 section. However, the department shall not issue a license to
30 any applicant who is under investigation in another
31 jurisdiction for an offense which would constitute a violation

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1 of this part. Upon completion of such an investigation, if the
2 applicant is found guilty of such an offense, the applicable
3 provisions of s. 468.365 will apply.

4 Section 58. Subsections (1) and (2) of section
5 468.358, Florida Statutes, are amended to read:

6 468.358 Licensure by endorsement.--

7 (1) Licensure as a certified respiratory therapist
8 ~~respiratory care practitioner~~ shall be granted by endorsement
9 to an individual who holds the "Certified Respiratory
10 Therapist ~~Therapy Technician~~" credential issued by the
11 National Board for Respiratory Care or an equivalent
12 credential acceptable to the board. Licensure by this
13 mechanism requires verification by oath and submission of
14 evidence satisfactory to the board that such credential is
15 held.

16 (2) Licensure as a registered respiratory therapist
17 shall be granted by endorsement to an individual who holds the
18 "Registered Respiratory Therapist" credential issued by the
19 National Board for Respiratory Care or an equivalent
20 credential acceptable to the board. Licensure by this
21 mechanism requires verification by oath and submission of
22 evidence satisfactory to the board that such credential is
23 held.

24 Section 59. Section 468.359, Florida Statutes, is
25 amended to read:

26 468.359 Assumption of title and use of
27 abbreviations.--

28 (1) Only persons who are licensed pursuant to this
29 part as respiratory care practitioners have the right to use
30 the title "Respiratory Care Practitioner" and the abbreviation
31 "RCP."

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1 (2) Only persons who are licensed pursuant to this
2 part as registered respiratory therapists have the right to
3 use the title "Registered Respiratory Therapist" and the
4 abbreviation "RRT," when delivering services pursuant to this
5 part provided such persons have passed the Registry
6 Examination for Respiratory Therapists given by the National
7 Board for Respiratory Care.

8 (3) Only persons who are licensed pursuant to this
9 part as certified respiratory therapists have the right to use
10 the title "Certified Respiratory Therapist" and the
11 abbreviation "CRT" when delivering services pursuant to this
12 part. ~~graduates of board-approved programs for respiratory~~
13 ~~care practitioners may use the term "Graduate Respiratory~~
14 ~~Therapy Technician" and the abbreviation "GRTT."~~

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

18 ~~(4)(5)~~ No person in this state shall deliver
19 respiratory care services; advertise as, or assume the title
20 of, respiratory care practitioner, certified respiratory
21 therapist, or registered respiratory therapist; or use the
22 abbreviation "RCP," "CRT," or "RRT" that would lead the public
23 to believe that such person is licensed pursuant to this part
24 unless such person is so licensed; or take any other action
25 that would lead the public to believe that such person is
26 licensed pursuant to this part unless such person is so
27 licensed.

28 Section 60. Subsections (2), (3), and (4) of section
29 468.1155, Florida Statutes, are amended to read:

30 468.1155 Provisional license; requirements.--

31 (2) The department shall issue a provisional license

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1 to practice speech-language pathology to each applicant who
2 the board certifies has:

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

5 (b) Received a master's degree or is currently
6 enrolled in a doctoral degree program with a major emphasis in
7 speech-language pathology from an institution of higher
8 learning which is, or at the time the applicant was enrolled
9 and graduated, was, accredited by an accrediting agency
10 recognized by the Council for Higher Education Commission on
11 ~~Recognition of Postsecondary~~ Accreditation or from an
12 institution which is ~~publicly recognized as~~ a member in good
13 standing with the Association of Universities and Colleges of
14 Canada. An applicant who graduated from or is currently
15 enrolled in a program at a university or college outside the
16 United States or Canada must present documentation of the
17 determination of equivalency to standards established by the
18 Council for Higher Education Commission on Recognition of
19 ~~Postsecondary~~ Accreditation in order to qualify. The
20 applicant must have completed 60 semester hours that include:

21 1. Fundamental information applicable to the normal
22 development and use of speech, hearing, and language;
23 information about training in management of speech, hearing,
24 and language disorders; and information supplementary to these
25 fields.

26 2. Six semester hours in audiology.

27 3. Thirty of the required 60 semester hours in courses
28 acceptable toward a graduate degree by the college or
29 university in which these courses were taken, of which 24
30 semester hours must be in speech-language pathology.

31 (c) Completed 300 supervised clinical clock hours with

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1 200 clock hours in the area of speech-language pathology or
2 completed the number of clock hours required by an accredited
3 institution meeting national certification standards. The
4 supervised clinical clock hours shall be completed within the
5 training institution or one of its cooperating programs.

6 (3) The department shall issue a provisional license
7 to practice audiology to each applicant who the board
8 certifies has:

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

11 (b) Received a master's degree or is currently
12 enrolled in a doctoral degree program with a major emphasis in
13 audiology from an institution of higher learning which is, or
14 at the time the applicant was enrolled and graduated was,
15 accredited by an accrediting agency recognized by the Council
16 for Higher Education Commission on Recognition of
17 ~~Postsecondary~~ Accreditation or from an institution which is
18 ~~publicly recognized as~~ a member in good standing with the
19 Association of Universities and Colleges of Canada. An
20 applicant who graduated from or is currently enrolled in a
21 program at a university or college outside the United States
22 or Canada must present documentation of the determination of
23 equivalency to standards established by the Council for Higher
24 Education Commission on Recognition of Postsecondary
25 Accreditation in order to qualify. The applicant must have
26 completed 60 semester hours that include:

27 1. Fundamental information applicable to the normal
28 development and use of speech, hearing, and language;
29 information about training in management of speech, hearing,
30 and language disorders; and information supplementary to these
31 fields.

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1 2. Six semester hours in speech-language pathology.

2 3. Thirty of the required 60 semester hours in courses
3 acceptable toward a graduate degree by the college or
4 university in which these courses were taken, of which 24
5 semester hours must be in audiology.

6 (c) Completed 300 supervised clinical clock hours with
7 200 clock hours in the area of audiology or completed the
8 number of clock hours required by an accredited institution
9 meeting national certification standards. The supervised
10 clinical clock hours shall be completed within the training
11 institution or one of its cooperating programs.

12 (4) An applicant ~~for a provisional license~~ who has
13 received a master's degree or is currently enrolled in a
14 doctoral degree program with a major emphasis in
15 speech-language pathology as provided in subsection (2), or
16 audiology as provided in subsection (3), and who seeks
17 licensure in the area in which the applicant is not currently
18 licensed, must have completed 30 semester hours in courses
19 acceptable toward a graduate degree and 200 supervised
20 clinical clock hours in the second discipline from an
21 accredited institution.

22 Section 61. Paragraph (b) of subsection (1) and
23 paragraph (b) of subsection (2) of section 468.1215, Florida
24 Statutes, are amended to read:

25 468.1215 Speech-language pathology assistant and
26 audiology assistant; certification.--

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

30 (b) Earned a bachelor's degree from a college or
31 university accredited by a regional association of colleges

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1 and schools recognized by the Department of Education which
2 includes at least 24 semester hours of coursework as approved
3 by the board at an institution accredited by an accrediting
4 agency recognized by the Council for Higher Education
5 ~~Commission on Recognition of Postsecondary~~ Accreditation.

6 (2) The department shall issue a certificate as an
7 audiology assistant to each applicant who the board certifies
8 has:

9 (b) Completed at least 24 semester hours of coursework
10 as approved by the board at an institution accredited by an
11 accrediting agency recognized by the Council for Higher
12 Education ~~Commission on Recognition of Postsecondary~~
13 Accreditation.

14 Section 62. Subsection (3) of section 480.033, Florida
15 Statutes, is amended to read:

16 480.033 Definitions.--As used in this act:

17 (3) "Massage" means the manipulation of the soft
18 ~~superficial~~ tissues of the human body with the hand, foot,
19 arm, or elbow, whether or not such manipulation is aided by
20 hydrotherapy, including colonic irrigation, or thermal
21 therapy; any electrical or mechanical device; or the
22 application to the human body of a chemical or herbal
23 preparation.

24 Section 63. Subsection (3) of section 484.002, Florida
25 Statutes, is amended, and subsection (8) is added to that
26 section, to read:

27 484.002 Definitions.--As used in this part:

28 (3) "Opticianry" means the preparation and dispensing
29 of lenses, spectacles, eyeglasses, contact lenses, and other
30 optical devices to the intended user or agent thereof, upon
31 the written prescription of a licensed allopathic or

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

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

23 (9) "Optical Dispensing" means interpreting but not
24 altering a prescription of a licensed physician or optometrist
25 and designing, adapting, fitting, or replacing the prescribed
26 optical aids, pursuant to such prescription, to or for the
27 intended wearer, duplicating lenses, accurately as to power
28 without a prescription and duplicating nonprescription eyewear
29 and parts of eyewear. "Optical Dispensing" does not include
30 selecting frames, transferring an optical aid to the wearer
31 after an optician has completed fitting it, or providing

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1 instruction in the general care and use of an optical aid,
2 including placement, removal, hygiene, or cleaning.

3 Section 64. Subsection (2) of section 484.006, Florida
4 Statutes, is amended to read:

5 484.006 Certain rules prohibited.--

6 (2) No rule or policy of the board shall prohibit any
7 optician from practicing jointly with optometrists or
8 allopathic or osteopathic physicians ~~medical doctors~~ licensed
9 in this state.

10 Section 65. Subsections (1) and (2) of section
11 484.012, Florida Statutes, are amended to read:

12 484.012 Prescriptions; filing; duplication of
13 prescriptions; duplication of lenses.--

14 (1) Any prescription written by a duly licensed
15 allopathic or osteopathic physician ~~medical doctor~~ or
16 optometrist for any lenses, spectacles, eyeglasses, contact
17 lenses, or other optical devices shall be kept on file for a
18 period of 2 years with the optical establishment that fills
19 such prescription. However, the licensed optician may
20 maintain a copy of the prescription.

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

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1 prescription shall be considered a valid prescription to be
2 filled for a period of 2 years from the date of the original
3 prescription.

4 Section 66. Section 484.013, Florida Statutes, is
5 amended to read:

6 484.013 Violations and penalties.--

7 (1) It is unlawful for any person:

8 (a) To intentionally make a false or fraudulent
9 statement, either for herself or himself or for another
10 person, in any application, affidavit, or statement presented
11 to the board or in any proceeding before the board.

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

15 (c) To prepare or dispense lenses, spectacles,
16 eyeglasses, contact lenses, or other optical devices without
17 first being furnished with a prescription as provided for in
18 s. 484.012.

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

23 (3) It is unlawful for any optician to engage in the
24 diagnosis of the human eyes, attempt to determine the
25 refractive powers of the human eyes, or, in any manner,
26 attempt to prescribe for or treat diseases or ailments of
27 human beings.

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

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1 (5) A ~~Any~~ person who knowingly violates any a
2 provision of this section commits a felony ~~misdemeanor~~ of the
3 third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~
4 s. 775.083, or s. 775.084.

5 Section 67. Section 484.015, Florida Statutes, is
6 amended to read:

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

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

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

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

21 Section 68. Paragraph (g) of subsection (3) of section
22 921.0022, Florida Statutes, is amended to read:

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

25 (3) OFFENSE SEVERITY RANKING CHART

27 Florida	Felony	
28 Statute	Degree	Description

30 (g) LEVEL 7

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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			

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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			

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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.

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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			

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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	827.04(3)	3rd	Impregnation of a child under 16
31			years of age by person 21 years

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1			of age or older.
2	837.05(2)	3rd	Giving false information about
3			alleged capital felony to a law
4			enforcement officer.
5	872.06	2nd	Abuse of a dead human body.
6	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
7			cocaine (or other drug prohibited
8			under s. 893.03(1)(a), (1)(b),
9			(1)(d), (2)(a), (2)(b), or
10			(2)(c)4.) within 1,000 feet of a
11			child care facility or school.
12	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
13			cocaine or other drug prohibited
14			under s. 893.03(1)(a), (1)(b),
15			(1)(d), (2)(a), (2)(b), or
16			(2)(c)4., within 1,000 feet of
17			property used for religious
18			services or a specified business
19			site.
20	893.13(4)(a)	1st	Deliver to minor cocaine (or
21			other s. 893.03(1)(a), (1)(b),
22			(1)(d), (2)(a), (2)(b), or
23			(2)(c)4. drugs).
24	893.135(1)(a)1.	1st	Trafficking in cannabis, more
25			than 50 lbs., less than 2,000
26			lbs.
27	893.135		
28	(1)(b)1.a.	1st	Trafficking in cocaine, more than
29			28 grams, less than 200 grams.
30	893.135		
31	(1)(c)1.a.	1st	Trafficking in illegal drugs,

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1			more than 4 grams, less than 14
2			grams.
3	893.135		
4	(1)(d)1.	1st	Trafficking in phencyclidine,
5			more than 28 grams, less than 200
6			grams.
7	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
8			than 200 grams, less than 5
9			kilograms.
10	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
11			than 14 grams, less than 28
12			grams.
13	893.135		
14	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
15			grams or more, less than 14
16			grams.
17	893.135		
18	(1)(h)1.a.	1st	Trafficking in
19			gamma-hydroxybutyric acid (GHB),
20			1 kilogram or more, less than 5
21			kilograms.
22	893.135		
23	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
24			kilogram or more, less than 5
25			kilograms.
26	893.135		
27	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
28			10 grams or more, less than 200
29			grams.
30	896.101(5)(a)	3rd	Money laundering, financial
31			transactions exceeding \$300 but

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1 less than \$20,000.
2 896.104(4)(a)1. 3rd Structuring transactions to evade
3 reporting or registration
4 requirements, financial
5 transactions exceeding \$300 but
6 less than \$20,000.

7 Section 69. Subsection (1) of section 484.0445,
8 Florida Statutes, is amended to read:

9 484.0445 Training program.--

10 (1) The board shall establish by rule a training
11 program for a minimum not to exceed 6 months in length, which
12 may include a board-approved home study course. ~~Upon~~
13 ~~submitting to the department the registration fee, the~~
14 ~~applicant may register and enter the training program. Upon~~
15 ~~completion of the training program, the trainee shall take the~~
16 ~~first available written and practical examinations offered by~~
17 ~~the department. The department shall administer the written~~
18 ~~and practical examinations as prescribed by board rule. If~~
19 ~~the trainee fails either the written or the practical~~
20 ~~examination, she or he may repeat the training program one~~
21 ~~time and retake the failed examination, provided she or he~~
22 ~~takes the next available examination. No person may remain in~~
23 ~~trainee status or further perform any services authorized for~~
24 ~~a trainee if she or he fails either the written or the~~
25 ~~practical examination twice; but, a trainee may continue to~~
26 ~~function as a trainee until she or he has received the results~~
27 ~~of the examinations. Any applicant who has failed an~~
28 ~~examination twice and is no longer functioning as a trainee~~
29 ~~shall be eligible for reexamination as provided in s.~~
30 ~~484.045(2).~~

31 Section 70. Section 484.045, Florida Statutes, is

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1 amended to read:

2 484.045 Licensure by examination.--

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

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

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

12 (b) Is of good moral character;

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

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

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

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

22 b. Is currently certified by the National Board for
23 Certification in Hearing Instrument Sciences and has been
24 actively practicing for at least 12 months. ~~Persons qualifying~~
25 ~~under this sub-subparagraph need not take the written or~~
26 ~~practical examination, but must take and pass a test on~~
27 ~~Florida laws and rules relating to the fitting and dispensing~~
28 ~~of hearing aids.~~

29 (f) Has passed an examination, as prescribed by board
30 rule; and

31 (g) Has demonstrated, in a manner designated by rule

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1 of the board, knowledge of state laws and rules relating to
2 the fitting and dispensing of hearing aids.

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

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

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

14 Section 71. Effective January 1, 2002, subsection (1)
15 of section 490.012, Florida Statutes, is amended to read:

16 490.012 Violations; penalties; injunction.--

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

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

27 ~~(c)(1)(a) No person shall hold herself or himself out~~
28 ~~by any title or description incorporating the words, or~~
29 ~~permutations of them, "psychologist," "psychology,"~~
30 ~~"psychological," "psychodiagnostic," or "school psychologist,"~~
31 ~~or describe any test or report as psychological, unless such~~

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1 person holds a valid, active license under this chapter or is
2 exempt from the provisions of this chapter.

3 ~~(d)(b)~~ No person shall hold herself or himself out by
4 any title or description incorporating the word, or a
5 permutation of the word, "psychotherapy" unless such person
6 holds a valid, active license under chapter 458, chapter 459,
7 chapter 490, or chapter 491, or such person is certified as an
8 advanced registered nurse practitioner, pursuant to s.
9 464.012, who has been determined by the Board of Nursing as a
10 specialist in psychiatric mental health.

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

15 Section 72. Effective January 1, 2002, Florida
16 Statutes, is amended to read:

17 490.014 Exemptions.--

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

23 (b) No provision of this chapter shall be construed to
24 limit the practice of nursing, clinical social work, marriage
25 and family therapy, mental health counseling, or other
26 recognized businesses or professions, or to prevent qualified
27 members of other professions from doing work of a nature
28 consistent with their training, so long as they do not hold
29 themselves out to the public as psychologists or use a title
30 or description protected by this chapter. Nothing in this
31 subsection shall be construed to exempt any person from the

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1 provisions of s. 490.012.

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

4 (a) Is a salaried employee of a government agency;
5 developmental services program, mental health, alcohol, or
6 drug abuse facility operating pursuant to chapter 393, chapter
7 394, or chapter 397; subsidized child care program, subsidized
8 child care case management program, or child care resource and
9 referral program operating pursuant to chapter 402;
10 child-placing or child-caring agency licensed pursuant to
11 chapter 409; domestic violence center certified pursuant to
12 chapter 39; accredited academic institution; or research
13 institution, if such employee is performing duties for which
14 he or she was trained and hired solely within the confines of
15 such agency, facility, or institution, so long as the employee
16 is not held out to the public as a psychologist pursuant to s.
17 490.012(1)(a).

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

24 (c) Is a student who is pursuing a course of study
25 which leads to a degree in medicine or a profession regulated
26 by this chapter who is providing services in a training
27 setting, provided such activities or services constitute part
28 of a supervised course of study, or is a graduate accumulating
29 the experience required for any licensure under this chapter,
30 provided such graduate or student is designated by a title
31 such as "intern" or "trainee" which clearly indicates the

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1 in-training status of the student.

2 (d) Is certified in school psychology by the
3 Department of Education and is performing psychological
4 services as an employee of a public or private educational
5 institution. Such exemption shall not be construed to
6 authorize any unlicensed practice which is not performed as a
7 direct employee of an educational institution.

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

10 1. Such services are performed for no more than 5 days
11 in any month and no more than 15 days in any calendar year;
12 and

13 2. Such nonresident is licensed or certified by a
14 state or territory of the United States, or by a foreign
15 country or province, the standards of which were, at the date
16 of his or her licensure or certification, equivalent to or
17 higher than the requirements of this chapter in the opinion of
18 the department or, in the case of psychologists, in the
19 opinion of the board.

20 (f) Is a rabbi, priest, minister, or member of the
21 clergy of any religious denomination or sect when engaging in
22 activities which are within the scope of the performance of
23 his or her regular or specialized ministerial duties and for
24 which no separate charge is made, or when such activities are
25 performed, with or without charge, for or under the auspices
26 or sponsorship, individually or in conjunction with others, of
27 an established and legally cognizable church, denomination, or
28 sect, and when the person rendering service remains
29 accountable to the established authority thereof.

30 (3) No provision of this chapter shall be construed to
31 limit the practice of any individual who solely engages in

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1 behavior analysis so long as he or she does not hold himself
2 or herself out to the public as possessing a license issued
3 pursuant to this chapter or use a title or description
4 protected by this chapter.

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

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

11 Section 73. Effective January 1, 2002, paragraphs (i),
12 (j), and (k) of subsection (1) of section 491.012, Florida
13 Statutes, are amended to read:

14 491.012 Violations; penalty; injunction.--

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

17 (i) Practice clinical social work in this state, ~~as~~
18 ~~the practice is defined in s. 491.003(7),~~ for compensation,
19 unless the person holds a valid, active license to practice
20 clinical social work issued pursuant to this chapter or is an
21 intern registered pursuant to s. 491.0045.

22 (j) Practice marriage and family therapy in this
23 state, ~~as the practice is defined in s. 491.003(8),~~ for
24 compensation, unless the person holds a valid, active license
25 to practice marriage and family therapy issued pursuant to
26 this chapter or is an intern registered pursuant to s.
27 491.0045.

28 (k) Practice mental health counseling in this state,
29 ~~as the practice is defined in s. 491.003(9),~~ for compensation,
30 unless the person holds a valid, active license to practice
31 mental health counseling issued pursuant to this chapter or is

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1 an intern registered pursuant to s. 491.0045.

2 Section 74. Effective January 1, 2002, paragraphs (a)
3 and (b) of subsection (4) of section 491.014, Florida
4 Statutes, are amended to read:

5 491.014 Exemptions.--

6 (4) No person shall be required to be licensed,
7 provisionally licensed, registered, or certified under this
8 chapter who:

9 (a) Is a salaried employee of a government agency;
10 developmental services program, mental health, alcohol, or
11 drug abuse facility operating pursuant to chapter 393, chapter
12 394, or chapter 397; subsidized child care program, subsidized
13 child care case management program, or child care resource and
14 referral program operating pursuant to chapter 402;
15 child-placing or child-caring agency licensed pursuant to
16 chapter 409; domestic violence center certified pursuant to
17 chapter 39; accredited academic institution; or research
18 institution, if such employee is performing duties for which
19 he or she was trained and hired solely within the confines of
20 such agency, facility, or institution, so long as the employee
21 is not held out to the public as a clinical social worker,
22 mental health counselor, or marriage and family therapist.

23 (b) Is a salaried employee of a private, nonprofit
24 organization providing counseling services to children, youth,
25 and families, if such services are provided for no charge, if
26 such employee is performing duties for which he or she was
27 trained and hired, so long as the employee is not held out to
28 the public as a clinical social worker, mental health
29 counselor, or marriage and family therapist.

30 Section 75. Subsection (4) of section 458.319, Florida
31 Statutes, is amended to read:

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1 458.319 Renewal of license.--

2 (4) Notwithstanding the provisions of s. 456.033, a
3 physician may complete continuing education on end-of-life
4 care and palliative ~~health~~ care in lieu of continuing
5 education in AIDS/HIV, if that physician has completed the
6 AIDS/HIV continuing education in the immediately preceding
7 biennium.

8 Section 76. Subsection (5) of section 459.008, Florida
9 Statutes, is amended to read:

10 459.008 Renewal of licenses and certificates.--

11 (5) Notwithstanding the provisions of s. 456.033, an
12 osteopathic physician may complete continuing education on
13 end-of-life and palliative ~~health~~ care in lieu of continuing
14 education in AIDS/HIV, if that physician has completed the
15 AIDS/HIV continuing education in the immediately preceding
16 biennium.

17 Section 77. Subsection (4) of section 765.101, Florida
18 Statutes, is amended to read:

19 765.101 Definitions.--As used in this chapter:

20 (4) "End-stage condition" means an irreversible ~~a~~
21 condition that is caused by injury, disease, or illness which
22 has resulted in progressively severe and permanent
23 deterioration, ~~indicated by incapacity and complete physical~~
24 ~~dependency~~ and for which, to a reasonable degree of medical
25 probability ~~certainty~~, treatment of the ~~irreversible~~ condition
26 would be ~~medically~~ ineffective.

27 Section 78. Subsection (4) of section 765.102, Florida
28 Statutes, is amended to read:

29 765.102 Legislative findings and intent.--

30 (4) The Legislature recognizes the need for all health
31 care professionals to rapidly increase their understanding of

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1 end-of-life and palliative ~~health~~ care. Therefore, the
2 Legislature encourages the professional regulatory boards to
3 adopt appropriate standards and guidelines regarding
4 end-of-life care and pain management and encourages
5 educational institutions established to train health care
6 professionals and allied health professionals to implement
7 curricula to train such professionals to provide end-of-life
8 care, including pain management and palliative care.

9 Section 79. Section 765.1025, Florida Statutes, is
10 created to read:

11 765.1025 Palliative care.--For purposes of this
12 chapter:

13 (1) Palliative care is the comprehensive management of
14 the physical, psychological, social, spiritual, and
15 existential needs of patients. Palliative care is especially
16 suited to the care of persons who have incurable, progressive
17 illness.

18 (2) Palliative care must include:

19 (a) An opportunity to discuss and plan for end-of-life
20 care.

21 (b) Assurance that physical and mental suffering will
22 be carefully attended to.

23 (c) Assurance that preferences for withholding and
24 withdrawing life-sustaining interventions will be honored.

25 (d) Assurance that the personal goals of the dying
26 person will be addressed.

27 (e) Assurance that the dignity of the dying person
28 will be a priority.

29 (f) Assurance that health care providers will not
30 abandon the dying person.

31 (g) Assurance that the burden to family and others

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1 will be addressed.

2 (h) Assurance that advance directives for care will be
3 respected regardless of the location of care.

4 (i) Assurance that organizational mechanisms are in
5 place to evaluate the availability and quality of end-of-life,
6 palliative, and hospice care services, including the
7 evaluation of administrative and regulatory barriers.

8 (j) Assurance that necessary health care services will
9 be provided and that relevant reimbursement policies are
10 available.

11 (k) Assurance that the goals expressed in paragraphs
12 (a)-(j) will be accomplished in a culturally appropriate
13 manner.

14 Section 80. Subsection (2) of section 765.1103,
15 Florida Statutes, is amended to read:

16 765.1103 Pain management and palliative care.--

17 (2) Health care providers and practitioners regulated
18 under chapter 458, chapter 459, or chapter 464 must, as
19 appropriate, comply with a request for pain management or
20 palliative care from a patient under their care or, for an
21 incapacitated patient under their care, from a surrogate,
22 proxy, guardian, or other representative permitted to make
23 health care decisions for the incapacitated patient.

24 Facilities regulated under chapter 400 or chapter 395 must
25 comply with the pain management or palliative care measures
26 ordered by the patient's physician.~~When the patient is~~
27 ~~receiving care as an admitted patient of a facility or a~~
28 ~~provider or is a subscriber of a health care facility, health~~
29 ~~care provider, or health care practitioner regulated under~~
30 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~
31 ~~464, or chapter 641, such facility, provider, or practitioner~~

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1 ~~must, when appropriate, comply with a request for pain~~
2 ~~management or palliative care from a capacitated patient or an~~
3 ~~incapacitated patient's health care surrogate or proxy,~~
4 ~~court-appointed guardian as provided in chapter 744, or~~
5 ~~attorney in fact as provided in chapter 709. The~~
6 ~~court-appointed guardian or attorney in fact must have been~~
7 ~~delegated authority to make health care decisions on behalf of~~
8 ~~the patient.~~

9 Section 81. Paragraph (b) of subsection (1) of section
10 765.205, Florida Statutes, is amended to read:

11 765.205 Responsibility of the surrogate.--

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

15 (b) Consult expeditiously with appropriate health care
16 providers to provide informed consent, and make only health
17 care decisions for the principal which he or she believes the
18 principal would have made under the circumstances if the
19 principal were capable of making such decisions. If there is
20 no indication of what the principal would have chosen, the
21 surrogate may consider the patient's best interest in deciding
22 that proposed treatments are to be withheld or that treatments
23 currently in effect are to be withdrawn.

24 Section 82. Subsections (2) and (3) of section
25 765.401, Florida Statutes, are amended to read:

26 765.401 The proxy.--

27 (2) Any health care decision made under this part must
28 be based on the proxy's informed consent and on the decision
29 the proxy reasonably believes the patient would have made
30 under the circumstances. If there is no indication of what the
31 patient would have chosen, the proxy may consider the

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1 patient's best interest in deciding that proposed treatments
2 are to be withheld or that treatments currently in effect are
3 to be withdrawn.

4 (3) Before exercising the incapacitated patient's
5 rights to select or decline health care, the proxy must comply
6 with the provisions of ss. 765.205 and 765.305, except that a
7 proxy's decision to withhold or withdraw life-prolonging
8 procedures must be supported by clear and convincing evidence
9 that the decision would have been the one the patient would
10 have chosen had the patient been competent or, if there is no
11 indication of what the patient would have chosen, that the
12 decision is in the patient's best interest.

13 Section 83. The Legislature finds that the area of
14 physician specialty training is of great importance to the
15 citizens of this state and that specialty training and
16 certification creates a higher level of proficiency for the
17 physician and improves the delivery of health care to
18 Floridians. Because much confusion exists among the patient
19 population and physicians as to the requirements for board
20 certification, the Legislature directs the Department of
21 Health to conduct an interim study of the area of specialty
22 certification for the Board of Medicine and the Board of
23 Osteopathic Medicine. The study should review current Florida
24 Statutes and board rules to determine if any barriers exist in
25 board recognition of certifying and physician-certifying
26 organizations and if restrictions placed on a licensee's
27 speech both target an identifiable harm and mitigate against
28 such harm in a direct and effective manner. A final report
29 shall be provided no later than January 1, 2002, to the
30 President of the Senate and the Speaker of the House of
31 Representatives for distribution to the chairs of the

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1 health-care-related committees.

2 Section 84. Paragraph (d) of subsection (2) of section
3 499.012, Florida Statutes, is amended to read:

4 499.012 Wholesale distribution; definitions; permits;
5 general requirements.--

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

8 (d) A retail pharmacy wholesaler's permit. A retail
9 pharmacy wholesaler is a retail pharmacy engaged in wholesale
10 distribution of prescription drugs within this state under the
11 following conditions:

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

15 2. The wholesale distribution activity does not exceed
16 30 percent of the total annual purchases of prescription
17 drugs. If the wholesale distribution activity exceeds the
18 30-percent maximum, the pharmacy must obtain a prescription
19 drug wholesaler's permit.

20 3. The transfer of prescription drugs that appear in
21 any schedule contained in chapter 893 is subject to chapter
22 893 and the federal Comprehensive Drug Abuse Prevention and
23 Control Act of 1970.

24 4. The transfer is between a retail pharmacy and
25 another retail pharmacy, a Modified Class II institutional
26 pharmacy, or a health care practitioner licensed in this state
27 and authorized by law to dispense or prescribe prescription
28 drugs.

29 5. All records of sales of prescription drugs subject
30 to this section must be maintained separate and distinct from
31 other records and comply with the recordkeeping requirements

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1 of ss. 499.001-499.081.

2 Section 85. The Legislature finds that personal
3 identifying information, name, age, diagnosis, address, bank
4 account numbers, and debit and credit card numbers contained
5 in the records relating to an individual's personal health or
6 eligibility for health-related services made or received by
7 the individual's physician and public or private health
8 facility should be held confidential. Furthermore, the
9 Legislature finds that every person has an expectation of and
10 a right to privacy in all matters concerning her or his
11 personal health when medical services are provided. Matters of
12 personal health are traditionally private and confidential
13 concerns between the patient and the health care provider. The
14 private and confidential nature of personal health matters
15 pervades both the public and private sectors. For these
16 reasons, it is the express intent of the Legislature to
17 protect confidential information and the individual's
18 expectations of the right to privacy in all matters regarding
19 her or his personal health and not to have such information
20 exploited for purposes of solicitation or marketing the sale
21 of goods and services.

22 Section 86. Subsection (5) of section 456.057, Florida
23 Statutes, is amended to read:

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

26 (5)(a) Except as otherwise provided in this section
27 and in s. 440.13(4)(c), such records may not be furnished to,
28 and the medical condition of a patient may not be discussed
29 with, any person other than the patient or the patient's legal
30 representative or other health care practitioners and
31 providers involved in the care or treatment of the patient,

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1 except upon written authorization of the patient. However,
2 such records may be furnished without written authorization
3 under the following circumstances:

4 1.(a) To any person, firm, or corporation that has
5 procured or furnished such examination or treatment with the
6 patient's consent.

7 2.(b) When compulsory physical examination is made
8 pursuant to Rule 1.360, Florida Rules of Civil Procedure, in
9 which case copies of the medical records shall be furnished to
10 both the defendant and the plaintiff.

11 3.(c) In any civil or criminal action, unless
12 otherwise prohibited by law, upon the issuance of a subpoena
13 from a court of competent jurisdiction and proper notice to
14 the patient or the patient's legal representative by the party
15 seeking such records.

16 4.(d) For statistical and scientific research,
17 provided the information is abstracted in such a way as to
18 protect the identity of the patient or provided written
19 permission is received from the patient or the patient's legal
20 representative.

21 (b) Absent a specific written release or authorization
22 permitting utilization of patient information for solicitation
23 or marketing the sale of goods or services, any use of that
24 information for those purposes is prohibited.

25 (14) Licensees in violation of the provisions of this
26 section shall be disciplined by the appropriate licensing
27 authority.

28 (15) The Attorney General is authorized to enforce the
29 provisions of this section for records owners not otherwise
30 licensed by the state, through injunctive relief and fines not
31 to exceed \$5,000 per violation.

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1 Section 87. Subsection (7) of section 395.3025,
2 Florida Statutes is amended to read:

3 395.3025 Patient and personnel records; copies;
4 examination.--

5 (7)(a) If the content of any record of patient
6 treatment is provided under this section, the recipient, if
7 other than the patient or the patient's representative, may
8 use such information only for the purpose provided and may not
9 further disclose any information to any other person or
10 entity, unless expressly permitted by the written consent of
11 the patient. A general authorization for the release of
12 medical information is not sufficient for this purpose. The
13 content of such patient treatment record is confidential and
14 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
15 I of the State Constitution.

16 **(b) Absent a specific written release or authorization**
17 **permitting utilization of patient information for solicitation**
18 **or marketing the sale of goods or services, any use of that**
19 **information for those purposes is prohibited.**

20 Section 88. Subsection (1) of section 400.1415,
21 Florida Statutes, is amended to read:

22 400.1415 Patient records; penalties for alteration.--

23 (1) Any person who fraudulently alters, defaces, or
24 falsifies any medical record or releases medical records for
25 the purposes of solicitation or marketing the sale of goods or
26 services absent a specific written release or authorization
27 permitting utilization of patient information, or other
28 nursing home record, or causes or procures any of these
29 offenses to be committed, commits a misdemeanor of the second
30 degree, punishable as provided in s. 775.082 or s. 775.083.

31 Section 89. Section 626.9651, Florida Statutes, is

1 created to read:

2 626.9651 Privacy.--The department shall adopt rules
3 consistent with other provisions of the Florida Insurance Code
4 to govern the use of a consumer's nonpublic personal financial
5 and health information. These rules must be based on,
6 consistent with, and not more restrictive than the Privacy of
7 Consumer Financial and Health Information Regulation, adopted
8 September 26, 2000, by the National Association of Insurance
9 Commissioners; however, the rules must permit the use and
10 disclosure of nonpublic personal health information for
11 scientific, medical, or public policy research, in accordance
12 with federal law. In addition, these rules must be consistent
13 with, and not more restrictive than, the standards contained
14 in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No.
15 106-102. If the department determines that a health insurer or
16 health maintenance organization is in compliance with, or is
17 actively undertaking compliance with, the consumer privacy
18 protection rules adopted by the United States Department of
19 Health and Human Services, in conformance with the Health
20 Insurance Portability and Affordability Act, that health
21 insurer or health maintenance organization is in compliance
22 with this section.

23 Section 90. Except as otherwise provided herein, this
24 act shall take effect July 1, 2001.

25
26

27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 1, lines 2 through 10,
30 remove from the title of the bill: all of said lines

31

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1 and insert in lieu thereof:

2 An act relating to health care regulation;
3 amending s. 456.003, F.S.; providing a
4 limitation on the duties of certain boards;
5 providing for the Agency for Health Care
6 Administration to create the Organ Transplant
7 Task Force to study organ transplantation
8 programs; requiring the task force to study and
9 make recommendations on the necessity of the
10 issuance of certificates of need for such
11 programs and funding for organ transplantation;
12 providing a date for the task force to report
13 to the Governor and the Legislature; amending
14 409.9205, F.S.; transferring positions in the
15 Medicaid Fraud Control Unit of the Department
16 of Legal Affairs to Career Services; amending
17 s. 483.245, F.S.; prohibiting rebate or
18 split-fee arrangements with dialysis facilities
19 for patient referrals to clinical laboratories;
20 providing penalties; amending s. 232.435, F.S.;
21 providing training requirements for a first
22 responder and teacher athletic trainer;
23 amending s. 383.14, F.S.; amending screening
24 requirements for postnatal screening; amending
25 s. 395.0197, F.S.; revising provisions relating
26 to hospital and ambulatory surgical center
27 internal risk management programs; modifying
28 requirements for risk management and prevention
29 education and training; restricting
30 participation of unlicensed persons in surgical
31 procedures; requiring ongoing evaluation of

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1 surgical procedures and protocols; eliminating
2 an annual report summarizing facility incident
3 reports and disciplinary actions; requiring the
4 Agency for Health Care Administration to
5 publish website summaries of adverse incident
6 reports; requiring facility reporting of
7 allegations of sexual misconduct by health care
8 practitioners; providing certain civil
9 liability for licensed risk managers;
10 prohibiting intimidation of a risk manager;
11 providing a penalty; amending s. 395.10972,
12 F.S.; increasing membership on the Health Care
13 Risk Management Advisory Council; amending s.
14 395.701, F.S.; limiting the financial
15 information the agency may require to determine
16 the amount of hospital annual assessments;
17 amending s. 409.905, F.S.; providing that the
18 Agency for Health Care Administration may
19 restrict the provision of mandatory services by
20 mobile providers; amending s. 409.906, F.S.;
21 providing that the agency may restrict or
22 prohibit the provision of services by mobile
23 providers; providing that Medicaid will not
24 provide reimbursement for dental services
25 provided in mobile dental units, except for
26 certain units; amending s. 456.013, F.S.;
27 providing a professional continuing education
28 requirement relating to prevention of medical
29 errors; amending s. 456.057, F.S.; providing
30 for appointment of a records custodian under
31 certain circumstances; amending s. 456.063,

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1 F.S.; requiring licensed health care
2 practitioners to report to the Department of
3 Health any allegations of sexual misconduct;
4 amending s. 456.072, F.S.; providing additional
5 grounds for disciplinary actions; clarifying a
6 penalty involving restriction of professional
7 practice or license; providing additional
8 penalties; requiring assessment of costs
9 related to investigation and prosecution;
10 amending s. 456.073, F.S.; requiring the
11 Department of Health to notify the patient or
12 legal representative of the status of a
13 disciplinary case; requiring the department to
14 provide certain information to the complainant;
15 providing time limitations on the filing of
16 administrative complaints against licensees of
17 the department; amending s. 456.074, F.S.;
18 providing for an emergency order suspending the
19 license of any practitioner for fraud; amending
20 s. 456.077, F.S.; specifying violations for
21 which the Department of Health or a regulatory
22 board may issue citations; amending s. 456.081,
23 F.S.; requiring the Department of Health and
24 regulatory boards to maintain a website
25 containing specified information; creating s.
26 458.3147, F.S.; providing automatic eligibility
27 for admission to any medical school in the
28 State University System for military academy
29 students or graduates who qualify for the
30 Medical Corps of the United States military;
31 providing for waiver or refund of application

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1 fees; amending ss. 458.331 and 459.015, F.S.;
2 conforming language and cross references to
3 changes made by the act; amending s. 641.51,
4 F.S.; revising adverse determination
5 provisions; amending ss. 465.019 and 465.0196,
6 F.S.; requiring institutional pharmacies and
7 special pharmacy permittees that use pharmacy
8 technicians to have a written policy and
9 procedures manual; directing the Department of
10 Health and the Agency for Health Care
11 Administration to review health care
12 practitioner and facility reporting
13 requirements; requiring a report to the
14 Legislature; amending s. 468.1755, F.S.;
15 providing an additional ground for disciplinary
16 action against a nursing home administrator;
17 reenacting ss. 468.1695(3) and 468.1735, F.S.,
18 to incorporate said amendment in references;
19 reenacting s. 484.056(1)(a), F.S., relating to
20 disciplinary action against hearing aid
21 specialists, to incorporate the amendment to s.
22 456.072(1), in a reference; amending s.
23 766.101, F.S.; providing that a continuous
24 quality improvement committee of a licensed
25 pharmacy is a medical review committee for
26 purposes of immunity from liability, and
27 reenacting ss. 440.105(1)(a) and 626.989(6),
28 F.S., to incorporate said amendment in
29 references; creating s. 627.6474, F.S.;
30 prohibiting health insurers from requiring
31 certain contracted health care practitioners to

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1 accept the terms of other health care
2 contracts as a condition of continuation or
3 renewal; providing exceptions; amending s.
4 627.662, F.S.; applying this prohibition to
5 group health insurance, blanket health
6 insurance, and franchise health insurance;
7 amending s. 641.315, F.S.; applying this
8 prohibition to health maintenance
9 organizations; amending s. 766.1115, F.S.;
10 conforming language and cross references to
11 changes made by the act; amending s. 456.047,
12 F.S.; providing intent; revising and providing
13 definitions; revising duties of the Department
14 of Health relating to file maintenance;
15 providing that primary source data verified by
16 the department or its designee may be relied
17 upon to meet accreditation purposes; amending
18 s. 232.61, F.S.; requiring the Florida High
19 School Activities Association to adopt bylaws
20 which require students participating in
21 interscholastic athletic competition or who are
22 candidates for an interscholastic athletic team
23 to satisfactorily pass a medical evaluation
24 prior to participating in interscholastic
25 athletic competition or engaging in practice
26 with an interscholastic athletic team;
27 providing requirements with respect to such
28 evaluation; amending s. 240.4075, F.S.;
29 transferring the Nursing Student Loan
30 Forgiveness Program from the Department of
31 Education to the Department of Health;

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

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1 process; creating s. 464.0195, F.S.; creating
2 the Florida Center for Nursing and providing
3 its goals; creating s. 464.0196, F.S.;
4 providing for a board of directors; providing
5 for appointment of board members; providing for
6 staggered terms; providing powers and duties;
7 authorizing per diem and travel expenses;
8 creating s. 464.0197, F.S.; declaring state
9 budget support for the center; prohibiting the
10 Board of Nursing from developing any rule
11 relating to faculty/student clinical ratios
12 until a specified time; requiring the Board of
13 Nursing and the Department of Education to
14 submit to the Legislature an implementation
15 plan detailing the impact and cost of any such
16 proposed rule change; amending s. 464.0205,
17 F.S.; deleting the application and processing
18 fee for applicants for a retired volunteer
19 nurse certificate; requiring study by Office of
20 Program Policy Analysis and Government
21 Accountability of the feasibility of
22 maintaining all of Medical Quality Assurance in
23 one state agency; creating s. 456.0375, F.S.;
24 requiring registration of certain clinics;
25 providing requirements, including fees;
26 providing rulemaking authority; requiring
27 medical directors or clinic directors for such
28 clinics and providing their duties and
29 responsibilities; providing an appropriation;
30 amending s. 456.031, F.S.; providing an
31 alternative by which licensees under ch. 466,

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1 F.S., relating to dentistry, may comply with a
2 general requirement that they take
3 domestic-violence education courses; amending
4 s. 456.033, F.S.; providing an alternative by
5 which such licensees may comply with a general
6 requirement that they take AIDS/HIV education
7 courses; amending s. 627.419, F.S.; providing
8 for appeals from certain adverse determinations
9 relating to dental service claims; providing
10 applicability; amending s. 468.302, F.S.;
11 revising a provision relating to exemption from
12 certification to use radiation on human beings;
13 amending ss. 468.352, 468.355, 468.357,
14 468.358, and 468.359, F.S.; revising
15 definitions and provisions relating to
16 licensure and use of titles and abbreviations
17 to correct and conform terminology with respect
18 to respiratory therapists and respiratory care
19 practitioners; amending ss. 468.1155 and
20 468.1215, F.S.; revising requirements for
21 licensure to practice speech-language pathology
22 or audiology and for certification of
23 speech-language pathology or audiology
24 assistants; amending s. 480.033, F.S.;
25 correcting terminology in the definition of
26 "massage"; amending s. 484.002, F.S.; amending
27 and creating definitions; amending ss. 484.002,
28 484.006, 484.012, F.S.; replacing references to
29 the term "medical doctor" with the term
30 "allopathic or osteopathic physician"; amending
31 s. 484.013, F.S.; revising provisions

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1 prescribing violations and penalties applicable
2 to the practice of opticianry; amending s.
3 484.015, F.S.; revising inspection authority;
4 amending s. 921.0022, F.S., relating to the
5 Criminal Punishment Code; providing an offense
6 severity ranking for the offense of practicing
7 opticianry without a license; amending s.
8 484.0445, F.S.; removing certain provisions
9 relating to the training program for hearing
10 aid specialists; amending s. 484.045, F.S.;
11 revising requirements for licensure as a
12 hearing aid specialist by examination; amending
13 s. 490.012, F.S.; prohibiting the use of
14 certain titles or descriptions relating to the
15 practice of psychology or school psychology
16 unless properly licensed; providing penalties;
17 amending s. 490.014, F.S.; revising exemptions
18 from regulation under ch. 490, F.S., relating
19 to psychology; correcting a cross reference;
20 amending s. 491.012, F.S.; revising
21 prohibitions against unlicensed practice of
22 clinical social work, marriage and family
23 therapy, and mental health counseling to
24 provide that practice by registered interns is
25 lawful; amending s. 491.014, F.S.; revising
26 exemptions from licensure under ch. 491, F.S.,
27 relating to clinical, counseling, and
28 psychotherapy services, to prohibit the use by
29 certain employees of titles, names, or
30 descriptions protected by the chapter; amending
31 ss. 458.319, 459.008, and 765.102, F.S.;

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1 conforming terminology relating to palliative
2 care; amending s. 765.101, F.S.; redefining the
3 term "end-stage condition" with respect to
4 health care advance directives; creating s.
5 765.1025, F.S.; prescribing the content and
6 suitability of palliative care; amending s.
7 765.1103, F.S.; revising provisions relating to
8 compliance with requests for pain management
9 and palliative care; amending s. 765.205, F.S.;
10 prescribing the standards of decisionmaking to
11 be used in certain circumstances by health care
12 surrogates, persons who have durable powers of
13 attorney for health care, and proxy
14 decisionmakers; amending s. 765.401, F.S.;
15 prescribing the standards of decisionmaking to
16 be used in certain circumstances by proxy
17 decisionmakers; requiring the Department of
18 Health to conduct an interim study on specialty
19 certification and provide a report to the
20 Legislature; amending s. 499.012, F.S.;
21 authorizing transfer of prescription drugs
22 between a retail pharmacy and a Modified Class
23 II institutional pharmacy under a retail
24 pharmacy wholesaler's permit; providing
25 legislative intent; amending ss. 395.3025,
26 400.1415, and 456.057, F.S.; prohibiting the
27 use of a patient's medical records for purposes
28 of solicitation and marketing absent a specific
29 written release or authorization; providing
30 penalties; creating s. 626.9651, F.S.;
31 requiring the Department of Insurance to adopt

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rules governing the use of a consumer's
nonpublic personal financial and health
information; providing standards for the rules;
providing effective dates.