

1                                   A bill to be entitled  
2           An act relating to health care; providing for  
3           specified licensing boards to adopt rules  
4           governing the prescribing of controlled  
5           substances in emergency department settings;  
6           requiring certain health care providers to  
7           complete education courses relating to the  
8           prescription and pharmacology of controlled  
9           substances; providing penalties; providing for  
10          the emergency suspension of certain licenses  
11          for prescribing violations; requiring law  
12          enforcement agencies, the Department of Health,  
13          the Medical Examiners Commission within the  
14          Department of Law Enforcement, the statewide  
15          prosecutor, and state attorneys to share  
16          certain information regarding health care  
17          practitioners; requiring a study and a report;  
18          requiring the Department of Health, Bureau of  
19          Pharmacy Services, to establish an electronic  
20          system to monitor the prescribing of certain  
21          controlled substances; establishing an advisory  
22          council and providing for its membership,  
23          duties, staff, and compensation; amending s.  
24          456.033, F.S.; eliminating certain requirements  
25          for HIV and AIDS education courses; repealing  
26          ss. 458.319(4) and 459.008(5), F.S., relating  
27          to continuing education requirements for  
28          renewal of licensure by physicians and  
29          osteopathic physicians, to conform; amending s.  
30          456.072, F.S.; revising disciplinary penalties  
31          applicable to health care practitioners;

1 reenacting ss. 456.082(2), 457.109(1) and (2),  
2 458.331(1) and (2), 458.347(7)(g), 459.015(1)  
3 and (2), 459.022(7)(f), 460.413(1) and (2),  
4 461.013(1) and (2), 462.14(1) and (2),  
5 463.016(1) and (2), 464.018(1) and (2),  
6 465.016(1) and (2), 466.028(1) and (2),  
7 467.203(1) and (2), 468.1295(1) and (2),  
8 468.1755(1) and (2), 468.217(1) and (2),  
9 468.365(1) and (2), 468.518(1) and (2),  
10 468.719, 468.811, 478.52(1) and (2), 480.046(1)  
11 and (2), 483.825(1) and (2), 483.901(6)(g) and  
12 (h), 484.014(1) and (2), 484.056(1) and (2)(a),  
13 486.125(1) and (2), 490.009, and 491.009, F.S.,  
14 relating to grounds for disciplinary action  
15 applicable to persons involved in health care  
16 practice, including acupuncture, medical  
17 practice, osteopathic medicine, chiropractic  
18 medicine, podiatric medicine, naturopathy,  
19 optometry, nursing, pharmacy, dentistry,  
20 midwifery, speech-language pathology and  
21 audiology, nursing home administration,  
22 occupational therapy, respiratory therapy,  
23 dietetics and nutrition practice, athletic  
24 trainers, orthotics, prosthetics, and  
25 pedorthics, electrolysis, massage practice,  
26 clinical laboratory personnel, medical  
27 physicists, dispensing of optical devices and  
28 hearing aids, physical therapy practice,  
29 psychological services, and clinical,  
30 counseling, and psychotherapy services, to  
31 incorporate the amendment to s. 456.072, F.S.,

1 in references thereto; amending s. 458.345,  
2 F.S.; requiring certain resident physicians,  
3 interns, and fellows to complete an educational  
4 course in the prescribing and pharmacology of  
5 controlled substances; amending s. 461.013,  
6 F.S.; prohibiting the presigning of blank  
7 prescription forms and providing penalties;  
8 amending s. 893.04, F.S.; providing additional  
9 requirements for pharmacists regarding the  
10 identification of persons to whom controlled  
11 substances are dispensed; prohibiting certain  
12 prescribing practitioners from possessing,  
13 administering, dispensing, or prescribing  
14 controlled substances; creating s. 893.065,  
15 F.S.; providing for a voluntary program for  
16 counterfeit-resistant prescription documents;  
17 providing program requirements and rulemaking  
18 authority; providing an effective date.

19

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

21

22 Section 1. Physicians; rules establishing prescribing  
23 guidelines.--To minimize the diversion and resultant abuse of  
24 controlled substances, the Board of Medicine and the Board of  
25 Osteopathic Medicine shall adopt rules pursuant to ss.  
26 120.536(1) and 120.574, Florida Statutes, to establish  
27 guidelines for prescribing controlled substances to patients  
28 in emergency department settings. Such guidelines must allow  
29 physicians to provide legitimate medical treatment of acute  
30 and chronic pain and require them to recognize and prevent  
31 abuse of pain medications prescribed in emergency department

1 settings. The guidelines must also consider requirements of  
2 state and federal law and of the Joint Commission on  
3 Accreditation of Healthcare Organizations. Each board shall  
4 consult with the Florida College of Emergency Physicians in  
5 developing these guidelines.

6 Section 2. Instruction required for certain licensees  
7 in prescribing and pharmacology.--

8 (1) The appropriate professional licensing board shall  
9 require each person licensed under chapter 458, chapter 459,  
10 chapter 461, chapter 462, or chapter 466, Florida Statutes, to  
11 complete a 1-hour educational course, approved by the board,  
12 on appropriate prescribing and pharmacology of controlled  
13 substances, as part of the licensee's initial license renewal  
14 after January 1, 2003. The course shall provide education in  
15 the state and federal laws and rules governing the prescribing  
16 and dispensing of controlled substances; in appropriate  
17 evaluation of patients for any risk of drug diversion and the  
18 resulting abuse of controlled substances; in the use of  
19 informed consent and other protocols, such as discussing the  
20 risks and benefits of using controlled substances with  
21 patients to prevent drug diversion; in the need to keep  
22 accurate and complete medical records to justify treatment  
23 with controlled substances; in addiction and substance abuse  
24 issues with respect to patients; in the appropriate use of  
25 recognized pain management guidelines; and in the need for  
26 consultation and referral of patients who are at risk for  
27 misuse of medication or diversion of controlled substances,  
28 when appropriate.

29 (2) The board may approve additional equivalent  
30 courses that satisfy the requirements of subsection (1). Each  
31 licensing board that requires a licensee to complete an

1 educational course pursuant to this section shall include the  
2 hours required to complete the course in the total required  
3 continuing educational requirements.

4 (3) Any person who holds two or more licenses subject  
5 to this section may satisfy the requirements of this section  
6 by taking only one such board-approved course for relicensure  
7 of all such licenses.

8 (4) A licensee who fails to comply with this section  
9 is subject to disciplinary action under each respective  
10 practice act and s. 456.072(1)(k), Florida Statutes. In  
11 addition to disciplinary action by the board, the licensee  
12 must complete the course or forfeit the privilege to prescribe  
13 or dispense controlled substances not later than 1 year after  
14 first notice of disciplinary action under this subsection.

15 (5) The board shall require, as a condition of  
16 granting a license under the chapter specified in subsection  
17 (1), that an applicant for initial licensure complete an  
18 educational course set forth in subsection (1). An applicant  
19 who has not taken a course at the time of licensure shall be  
20 allowed 6 months within which to complete this requirement.

21 (6) The board may adopt rules pursuant to ss.  
22 120.536(1) and 120.574, Florida Statutes, necessary to  
23 administer this section.

24 Section 3. Emergency suspension orders; controlled  
25 substances.--Upon receipt of sufficient evidence from any  
26 agency authorized to enforce chapter 893, Florida Statutes,  
27 regarding a violation of s. 458.331(1)(q), (r), or (aa), s.  
28 459.015(1)(t), (u), or (ee), s. 461.013(1)(o), (p), or (cc),  
29 s. 462.14(1)(q), (r), or (aa), s. 464.018(1)(i), s.  
30 465.016(1)(e) or (i), s. 466.028(1)(p), (q), (r), or (dd), or  
31 of chapter 893, Florida Statutes, by a licensed health care

1 practitioner who is authorized to prescribe, dispense, or  
2 administer controlled substances, the Department of Health  
3 shall review the case and, if there is reason to believe that  
4 the practitioner is a danger to the public health, safety, or  
5 welfare as set forth in s. 120.60(6), Florida Statutes, shall  
6 recommend the suspension or restriction of the practitioner's  
7 license to the Secretary of Health within 10 working days  
8 after receiving such evidence. If a sufficient basis is found  
9 to exist, the Secretary of Health shall suspend or restrict  
10 the license of the practitioner in accordance with s.  
11 120.60(6), Florida Statutes.

12 Section 4. Sharing of arrest, formal charging, and  
13 other information regarding health care practitioners.--

14 (1) In order to facilitate the efficiency of the  
15 Department of Health's investigation of applicable violations  
16 involving the diversion of controlled substances by health  
17 care practitioners, or other violations of criminal law that  
18 may adversely affect a practitioner's licensed practice, any  
19 law enforcement agency that arrests a person known or  
20 suspected to be a health care practitioner licensed by the  
21 state shall promptly notify the Department of Health and  
22 provide it with:

23 (a) Notice of the arrest, including the name of the  
24 arresting agency and lead investigator, detective, or officer  
25 in the case.

26 (b) The name of the person charged.

27 (c) All known personal identifying information related  
28 to the person arrested.

29 (d) The date of the arrest.

30 (e) The charges for which the person is arrested.

31 (f) The agency case number assigned to the arrest.

1       (g) The arrest report, investigative report, or  
2 statement of the allegations supporting the arrest.

3       (2) A state attorney or the statewide prosecutor, upon  
4 the filing of an indictment or information against a person  
5 known or suspected to be a health care practitioner licensed  
6 by the state, shall forward a copy of the indictment or  
7 information to the Department of Health.

8       (3) The Medical Examiners Commission within the  
9 Department of Law Enforcement shall report to the Department  
10 of Health quarterly any information in its possession  
11 regarding the deaths of persons who had lethal levels of  
12 controlled substances in their bodies as such information has  
13 been reported to the commission by the medical examiners  
14 within the state.

15       (4) Upon receipt of arrest information from a law  
16 enforcement agency or notice of formal charging by a  
17 prosecuting entity, the Department of Health or the board  
18 having regulatory authority over the practitioner shall  
19 investigate any information received and determine whether it  
20 has reasonable grounds to believe that the practitioner has  
21 violated any law or rule relating to the practitioner's  
22 practice and shall take appropriate licensure action as  
23 provided by law or rule. If the Department of Health receives  
24 information pursuant to this section which suggests that the  
25 person arrested or charged is also licensed by the state in  
26 another field or profession, the Department of Health shall  
27 forward such information to the appropriate licensing entity  
28 for review and appropriate licensure action as provided by law  
29 or rule.

30       (5) To help the Department of Health and regulatory  
31 boards control the diversion and resultant abuse of controlled

1 substances, the Department of Health and the Department of Law  
2 Enforcement shall study the feasibility of expanding the  
3 electronic exchange of information to facilitate the transfer  
4 to the Department of Health of criminal history information  
5 involving licensed health care practitioners who are  
6 authorized to prescribe, administer, or dispense controlled  
7 substances. The study must address whether the collection and  
8 retention of fingerprint information concerning licensed  
9 health care practitioners subject to the provisions of ss.  
10 456.039-456.046, Florida Statutes, and related provisions is  
11 advisable as a means of better regulating such practitioners  
12 and guarding against abuse of the privileges of such licensure  
13 with respect to controlling the diversion and resultant abuse  
14 of controlled substances. The Department of Law Enforcement  
15 shall investigate the feasibility of the electronic  
16 transmission of information from medical examiners within this  
17 state to the Department of Health regarding autopsies and  
18 other public reports that attribute death to controlled  
19 substance abuse. The Department of Law Enforcement, in  
20 consultation with the Department of Health, must submit a  
21 report of its findings to the President of the Senate and the  
22 Speaker of the House of Representatives by November 1, 2002.

23 Section 5. Electronic monitoring system for  
24 prescriptions.--

25 (1) By July 1, 2003, the Department of Health, Bureau  
26 of Pharmacy Services, shall design and establish an electronic  
27 system consistent with the standards of the National Council  
28 of Prescription Drug Programs (NCPDP) or the American Society  
29 for Automation in Pharmacy (ASAP) to monitor the prescribing  
30 of Schedule II controlled substances, other drugs designated  
31 by the Department of Health, Bureau of Pharmacy Services, by



1 rule under this section, and codeine, hydrocodone,  
2 dihydrocodeine, ethylmorphine, and morphine, as scheduled in  
3 Schedules II and III, by health care practitioners within the  
4 state or the dispensing of such controlled substances or drugs  
5 to an address within the state by a pharmacy permitted or  
6 registered by the Board of Pharmacy.

7 (2) All Schedule II controlled substances; codeine,  
8 hydrocodone, dihydrocodeine, ethylmorphine, and morphine, as  
9 scheduled in Schedules II and III; and any other drug  
10 designated by the Department of Health, Bureau of Pharmacy  
11 Services, under this section shall be included in the  
12 electronic prescription-monitoring system. Based upon  
13 recommendations of the Attorney General, the Department of  
14 Health, Bureau of Pharmacy Services, may, by rule, designate  
15 any other drug for inclusion in such system after making a  
16 determination that the drug is a drug of abuse. The Department  
17 of Health, Bureau of Pharmacy Services, must consider the  
18 recommendations of the prescription-monitoring program  
19 advisory council created by this section before designating a  
20 drug of abuse for inclusion in the electronic  
21 prescription-monitoring system and only after the bureau  
22 determines that the current level of regulation over the  
23 prescribing and dispensing of such drug is inadequate and that  
24 the drug has a high potential for abuse or is being  
25 excessively misused, abused, or diverted into illicit drug  
26 trafficking.

27 (3) Beginning September 1, 2002, or later as provided  
28 under subsection (7), information must be timely reported to  
29 the Department of Health, Bureau of Pharmacy Services, each  
30 time:

31 (a) A Schedule II controlled substance is dispensed;

1       (b) A drug that is designated by the Department of  
2 Health, Bureau of Pharmacy Services, under subsection (2) is  
3 dispensed; or

4       (c) Codeine, hydrocodone, dihydrocodeine,  
5 ethylmorphine, or morphine, as scheduled in Schedules II and  
6 III is dispensed.

7       (4) This section does not apply to controlled  
8 substances or drugs:

9       (a) Ordered from an institutional pharmacy licensed  
10 under s. 465.019(2), Florida Statutes, in accordance with the  
11 institutional policy for such controlled substances or drugs;  
12 or

13       (b) Administered by a health care practitioner to a  
14 patient or resident receiving care from a hospital, nursing  
15 home, assisted living facility, home health agency, hospice,  
16 or intermediate care facility for the developmentally disabled  
17 which is licensed in this state.

18       (5) The information required under this section  
19 includes:

20       (a) The identity of the patient and of the individual  
21 obtaining the controlled substance or drug dispensed for that  
22 patient, including their full names and the driver's license  
23 number or other suitable identification number obtained  
24 pursuant to s. 893.04(1)(h) of the individual obtaining the  
25 controlled substance or drug.

26       (b) The address of the patient, including state and  
27 zip code.

28       (c) The national drug code number of the controlled  
29 substance or drug dispensed.

30       (d) The date that the controlled substance or drug is  
31 dispensed.

1       (e) The quantity of controlled substance or drug  
2 dispensed.

3       (f) The dispenser's National Association of Boards of  
4 Pharmacy (NABP) number.

5       (g) The prescribing practitioner's United States Drug  
6 Enforcement Administration number.

7       (6) The information must be reported within 30 days  
8 after the date the controlled substance or drug is dispensed.

9       (7) A dispenser must transmit the information required  
10 by this section in an electronic format approved by rule of  
11 the Board of Pharmacy after consultation with the advisory  
12 council and the Department of Health, Bureau of Pharmacy  
13 Services, unless a specific waiver is granted to that  
14 dispenser by the Department of Health, Bureau of Pharmacy  
15 Services. The Department of Health, Bureau of Pharmacy  
16 Services, may provide for alternative transmission such as  
17 copies of standard claim forms for circumstances justified by  
18 the dispenser's small size or volume. The Department of  
19 Health, Bureau of Pharmacy Services, shall notify each  
20 dispenser of the approved format on or before August 1, 2002.  
21 If practical, the approved format shall be compatible with  
22 claim forms and other reporting forms commonly used by  
23 dispensers, including common electronic versions. In no event  
24 shall a dispenser be required to meet the reporting  
25 requirements of this section earlier than 30 days after  
26 notification of the approved format. The approved format, as  
27 well as rules governing reporting, shall make reasonable  
28 allowance for transmission in commonly used electronic formats  
29 that are convertible into an electronic format used in the  
30 electronic prescription-monitoring system established under  
31 this section. The information transmitted may be maintained by

1 any department receiving it for up to 12 months. Such  
2 information must be purged from each department's records 12  
3 months after receipt, provided that any department receiving  
4 such information may maintain it longer than 12 months if the  
5 information is pertinent to an ongoing investigation arising  
6 under this act.

7 (8) The Department of Health, Bureau of Pharmacy  
8 Services, shall establish a 14-member prescription-monitoring  
9 program advisory council to assist it in identifying drugs of  
10 abuse for inclusion in the electronic prescription-monitoring  
11 system and in implementing the electronic  
12 prescription-monitoring system.

13 (a) The Governor shall appoint members to serve on the  
14 advisory council. The members of the council shall include the  
15 Attorney General or his or her designee, who shall serve as  
16 the chair; the Secretary of Health or his or her designee; the  
17 executive director of the Department of Law Enforcement or his  
18 or her designee; the director of the Office of Drug Control  
19 within the Executive Office of Governor or his or her  
20 designee; a physician who is licensed in this state under  
21 chapter 458, Florida Statutes, who is recommended by the  
22 Florida Medical Association; a physician who is licensed in  
23 this state under chapter 458 or chapter 459, Florida Statutes,  
24 who is recommended by the Florida Academy of Pain Medicine; a  
25 physician who is licensed in this state under chapter 459,  
26 Florida Statutes, who is recommended by the Florida  
27 Osteopathic Medical Association; a podiatric physician who is  
28 licensed in this state under chapter 461, Florida Statutes,  
29 who is recommended by the Florida Podiatric Medical  
30 Association; a pharmacist who is licensed in this state under  
31 chapter 465, Florida Statutes, who is recommended by the

1 Florida Pharmacy Association; a pharmacist who is licensed in  
2 this state under chapter 465, Florida Statutes, who is  
3 recommended by the Florida Retail Federation; a pharmacist who  
4 is licensed in this state under chapter 465, Florida Statutes,  
5 who is recommended by the National Community Pharmacy  
6 Association; a dentist who is licensed in this state under  
7 chapter 466, Florida Statutes, who is recommended by the  
8 Florida Dental Association; a veterinarian who is licensed in  
9 this state under chapter 474, Florida Statutes, who is  
10 recommended by the Florida Veterinary Medical Association; and  
11 a prosecutor who has expertise in the criminal prosecution of  
12 drug diversion cases.

13 (b) The advisory council members shall meet no more  
14 often than quarterly at the call of the chair and shall serve  
15 without compensation. However, such members may receive  
16 reimbursement, as provided in s. 112.061, Florida Statutes,  
17 for per diem and travel expenses incurred in the performance  
18 of their official duties.

19 (c) The Department of Health, Bureau of Pharmacy  
20 Services, shall provide staff and other administrative  
21 assistance that is reasonably necessary to assist the advisory  
22 council in carrying out its responsibilities.

23 (9) The Department of Health, Bureau of Pharmacy  
24 Services, shall use the electronic prescription-monitoring  
25 system established under this section for the principal  
26 purpose of reasonably monitoring prescription practices of  
27 licensed health care practitioners. Effort shall be made to  
28 identify licensees and individuals obtaining controlled  
29 substances or drugs of abuse who may be involved, knowingly or  
30 unknowingly, in fraudulent or illegal practices relating to  
31 the use, distribution, or prescribing of controlled substances

1 or drugs of abuse. Cases may be referred to the appropriate  
2 licensing board for investigation, if, after consultation with  
3 a physician or dentist licensed under chapter 458, chapter  
4 459, chapter 461, or chapter 466, the consulting physician or  
5 dentist and legal counsel for the Department of Health  
6 determine that reasonable cause exists to believe that the  
7 licensee has engaged in fraudulent or illegal activity. If the  
8 licensee subject to referral holds a license under chapter  
9 458, chapter 459, chapter 461, or chapter 466, the consulting  
10 physician or dentist must hold the same license under the same  
11 chapter as such licensee. In addition, cases may be referred  
12 to an appropriate law enforcement agency for investigation.  
13 Unless there is a reasonable suspicion that a patient has  
14 violated the law, the electronic prescription-monitoring  
15 system may not be used as a means of monitoring prescription  
16 drug use by patients identified by data contained in the  
17 system. Information in the possession of any law enforcement  
18 agency which was obtained from the electronic  
19 prescription-monitoring system but not used as evidence in a  
20 judicial proceeding shall be destroyed when the  
21 confidentiality of the information ceases to be protected as  
22 active criminal investigation information, unless a court  
23 order is obtained, based upon good cause shown, permitting  
24 retention, specifying the period of retention and the  
25 authorized use of the information, and respecting the privacy  
26 interests of individuals affected. Information contained in  
27 the electronic prescription-monitoring system may be provided  
28 to licensed health care practitioners for the purpose of  
29 providing diagnostic or treatment services to the individual  
30 patient or consumer identified by the information.  
31

1       (10) The Department of Health, Bureau of Pharmacy  
2 Services, shall adopt rules pursuant to ss. 120.536(1) and  
3 120.574, Florida Statutes, necessary to administer this  
4 section.

5       (11) The Department of Health, Bureau of Pharmacy  
6 Services, shall submit to the Governor, the President of the  
7 Senate, and the Speaker of the House of Representatives:

8       (a) By March 1, 2003, an initial progress report on  
9 the electronic prescription-monitoring system established  
10 under this section.

11       (b) By September 1 of each year, for 5 years beginning  
12 with 2003, an annual report on the effect of the electronic  
13 prescription-monitoring system established under this section.

14       Section 6. Subsections (1) and (9) of section 456.033,  
15 Florida Statutes, are amended to read:

16       456.033 Requirement for instruction for certain  
17 licensees on HIV and AIDS.--

18       (1) The appropriate board shall require each person  
19 licensed or certified under chapter 457; ~~chapter 458; chapter~~  
20 ~~459;~~chapter 460; ~~chapter 461;~~chapter 463; part I of chapter  
21 464; chapter 465; ~~chapter 466;~~part II, part III, part V, or  
22 part X of chapter 468; or chapter 486 to complete a continuing  
23 educational course, approved by the board, on human  
24 immunodeficiency virus and acquired immune deficiency syndrome  
25 as part of biennial relicensure or recertification. The course  
26 shall consist of education on the modes of transmission,  
27 infection control procedures, clinical management, and  
28 prevention of human immunodeficiency virus and acquired immune  
29 deficiency syndrome. Such course shall include information on  
30 current Florida law on acquired immune deficiency syndrome and  
31 its impact on testing, confidentiality of test results,

1 treatment of patients, and any protocols and procedures  
2 applicable to human immunodeficiency virus counseling and  
3 testing, reporting, the offering of HIV testing to pregnant  
4 women, and partner notification issues pursuant to ss. 381.004  
5 and 384.25.

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

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

16 Section 7. Subsection (4) of section 458.319 and  
17 subsection (5) of section 459.008, Florida Statutes, are  
18 repealed.

19 Section 8. Paragraph (d) of subsection (2) of section  
20 456.072, Florida Statutes, is amended to read:

21 456.072 Grounds for discipline; penalties;  
22 enforcement.--

23 (2) When the board, or the department when there is no  
24 board, finds any person guilty of the grounds set forth in  
25 subsection (1) or of any grounds set forth in the applicable  
26 practice act, including conduct constituting a substantial  
27 violation of subsection (1) or a violation of the applicable  
28 practice act which occurred prior to obtaining a license, it  
29 may enter an order imposing one or more of the following  
30 penalties:  
31



1           (d) Imposition of an administrative fine not to exceed  
2 \$25,000~~\$10,000~~ for each count or separate offense. If the  
3 violation is for fraud or making a false or fraudulent  
4 representation, the board, or the department if there is no  
5 board, must impose a fine of \$10,000 per count or offense.

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

15           Section 9. For the purpose of incorporating the  
16 amendment to section 456.072, Florida Statutes, in a reference  
17 thereto, subsection (2) of section 456.082, Florida Statutes,  
18 is reenacted to read:

19           456.082 Disclosure of confidential information.--

20           (2) Any person who willfully violates any provision of  
21 this section is guilty of a misdemeanor of the first degree,  
22 punishable as provided in s. 775.082 or s. 775.083, and may be  
23 subject to discipline pursuant to s. 456.072, and, if  
24 applicable, shall be removed from office, employment, or the  
25 contractual relationship.

26           Section 10. For the purpose of incorporating the  
27 amendment to section 456.072, Florida Statutes, in references  
28 thereto, subsections (1) and (2) of section 457.109, Florida  
29 Statutes, are reenacted to read:

30           457.109 Disciplinary actions; grounds; action by the  
31 board.--

1           (1) The following acts constitute grounds for denial  
2 of a license or disciplinary action, as specified in s.  
3 456.072(2):

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

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

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

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

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

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

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

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

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

1 | impeding or obstructing such filing or inducing another person  
2 | to do so. Such reports or records shall include only those  
3 | which are signed in the capacity as a licensed acupuncturist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Section 11. For the purpose of incorporating the  
28 amendment to section 456.072, Florida Statutes, in references  
29 thereto, subsections (1) and (2) of section 458.331, Florida  
30 Statutes, are reenacted to read:

31

1           458.331 Grounds for disciplinary action; action by the  
2 board and department.--

3           (1) The following acts constitute grounds for denial  
4 of a license or disciplinary action, as specified in s.  
5 456.072(2):

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

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

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

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

25          (e) Failing to report to the department any person who  
26 the licensee knows is in violation of this chapter or of the  
27 rules of the department or the board. A treatment provider  
28 approved pursuant to s. 456.076 shall provide the department  
29 or consultant with information in accordance with the  
30 requirements of s. 456.076(3), (4), (5), and (6).

31

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

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

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

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

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

27           (k) Making deceptive, untrue, or fraudulent  
28 representations in or related to the practice of medicine or  
29 employing a trick or scheme in the practice of medicine.

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

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

4 (m) Failing to keep legible, as defined by department  
5 rule in consultation with the board, medical records that  
6 identify the licensed physician or the physician extender and  
7 supervising physician by name and professional title who is or  
8 are responsible for rendering, ordering, supervising, or  
9 billing for each diagnostic or treatment procedure and that  
10 justify the course of treatment of the patient, including, but  
11 not limited to, patient histories; examination results; test  
12 results; records of drugs prescribed, dispensed, or  
13 administered; and reports of consultations and  
14 hospitalizations.

15 (n) Exercising influence on the patient or client in  
16 such a manner as to exploit the patient or client for  
17 financial gain of the licensee or of a third party, which  
18 shall include, but not be limited to, the promoting or selling  
19 of services, goods, appliances, or drugs.

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

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

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



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

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

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

1 51.011. A licensee or certificateholder affected under this  
2 paragraph shall at reasonable intervals be afforded an  
3 opportunity to demonstrate that he or she can resume the  
4 competent practice of medicine with reasonable skill and  
5 safety to patients.

6 (t) Gross or repeated malpractice or the failure to  
7 practice medicine with that level of care, skill, and  
8 treatment which is recognized by a reasonably prudent similar  
9 physician as being acceptable under similar conditions and  
10 circumstances. The board shall give great weight to the  
11 provisions of s. 766.102 when enforcing this paragraph. As  
12 used in this paragraph, "repeated malpractice" includes, but  
13 is not limited to, three or more claims for medical  
14 malpractice within the previous 5-year period resulting in  
15 indemnities being paid in excess of \$25,000 each to the  
16 claimant in a judgment or settlement and which incidents  
17 involved negligent conduct by the physician. As used in this  
18 paragraph, "gross malpractice" or "the failure to practice  
19 medicine with that level of care, skill, and treatment which  
20 is recognized by a reasonably prudent similar physician as  
21 being acceptable under similar conditions and circumstances,"  
22 shall not be construed so as to require more than one  
23 instance, event, or act. Nothing in this paragraph shall be  
24 construed to require that a physician be incompetent to  
25 practice medicine in order to be disciplined pursuant to this  
26 paragraph.

27 (u) Performing any procedure or prescribing any  
28 therapy which, by the prevailing standards of medical practice  
29 in the community, would constitute experimentation on a human  
30 subject, without first obtaining full, informed, and written  
31 consent.

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

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

17           (x) Violating a lawful order of the board or  
18 department previously entered in a disciplinary hearing or  
19 failing to comply with a lawfully issued subpoena of the  
20 department.

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

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

27           (aa) Presigning blank prescription forms.

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

30           (cc) Prescribing, ordering, dispensing, administering,  
31 supplying, selling, or giving any drug which is a Schedule II

1 amphetamine or a Schedule II sympathomimetic amine drug or any  
2 compound thereof, pursuant to chapter 893, to or for any  
3 person except for:

4           1. The treatment of narcolepsy; hyperkinesia;  
5 behavioral syndrome characterized by the developmentally  
6 inappropriate symptoms of moderate to severe distractibility,  
7 short attention span, hyperactivity, emotional lability, and  
8 impulsivity; or drug-induced brain dysfunction;

9           2. The differential diagnostic psychiatric evaluation  
10 of depression or the treatment of depression shown to be  
11 refractory to other therapeutic modalities; or

12           3. The clinical investigation of the effects of such  
13 drugs or compounds when an investigative protocol therefor is  
14 submitted to, reviewed, and approved by the board before such  
15 investigation is begun.

16           (dd) Failing to supervise adequately the activities of  
17 those physician assistants, paramedics, emergency medical  
18 technicians, or advanced registered nurse practitioners acting  
19 under the supervision of the physician.

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

30  
31

1           (ff) Prescribing, ordering, dispensing, administering,  
2 supplying, selling, or giving amygdalin (laetrile) to any  
3 person.

4           (gg) Misrepresenting or concealing a material fact at  
5 any time during any phase of a licensing or disciplinary  
6 process or procedure.

7           (hh) Improperly interfering with an investigation or  
8 with any disciplinary proceeding.

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

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

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

27           (ll) Advertising or holding oneself out as a  
28 board-certified specialist, if not qualified under s.  
29 458.3312, in violation of this chapter.

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

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

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

5 (2) The board may enter an order denying licensure or  
6 imposing any of the penalties in s. 456.072(2) against any  
7 applicant for licensure or licensee who is found guilty of  
8 violating any provision of subsection (1) of this section or  
9 who is found guilty of violating any provision of s.  
10 456.072(1). In determining what action is appropriate, the  
11 board must first consider what sanctions are necessary to  
12 protect the public or to compensate the patient. Only after  
13 those sanctions have been imposed may the disciplining  
14 authority consider and include in the order requirements  
15 designed to rehabilitate the physician. All costs associated  
16 with compliance with orders issued under this subsection are  
17 the obligation of the physician.

18 Section 12. For the purpose of incorporating the  
19 amendment to section 456.072, Florida Statutes, in a reference  
20 thereto, paragraph (g) of subsection (7) of section 458.347,  
21 Florida Statutes, is reenacted to read:

22 458.347 Physician assistants.--

23 (7) PHYSICIAN ASSISTANT LICENSURE.--

24 (g) The Board of Medicine may impose any of the  
25 penalties authorized under ss. 456.072 and 458.331(2) upon a  
26 physician assistant if the physician assistant or the  
27 supervising physician has been found guilty of or is being  
28 investigated for any act that constitutes a violation of this  
29 chapter or chapter 456.

30 Section 13. For the purpose of incorporating the  
31 amendment to section 456.072, Florida Statutes, in references

1 thereto, subsections (1) and (2) of section 459.015, Florida  
2 Statutes, are reenacted to read:

3           459.015 Grounds for disciplinary action; action by the  
4 board and department.--

5           (1) The following acts constitute grounds for denial  
6 of a license or disciplinary action, as specified in s.  
7 456.072(2):

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

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

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

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

30           (e) Failing to report to the department or the  
31 department's impaired professional consultant any person who

1 the licensee or certificateholder knows is in violation of  
2 this chapter or of the rules of the department or the board.  
3 A treatment provider, approved pursuant to s. 456.076, shall  
4 provide the department or consultant with information in  
5 accordance with the requirements of s. 456.076(3), (4), (5),  
6 and (6).

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

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

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

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

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



1           (k) Refusing to provide health care based on a  
2 patient's participation in pending or past litigation or  
3 participation in any disciplinary action conducted pursuant to  
4 this chapter, unless such litigation or disciplinary action  
5 directly involves the osteopathic physician requested to  
6 provide services.

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

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

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

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

1           (p) Fraudulently altering or destroying records  
2 relating to patient care or treatment, including, but not  
3 limited to, patient histories, examination results, and test  
4 results.

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

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

14           (s) Performing professional services which have not  
15 been duly authorized by the patient or client or his or her  
16 legal representative except as provided in s. 743.064, s.  
17 766.103, or s. 768.13.

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

30           (u) Prescribing or dispensing any medicinal drug  
31 appearing on any schedule set forth in chapter 893 by the

1 osteopathic physician for himself or herself or administering  
2 any such drug by the osteopathic physician to himself or  
3 herself unless such drug is prescribed for the osteopathic  
4 physician by another practitioner authorized to prescribe  
5 medicinal drugs.

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

9 (w) Being unable to practice osteopathic medicine with  
10 reasonable skill and safety to patients by reason of illness  
11 or use of alcohol, drugs, narcotics, chemicals, or any other  
12 type of material or as a result of any mental or physical  
13 condition. In enforcing this paragraph, the department shall,  
14 upon a finding of the secretary or the secretary's designee  
15 that probable cause exists to believe that the licensee is  
16 unable to practice medicine because of the reasons stated in  
17 this paragraph, have the authority to issue an order to compel  
18 a licensee to submit to a mental or physical examination by  
19 physicians designated by the department. If the licensee  
20 refuses to comply with such order, the department's order  
21 directing such examination may be enforced by filing a  
22 petition for enforcement in the circuit court where the  
23 licensee resides or does business. The licensee against whom  
24 the petition is filed shall not be named or identified by  
25 initials in any public court records or documents, and the  
26 proceedings shall be closed to the public. The department  
27 shall be entitled to the summary procedure provided in s.  
28 51.011. A licensee or certificateholder affected under this  
29 paragraph shall at reasonable intervals be afforded an  
30 opportunity to demonstrate that he or she can resume the  
31

1 competent practice of medicine with reasonable skill and  
2 safety to patients.

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

1 | circumstances," or any combination thereof, and any  
2 | publication by the board shall so specify.

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

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

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

24 |         (bb) Violating a lawful order of the board or  
25 | department previously entered in a disciplinary hearing or  
26 | failing to comply with a lawfully issued subpoena of the board  
27 | or department.

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

- 1           (dd) Procuring, or aiding or abetting in the procuring  
2 of, an unlawful termination of pregnancy.
- 3           (ee) Presigning blank prescription forms.
- 4           (ff) Prescribing any medicinal drug appearing on  
5 Schedule II in chapter 893 by the osteopathic physician for  
6 office use.
- 7           (gg) Prescribing, ordering, dispensing, administering,  
8 supplying, selling, or giving any drug which is a Schedule II  
9 amphetamine or Schedule II sympathomimetic amine drug or any  
10 compound thereof, pursuant to chapter 893, to or for any  
11 person except for:
- 12           1. The treatment of narcolepsy; hyperkinesia;  
13 behavioral syndrome characterized by the developmentally  
14 inappropriate symptoms of moderate to severe distractibility,  
15 short attention span, hyperactivity, emotional lability, and  
16 impulsivity; or drug-induced brain dysfunction;
- 17           2. The differential diagnostic psychiatric evaluation  
18 of depression or the treatment of depression shown to be  
19 refractory to other therapeutic modalities; or
- 20           3. The clinical investigation of the effects of such  
21 drugs or compounds when an investigative protocol therefor is  
22 submitted to, reviewed, and approved by the board before such  
23 investigation is begun.
- 24           (hh) Failing to supervise adequately the activities of  
25 those physician assistants, paramedics, emergency medical  
26 technicians, advanced registered nurse practitioners, or other  
27 persons acting under the supervision of the osteopathic  
28 physician.
- 29           (ii) Prescribing, ordering, dispensing, administering,  
30 supplying, selling, or giving growth hormones, testosterone or  
31 its analogs, human chorionic gonadotropin (HCG), or other

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

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

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

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

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

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

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

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

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

5 (2) The board may enter an order denying licensure or  
6 imposing any of the penalties in s. 456.072(2) against any  
7 applicant for licensure or licensee who is found guilty of  
8 violating any provision of subsection (1) of this section or  
9 who is found guilty of violating any provision of s.  
10 456.072(1). In determining what action is appropriate, the  
11 board must first consider what sanctions are necessary to  
12 protect the public or to compensate the patient. Only after  
13 those sanctions have been imposed may the disciplining  
14 authority consider and include in the order requirements  
15 designed to rehabilitate the physician. All costs associated  
16 with compliance with orders issued under this subsection are  
17 the obligation of the physician.

18 Section 14. For the purpose of incorporating the  
19 amendment to section 456.072, Florida Statutes, in a reference  
20 thereto, paragraph (f) of subsection (7) of section 459.022,  
21 Florida Statutes, is reenacted to read:

22 459.022 Physician assistants.--

23 (7) PHYSICIAN ASSISTANT LICENSURE.--

24 (f) The Board of Osteopathic Medicine may impose any  
25 of the penalties authorized under ss. 456.072 and 459.015(2)  
26 upon a physician assistant if the physician assistant or the  
27 supervising physician has been found guilty of or is being  
28 investigated for any act that constitutes a violation of this  
29 chapter or chapter 456.

30 Section 15. For the purpose of incorporating the  
31 amendment to section 456.072, Florida Statutes, in references



1 thereto, subsections (1) and (2) of section 460.413, Florida  
2 Statutes, are reenacted to read:

3           460.413 Grounds for disciplinary action; action by  
4 board or department.--

5           (1) The following acts constitute grounds for denial  
6 of a license or disciplinary action, as specified in s.  
7 456.072(2):

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

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

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

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

23           (e) Causing to be advertised, by any means whatsoever,  
24 any advertisement which does not contain an assertion or  
25 statement which would identify herself or himself as a  
26 chiropractic physician or identify such chiropractic clinic or  
27 related institution in which she or he practices or in which  
28 she or he is owner, in whole or in part, as a chiropractic  
29 institution.

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

1           (g) Failing to report to the department any person who  
2 the licensee knows is in violation of this chapter or of the  
3 rules of the department or the board.

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

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

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

16           (k) Making misleading, deceptive, untrue, or  
17 fraudulent representations in the practice of chiropractic  
18 medicine or employing a trick or scheme in the practice of  
19 chiropractic medicine when such trick or scheme fails to  
20 conform to the generally prevailing standards of treatment in  
21 the chiropractic medical community.

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

25           (m) Failing to keep legibly written chiropractic  
26 medical records that identify clearly by name and credentials  
27 the licensed chiropractic physician rendering, ordering,  
28 supervising, or billing for each examination or treatment  
29 procedure and that justify the course of treatment of the  
30 patient, including, but not limited to, patient histories,  
31 examination results, test results, X rays, and diagnosis of a

1 disease, condition, or injury. X rays need not be retained  
2 for more than 4 years.

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

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

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

15 (q) Being unable to practice chiropractic medicine  
16 with reasonable skill and safety to patients by reason of  
17 illness or use of alcohol, drugs, narcotics, chemicals, or any  
18 other type of material or as a result of any mental or  
19 physical condition. In enforcing this paragraph, upon a  
20 finding by the secretary of the department, or his or her  
21 designee, or the probable cause panel of the board that  
22 probable cause exists to believe that the licensee is unable  
23 to practice the profession because of reasons stated in this  
24 paragraph, the department shall have the authority to compel a  
25 licensee to submit to a mental or physical examination by a  
26 physician designated by the department. If the licensee  
27 refuses to comply with the department's order, the department  
28 may file a petition for enforcement in the circuit court of  
29 the circuit in which the licensee resides or does business.  
30 The department shall be entitled to the summary procedure  
31 provided in s. 51.011. The record of proceedings to obtain a

1 compelled mental or physical examination shall not be used  
2 against a licensee in any other proceedings. A chiropractic  
3 physician affected under this paragraph shall at reasonable  
4 intervals be afforded an opportunity to demonstrate that she  
5 or he can resume the competent practice of chiropractic  
6 medicine with reasonable skill and safety to patients.

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

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

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

31

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

5           (v) Violating a lawful order of the board or  
6 department previously entered in a disciplinary hearing or  
7 failing to comply with a lawfully issued subpoena of the  
8 department.

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

13           (x) Submitting to any third-party payor a claim for a  
14 service or treatment which was not actually provided to a  
15 patient.

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

1 demanded is clearly excessive or extortionate, or the demand  
2 is fraudulent. All funds of patients paid to a chiropractic  
3 physician, other than advances for costs and expenses, shall  
4 be deposited in one or more identifiable bank accounts  
5 maintained in the state in which the chiropractic physician's  
6 office is situated, and no funds belonging to the chiropractic  
7 physician shall be deposited therein except as follows:

8           1. Funds reasonably sufficient to pay bank charges may  
9 be deposited therein.

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

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

26           (z) Offering to accept or accepting payment for  
27 services rendered by assignment from any third-party payor  
28 after offering to accept or accepting whatever the third-party  
29 payor covers as payment in full, if the effect of the offering  
30 or acceptance is to eliminate or give the impression of  
31

1 eliminating the need for payment by an insured of any required  
2 deductions applicable in the policy of the insured.

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

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

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

16 (dd) Using acupuncture without being certified  
17 pursuant to s. 460.403(9)(f).

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

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

29 (2) The board may enter an order denying licensure or  
30 imposing any of the penalties in s. 456.072(2) against any  
31 applicant for licensure or licensee who is found guilty of

1 violating any provision of subsection (1) of this section or  
2 who is found guilty of violating any provision of s.  
3 456.072(1). In determining what action is appropriate, the  
4 board must first consider what sanctions are necessary to  
5 protect the public or to compensate the patient. Only after  
6 those sanctions have been imposed may the disciplining  
7 authority consider and include in the order requirements  
8 designed to rehabilitate the chiropractic physician. All costs  
9 associated with compliance with orders issued under this  
10 subsection are the obligation of the chiropractic physician.

11 Section 16. For the purpose of incorporating the  
12 amendment to section 456.072, Florida Statutes, in references  
13 thereto, subsections (1) and (2) of section 462.14, Florida  
14 Statutes, are reenacted to read:

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

17 (1) The following acts constitute grounds for denial  
18 of a license or disciplinary action, as specified in s.  
19 456.072(2):

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

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

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



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

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

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

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

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

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

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

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

31 |

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (x) Violating a lawful order of the department  
2 previously entered in a disciplinary hearing or failing to  
3 comply with a lawfully issued subpoena of the department.

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

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

10 (aa) Presigning blank prescription forms.

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

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

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

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

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

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

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

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

19           Section 17. For the purpose of incorporating the  
20 amendment to section 456.072, Florida Statutes, in references  
21 thereto, subsections (1) and (2) of section 463.016, Florida  
22 Statutes, are reenacted to read:

23           463.016 Grounds for disciplinary action; action by the  
24 board.--

25           (1) The following acts constitute grounds for denial  
26 of a license or disciplinary action, as specified in s.  
27 456.072(2):

28           (a) Procuring or attempting to procure a license to  
29 practice optometry by bribery, by fraudulent  
30 misrepresentations, or through an error of the department or  
31 board.

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

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

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

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

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

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

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

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

31

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

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

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

8           (m) Gross or repeated malpractice.

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

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

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

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

24           (r) Violating any lawful order of the board or  
25 department, previously entered in a disciplinary hearing, or  
26 failing to comply with a lawfully issued subpoena of the board  
27 or department.

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



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

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

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

10 Section 18. For the purpose of incorporating the  
11 amendment to section 456.072, Florida Statutes, in references  
12 thereto, subsections (1) and (2) of section 464.018, Florida  
13 Statutes, are reenacted to read:

14 464.018 Disciplinary actions.--

15 (1) The following acts constitute grounds for denial  
16 of a license or disciplinary action, as specified in s.  
17 456.072(2):

18 (a) Procuring, attempting to procure, or renewing a  
19 license to practice nursing by bribery, by knowing  
20 misrepresentations, or through an error of the department or  
21 the board.

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

26 (c) Being convicted or found guilty of, or entering a  
27 plea of nolo contendere to, regardless of adjudication, a  
28 crime in any jurisdiction which directly relates to the  
29 practice of nursing or to the ability to practice nursing.

30 (d) Being found guilty, regardless of adjudication, of  
31 any of the following offenses:

- 1           1. A forcible felony as defined in chapter 776.
- 2           2. A violation of chapter 812, relating to theft,
- 3 robbery, and related crimes.
- 4           3. A violation of chapter 817, relating to fraudulent
- 5 practices.
- 6           4. A violation of chapter 800, relating to lewdness
- 7 and indecent exposure.
- 8           5. A violation of chapter 784, relating to assault,
- 9 battery, and culpable negligence.
- 10          6. A violation of chapter 827, relating to child
- 11 abuse.
- 12          7. A violation of chapter 415, relating to protection
- 13 from abuse, neglect, and exploitation.
- 14          8. A violation of chapter 39, relating to child abuse,
- 15 abandonment, and neglect.
- 16          (e) Having been found guilty of, regardless of
- 17 adjudication, or entered a plea of nolo contendere or guilty
- 18 to, any offense prohibited under s. 435.03 or under any
- 19 similar statute of another jurisdiction; or having committed
- 20 an act which constitutes domestic violence as defined in s.
- 21 741.28.
- 22          (f) Making or filing a false report or record, which
- 23 the licensee knows to be false, intentionally or negligently
- 24 failing to file a report or record required by state or
- 25 federal law, willfully impeding or obstructing such filing or
- 26 inducing another person to do so. Such reports or records
- 27 shall include only those which are signed in the nurse's
- 28 capacity as a licensed nurse.
- 29          (g) False, misleading, or deceptive advertising.
- 30          (h) Unprofessional conduct, which shall include, but
- 31 not be limited to, any departure from, or the failure to

1 conform to, the minimal standards of acceptable and prevailing  
2 nursing practice, in which case actual injury need not be  
3 established.

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

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

31

1           (k) Failing to report to the department any person who  
2 the licensee knows is in violation of this part or of the  
3 rules of the department or the board; however, if the licensee  
4 verifies that such person is actively participating in a  
5 board-approved program for the treatment of a physical or  
6 mental condition, the licensee is required to report such  
7 person only to an impaired professionals consultant.

8           (1) Knowingly violating any provision of this part, a  
9 rule of the board or the department, or a lawful order of the  
10 board or department previously entered in a disciplinary  
11 proceeding or failing to comply with a lawfully issued  
12 subpoena of the department.

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

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

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

28           Section 19. For the purpose of incorporating the  
29 amendment to section 456.072, Florida Statutes, in references  
30 thereto, subsections (1) and (2) of section 465.016, Florida  
31 Statutes, are reenacted to read:

1           465.016 Disciplinary actions.--

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

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

7           (b) Procuring or attempting to procure a license for  
8 any other person by making or causing to be made any false  
9 representation.

10          (c) Permitting any person not licensed as a pharmacist  
11 in this state or not registered as an intern in this state, or  
12 permitting a registered intern who is not acting under the  
13 direct and immediate personal supervision of a licensed  
14 pharmacist, to fill, compound, or dispense any prescriptions  
15 in a pharmacy owned and operated by such pharmacist or in a  
16 pharmacy where such pharmacist is employed or on duty.

17          (d) Being unfit or incompetent to practice pharmacy by  
18 reason of:

19           1. Habitual intoxication.

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

22           3. Any abnormal physical or mental condition which  
23 threatens the safety of persons to whom she or he might sell  
24 or dispense prescriptions, drugs, or medical supplies or for  
25 whom she or he might manufacture, prepare, or package, or  
26 supervise the manufacturing, preparation, or packaging of,  
27 prescriptions, drugs, or medical supplies.

28          (e) Violating chapter 499; 21 U.S.C. ss. 301-392,  
29 known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C.  
30 ss. 821 et seq., known as the Comprehensive Drug Abuse  
31 Prevention and Control Act; or chapter 893.

1           (f) Having been convicted or found guilty, regardless  
2 of adjudication, in a court of this state or other  
3 jurisdiction, of a crime which directly relates to the ability  
4 to practice pharmacy or to the practice of pharmacy. A plea  
5 of nolo contendere constitutes a conviction for purposes of  
6 this provision.

7           (g) Using in the compounding of a prescription, or  
8 furnishing upon prescription, an ingredient or article  
9 different in any manner from the ingredient or article  
10 prescribed, except as authorized in s. 465.019(6) or s.  
11 465.025.

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

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

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

30           (k) Failing to make prescription fee or price  
31 information readily available by failing to provide such

1 information upon request and upon the presentation of a  
2 prescription for pricing or dispensing. Nothing in this  
3 section shall be construed to prohibit the quotation of price  
4 information on a prescription drug to a potential consumer by  
5 telephone.

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

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

26 (n) Violating a rule of the board or department or  
27 violating an order of the board or department previously  
28 entered in a disciplinary hearing.

29 (o) Failing to report to the department any licensee  
30 under chapter 458 or under chapter 459 who the pharmacist  
31 knows has violated the grounds for disciplinary action set out

1 in the law under which that person is licensed and who  
2 provides health care services in a facility licensed under  
3 chapter 395, or a health maintenance organization certificated  
4 under part I of chapter 641, in which the pharmacist also  
5 provides services.

6 (p) Failing to notify the Board of Pharmacy in writing  
7 within 20 days of the commencement or cessation of the  
8 practice of the profession of pharmacy in Florida when such  
9 commencement or cessation of the practice of the profession of  
10 pharmacy in Florida was a result of a pending or completed  
11 disciplinary action or investigation in another jurisdiction.

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

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

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

22 Section 20. For the purpose of incorporating the  
23 amendment to section 456.072, Florida Statutes, in references  
24 thereto, subsections (1) and (2) of section 466.028, Florida  
25 Statutes, are reenacted to read:

26 466.028 Grounds for disciplinary action; action by the  
27 board.--

28 (1) The following acts constitute grounds for denial  
29 of a license or disciplinary action, as specified in s.  
30 456.072(2):

31



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

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

9           (c) Being convicted or found guilty of or entering a  
10 plea of nolo contendere to, regardless of adjudication, a  
11 crime in any jurisdiction which relates to the practice of  
12 dentistry or dental hygiene. A plea of nolo contendere shall  
13 create a rebuttable presumption of guilt to the underlying  
14 criminal charges.

15           (d) Advertising goods or services in a manner which is  
16 fraudulent, false, deceptive, or misleading in form or content  
17 contrary to s. 466.019 or rules of the board adopted pursuant  
18 thereto.

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

21           (f) Failing to report to the department any person who  
22 the licensee knows, or has reason to believe, is clearly in  
23 violation of this chapter or of the rules of the department or  
24 the board.

25           (g) Aiding, assisting, procuring, or advising any  
26 unlicensed person to practice dentistry or dental hygiene  
27 contrary to this chapter or to a rule of the department or the  
28 board.

29           (h) Being employed by any corporation, organization,  
30 group, or person other than a dentist or a professional  
31

1 corporation or limited liability company composed of dentists  
2 to practice dentistry.

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

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

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

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

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

20 (n) Failing to make available to a patient or client,  
21 or to her or his legal representative or to the department if  
22 authorized in writing by the patient, copies of documents in  
23 the possession or under control of the licensee which relate  
24 to the patient or client.

25 (o) Performing professional services which have not  
26 been duly authorized by the patient or client, or her or his  
27 legal representative, except as provided in ss. 766.103 and  
28 768.13.

29 (p) Prescribing, procuring, dispensing, administering,  
30 mixing, or otherwise preparing a legend drug, including any  
31 controlled substance, other than in the course of the

1 professional practice of the dentist. For the purposes of  
2 this paragraph, it shall be legally presumed that prescribing,  
3 procuring, dispensing, administering, mixing, or otherwise  
4 preparing legend drugs, including all controlled substances,  
5 in excessive or inappropriate quantities is not in the best  
6 interest of the patient and is not in the course of the  
7 professional practice of the dentist, without regard to her or  
8 his intent.

9 (q) Prescribing, procuring, dispensing, or  
10 administering any medicinal drug appearing on any schedule set  
11 forth in chapter 893, by a dentist to herself or himself,  
12 except those prescribed, dispensed, or administered to the  
13 dentist by another practitioner authorized to prescribe them.

14 (r) Prescribing, procuring, ordering, dispensing,  
15 administering, supplying, selling, or giving any drug which is  
16 a Schedule II amphetamine or a Schedule II sympathomimetic  
17 amine drug or a compound thereof, pursuant to chapter 893, to  
18 or for any person except for the clinical investigation of the  
19 effects of such drugs or compounds when an investigative  
20 protocol therefor is submitted to, and reviewed and approved  
21 by, the board before such investigation is begun.

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

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

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

17 (u) Failure to provide and maintain reasonable  
18 sanitary facilities and conditions.

19 (v) Failure to provide adequate radiation safeguards.

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

25 (x) Being guilty of incompetence or negligence by  
26 failing to meet the minimum standards of performance in  
27 diagnosis and treatment when measured against generally  
28 prevailing peer performance, including, but not limited to,  
29 the undertaking of diagnosis and treatment for which the  
30 dentist is not qualified by training or experience or being  
31 guilty of dental malpractice. For purposes of this paragraph,

1 it shall be legally presumed that a dentist is not guilty of  
2 incompetence or negligence by declining to treat an individual  
3 if, in the dentist's professional judgment, the dentist or a  
4 member of her or his clinical staff is not qualified by  
5 training and experience, or the dentist's treatment facility  
6 is not clinically satisfactory or properly equipped to treat  
7 the unique characteristics and health status of the dental  
8 patient, provided the dentist refers the patient to a  
9 qualified dentist or facility for appropriate treatment. As  
10 used in this paragraph, "dental malpractice" includes, but is  
11 not limited to, three or more claims within the previous  
12 5-year period which resulted in indemnity being paid, or any  
13 single indemnity paid in excess of \$5,000 in a judgment or  
14 settlement, as a result of negligent conduct on the part of  
15 the dentist.

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

20 (z) Delegating professional responsibilities to a  
21 person who is not qualified by training, experience, or  
22 licensure to perform them.

23 (aa) The violation of a lawful order of the board or  
24 department previously entered in a disciplinary hearing; or  
25 failure to comply with a lawfully issued subpoena of the board  
26 or department.

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

31

1           (cc) Being adjudged mentally incompetent in this or  
2 any other state, the discipline for which shall last only so  
3 long as the adjudication.  
4           (dd) Presigning blank prescription or laboratory work  
5 order forms.  
6           (ee) Prescribing, ordering, dispensing, administering,  
7 supplying, selling, or giving growth hormones, testosterone or  
8 its analogs, human chorionic gonadotropin (HCG), or other  
9 hormones for the purpose of muscle building or to enhance  
10 athletic performance. For the purposes of this subsection, the  
11 term "muscle building" does not include the treatment of  
12 injured muscle. A prescription written for the drug products  
13 listed above may be dispensed by the pharmacist with the  
14 presumption that the prescription is for legitimate medical  
15 use.  
16           (ff) Operating or causing to be operated a dental  
17 office in such a manner as to result in dental treatment that  
18 is below minimum acceptable standards of performance for the  
19 community. This includes, but is not limited to, the use of  
20 substandard materials or equipment, the imposition of time  
21 limitations within which dental procedures are to be  
22 performed, or the failure to maintain patient records as  
23 required by this chapter.  
24           (gg) Administering anesthesia in a manner which  
25 violates rules of the board adopted pursuant to s. 466.017.  
26           (hh) Failing to report to the department any licensee  
27 under chapter 458 or chapter 459 who the dentist knows has  
28 violated the grounds for disciplinary action set out in the  
29 law under which that person is licensed and who provides  
30 health care services in a facility licensed under chapter 395,  
31

1 or a health maintenance organization certificated under part I  
2 of chapter 641, in which the dentist also provides services.

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

6 (jj) Advertising specialty services in violation of  
7 this chapter.

8 (kk) Allowing any person other than another dentist or  
9 a professional corporation or limited liability company  
10 composed of dentists to direct, control, or interfere with a  
11 dentist's clinical judgment; however, this paragraph may not  
12 be construed to limit a patient's right of informed consent.  
13 To direct, control, or interfere with a dentist's clinical  
14 judgment may not be interpreted to mean dental services  
15 contractually excluded, the application of alternative  
16 benefits that may be appropriate given the dentist's  
17 prescribed course of treatment, or the application of  
18 contractual provisions and scope of coverage determinations in  
19 comparison with a dentist's prescribed treatment on behalf of  
20 a covered person by an insurer, health maintenance  
21 organization, or a prepaid limited health service  
22 organization.

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

25 (2) The board may enter an order denying licensure or  
26 imposing any of the penalties in s. 456.072(2) against any  
27 applicant for licensure or licensee who is found guilty of  
28 violating any provision of subsection (1) of this section or  
29 who is found guilty of violating any provision of s.  
30 456.072(1).

31

1           Section 21. For the purpose of incorporating the  
2 amendment to section 456.072, Florida Statutes, in references  
3 thereto, subsections (1) and (2) of section 467.203, Florida  
4 Statutes, are reenacted to read:

5           467.203 Disciplinary actions; penalties.--

6           (1) The following acts constitute grounds for denial  
7 of a license or disciplinary action, as specified in s.  
8 456.072(2):

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

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

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

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

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

29           (f) Engaging in unprofessional conduct, which  
30 includes, but is not limited to, any departure from, or the  
31 failure to conform to, the standards of practice of midwifery



1 as established by the department, in which case actual injury  
2 need not be established.

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

11 (h) Failing to report to the department any person who  
12 the licensee knows is in violation of this chapter or of the  
13 rules of the department.

14 (i) Violating any lawful order of the department  
15 previously entered in a disciplinary proceeding or failing to  
16 comply with a lawfully issued subpoena of the department.

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

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

25 Section 22. For the purpose of incorporating the  
26 amendment to section 456.072, Florida Statutes, in references  
27 thereto, subsections (1) and (2) of section 468.1295, Florida  
28 Statutes, are reenacted to read:

29 468.1295 Disciplinary proceedings.--  
30  
31

1           (1) The following acts constitute grounds for denial  
2 of a license or disciplinary action, as specified in s.  
3 456.072(2):

4           (a) Procuring or attempting to procure a license by  
5 bribery, by fraudulent misrepresentation, or through an error  
6 of the department or the board.

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

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

14          (d) Making or filing a report or record which the  
15 licensee knows to be false, intentionally or negligently  
16 failing to file a report or records required by state or  
17 federal law, willfully impeding or obstructing such filing, or  
18 inducing another person to impede or obstruct such filing.  
19 Such report or record shall include only those reports or  
20 records which are signed in one's capacity as a licensed  
21 speech-language pathologist or audiologist.

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

25          (f) Being proven guilty of fraud or deceit or of  
26 negligence, incompetency, or misconduct in the practice of  
27 speech-language pathology or audiology.

28          (g) Violating a lawful order of the board or  
29 department previously entered in a disciplinary hearing, or  
30 failing to comply with a lawfully issued subpoena of the board  
31 or department.

1 (h) Practicing with a revoked, suspended, inactive, or  
2 delinquent license.

3 (i) Using, or causing or promoting the use of, any  
4 advertising matter, promotional literature, testimonial,  
5 guarantee, warranty, label, brand, insignia, or other  
6 representation, however disseminated or published, which is  
7 misleading, deceiving, or untruthful.

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

11 (k) Failing to submit to the board on an annual basis,  
12 or such other basis as may be provided by rule, certification  
13 of testing and calibration of such equipment as designated by  
14 the board and on the form approved by the board.

15 (l) Aiding, assisting, procuring, employing, or  
16 advising any licensee or business entity to practice  
17 speech-language pathology or audiology contrary to this part,  
18 chapter 456, or any rule adopted pursuant thereto.

19 (m) Misrepresenting the professional services  
20 available in the fitting, sale, adjustment, service, or repair  
21 of a hearing aid, or using any other term or title which might  
22 connote the availability of professional services when such  
23 use is not accurate.

24 (n) Representing, advertising, or implying that a  
25 hearing aid or its repair is guaranteed without providing full  
26 disclosure of the identity of the guarantor; the nature,  
27 extent, and duration of the guarantee; and the existence of  
28 conditions or limitations imposed upon the guarantee.

29 (o) Representing, directly or by implication, that a  
30 hearing aid utilizing bone conduction has certain specified  
31 features, such as the absence of anything in the ear or

1 leading to the ear, or the like, without disclosing clearly  
2 and conspicuously that the instrument operates on the bone  
3 conduction principle and that in many cases of hearing loss  
4 this type of instrument may not be suitable.

5 (p) Stating or implying that the use of any hearing  
6 aid will improve or preserve hearing or prevent or retard the  
7 progression of a hearing impairment or that it will have any  
8 similar or opposite effect.

9 (q) Making any statement regarding the cure of the  
10 cause of a hearing impairment by the use of a hearing aid.

11 (r) Representing or implying that a hearing aid is or  
12 will be "custom-made," "made to order," or  
13 "prescription-made," or in any other sense specially  
14 fabricated for an individual, when such is not the case.

15 (s) Canvassing from house to house or by telephone,  
16 either in person or by an agent, for the purpose of selling a  
17 hearing aid, except that contacting persons who have evidenced  
18 an interest in hearing aids, or have been referred as in need  
19 of hearing aids, shall not be considered canvassing.

20 (t) Failing to notify the department in writing of a  
21 change in current mailing and place-of-practice address within  
22 30 days after such change.

23 (u) Failing to provide all information as described in  
24 ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

25 (v) Exercising influence on a client in such a manner  
26 as to exploit the client for financial gain of the licensee or  
27 of a third party.

28 (w) Practicing or offering to practice beyond the  
29 scope permitted by law or accepting and performing  
30 professional responsibilities the licensee or  
31

1 certificateholder knows, or has reason to know, the licensee  
2 or certificateholder is not competent to perform.

3 (x) Aiding, assisting, procuring, or employing any  
4 unlicensed person to practice speech-language pathology or  
5 audiology.

6 (y) Delegating or contracting for the performance of  
7 professional responsibilities by a person when the licensee  
8 delegating or contracting for performance of such  
9 responsibilities knows, or has reason to know, such person is  
10 not qualified by training, experience, and authorization to  
11 perform them.

12 (z) Committing any act upon a patient or client which  
13 would constitute sexual battery or which would constitute  
14 sexual misconduct as defined pursuant to s. 468.1296.

15 (aa) Being unable to practice the profession for which  
16 he or she is licensed or certified under this chapter with  
17 reasonable skill or competence as a result of any mental or  
18 physical condition or by reason of illness, drunkenness, or  
19 use of drugs, narcotics, chemicals, or any other substance. In  
20 enforcing this paragraph, upon a finding by the secretary, his  
21 or her designee, or the board that probable cause exists to  
22 believe that the licensee or certificateholder is unable to  
23 practice the profession because of the reasons stated in this  
24 paragraph, the department shall have the authority to compel a  
25 licensee or certificateholder to submit to a mental or  
26 physical examination by a physician, psychologist, clinical  
27 social worker, marriage and family therapist, or mental health  
28 counselor designated by the department or board. If the  
29 licensee or certificateholder refuses to comply with the  
30 department's order directing the examination, such order may  
31 be enforced by filing a petition for enforcement in the

1 circuit court in the circuit in which the licensee or  
2 certificateholder resides or does business. The department  
3 shall be entitled to the summary procedure provided in s.  
4 51.011. A licensee or certificateholder affected under this  
5 paragraph shall at reasonable intervals be afforded an  
6 opportunity to demonstrate that he or she can resume the  
7 competent practice for which he or she is licensed or  
8 certified with reasonable skill and safety to patients.

9 (bb) Violating any provision of this chapter or  
10 chapter 456, or any rules adopted pursuant thereto.

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

17 Section 23. For the purpose of incorporating the  
18 amendment to section 456.072, Florida Statutes, in references  
19 thereto, subsections (1) and (2) of section 468.1755, Florida  
20 Statutes, are reenacted to read:

21 468.1755 Disciplinary proceedings.--

22 (1) The following acts constitute grounds for denial  
23 of a license or disciplinary action, as specified in s.  
24 456.072(2):

25 (a) Violation of any provision of s. 456.072(1) or s.  
26 468.1745(1).

27 (b) Attempting to procure a license to practice  
28 nursing home administration by bribery, by fraudulent  
29 misrepresentation, or through an error of the department or  
30 the board.

31

1           (c) Having a license to practice nursing home  
2 administration revoked, suspended, or otherwise acted against,  
3 including the denial of licensure, by the licensing authority  
4 of another state, territory, or country.

5           (d) Being convicted or found guilty, regardless of  
6 adjudication, of a crime in any jurisdiction which relates to  
7 the practice of nursing home administration or the ability to  
8 practice nursing home administration. Any plea of nolo  
9 contendere shall be considered a conviction for purposes of  
10 this part.

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

18           (f) Authorizing the discharge or transfer of a  
19 resident for a reason other than those provided in ss. 400.022  
20 and 400.0255.

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

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

26           (i) Violation of a lawful order of the board or  
27 department previously entered in a disciplinary hearing or  
28 failing to comply with a lawfully issued subpoena of the board  
29 or department.

30           (j) Practicing with a revoked, suspended, inactive, or  
31 delinquent license.

1           (k) Repeatedly acting in a manner inconsistent with  
2 the health, safety, or welfare of the patients of the facility  
3 in which he or she is the administrator.

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

29           (m) Willfully or repeatedly violating any of the  
30 provisions of the law, code, or rules of the licensing or  
31 supervising authority or agency of the state or political



1 subdivision thereof having jurisdiction of the operation and  
2 licensing of nursing homes.

3 (n) Paying, giving, causing to be paid or given, or  
4 offering to pay or to give to any person a commission or other  
5 valuable consideration for the solicitation or procurement,  
6 either directly or indirectly, of nursing home usage.

7 (o) Willfully permitting unauthorized disclosure of  
8 information relating to a patient or his or her records.

9 (p) Discriminating with respect to patients,  
10 employees, or staff on account of race, religion, color, sex,  
11 or national origin.

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

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

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

23 Section 24. For the purpose of incorporating the  
24 amendment to section 456.072, Florida Statutes, in references  
25 thereto, subsections (1) and (2) of section 468.217, Florida  
26 Statutes, are reenacted to read:

27 468.217 Denial of or refusal to renew license;  
28 suspension and revocation of license and other disciplinary  
29 measures.--

30  
31

1           (1) The following acts constitute grounds for denial  
2 of a license or disciplinary action, as specified in s.  
3 456.072(2):

4           (a) Attempting to obtain, obtaining, or renewing a  
5 license to practice occupational therapy by bribery, by  
6 fraudulent misrepresentation, or through an error of the  
7 department or the board.

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

12           (c) Being convicted or found guilty, regardless of  
13 adjudication, of a crime in any jurisdiction which directly  
14 relates to the practice of occupational therapy or to the  
15 ability to practice occupational therapy. A plea of nolo  
16 contendere shall be considered a conviction for the purposes  
17 of this part.

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

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

21           (f) Failing to report to the department any person who  
22 the licensee knows is in violation of this part or of the  
23 rules of the department or of the board.

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

27           (h) Failing to perform any statutory or legal  
28 obligation placed upon a licensed occupational therapist or  
29 occupational therapy assistant.

30           (i) Making or filing a report which the licensee knows  
31 to be false, intentionally or negligently failing to file a

1 report or record required by state or federal law, willfully  
2 impeding or obstructing such filing or inducing another person  
3 to do so. Such reports or records include only those which  
4 are signed in the capacity as a licensed occupational  
5 therapist or occupational therapy assistant.

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

17 (k) Exercising influence within a patient-therapist  
18 relationship for purposes of engaging a patient in sexual  
19 activity. A patient is presumed to be incapable of giving  
20 free, full, and informed consent to sexual activity with the  
21 patient's occupational therapist or occupational therapy  
22 assistant.

23 (l) Making deceptive, untrue, or fraudulent  
24 representations in the practice of occupational therapy or  
25 employing a trick or scheme in the practice of occupational  
26 therapy if such scheme or trick fails to conform to the  
27 generally prevailing standards of treatment in the  
28 occupational therapy community.

29 (m) Soliciting patients, either personally or through  
30 an agent, through the use of fraud, intimidation, undue  
31 influence, or a form of overreaching or vexatious conduct. A

1 "solicitation" is any communication which directly or  
2 implicitly requests an immediate oral response from the  
3 recipient.

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

7 (o) Exercising influence on the patient or client in  
8 such a manner as to exploit the patient or client for  
9 financial gain of the licensee or of a third party which  
10 includes, but is not limited to, the promoting or selling of  
11 services, goods, appliances, or drugs.

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

15 (q) Gross or repeated malpractice or the failure to  
16 practice occupational therapy with that level of care, skill,  
17 and treatment which is recognized by a reasonably prudent  
18 similar occupational therapist or occupational therapy  
19 assistant as being acceptable under similar conditions and  
20 circumstances.

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

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

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

1 type of material or as a result of any mental or physical  
2 condition. In enforcing this paragraph, the department shall  
3 have, upon probable cause, authority to compel an occupational  
4 therapist or occupational therapy assistant to submit to a  
5 mental or physical examination by physicians designated by the  
6 department. The failure of an occupational therapist or  
7 occupational therapy assistant to submit to such examination  
8 when so directed constitutes an admission of the allegations  
9 against him or her, upon which a default and final order may  
10 be entered without the taking of testimony or presentation of  
11 evidence, unless the failure was due to circumstances beyond  
12 his or her control. An occupational therapist or occupational  
13 therapy assistant affected under this paragraph shall at  
14 reasonable intervals be afforded an opportunity to demonstrate  
15 that he or she can resume the competent practice of  
16 occupational therapy with reasonable skill and safety to  
17 patients. In any proceeding under this paragraph, neither the  
18 record of proceedings nor the orders entered by the board  
19 shall be used against an occupational therapist or  
20 occupational therapy assistant in any other proceeding.

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

26 (v) Violating a lawful order of the board or  
27 department previously entered in a disciplinary hearing or  
28 failing to comply with a lawfully issued subpoena of the  
29 department.

30 (w) Conspiring with another licensee or with any other  
31 person to commit an act, or committing an act, which would

1 tend to coerce, intimidate, or preclude another licensee from  
2 lawfully advertising his or her services.

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

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

11 Section 25. For the purpose of incorporating the  
12 amendment to section 456.072, Florida Statutes, in references  
13 thereto, subsections (1) and (2) of section 468.365, Florida  
14 Statutes, are reenacted to read:

15 468.365 Disciplinary grounds and actions.--

16 (1) The following acts constitute grounds for denial  
17 of a license or disciplinary action, as specified in s.  
18 456.072(2):

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

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

30 (c) Being convicted or found guilty of, or entering a  
31 plea of nolo contendere to, regardless of adjudication, a

1 crime in any jurisdiction which directly relates to  
2 respiratory care services or to the ability to deliver such  
3 services.

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

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

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

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

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

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

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

28 (k) Permitting, aiding, assisting, procuring, or  
29 advising any person who is not licensed pursuant to this part,  
30 contrary to this part or to any rule of the department or the  
31 board.

1           (1) Failing to perform any statutory or legal  
2 obligation placed upon a respiratory care practitioner or  
3 respiratory therapist licensed pursuant to this part.

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

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

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

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

29           (q) Exercising influence within a respiratory care  
30 relationship for the purpose of engaging a patient in sexual  
31 activity. A patient is presumed to be incapable of giving



1 free, full, and informed consent to sexual activity with the  
2 patient's respiratory care practitioner or respiratory  
3 therapist.

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

10 (s) Soliciting patients, either personally or through  
11 an agent, through the use of fraud, deception, or otherwise  
12 misleading statements or through the exercise of intimidation  
13 or undue influence.

14 (t) Failing to keep written respiratory care records  
15 justifying the reason for the action taken by the licensee.

16 (u) Exercising influence on the patient in such a  
17 manner as to exploit the patient for the financial gain of the  
18 licensee or a third party, which includes, but is not limited  
19 to, the promoting or selling of services, goods, appliances,  
20 or drugs.

21 (v) Performing professional services which have not  
22 been duly ordered by a physician licensed pursuant to chapter  
23 458 or chapter 459 and which are not in accordance with  
24 protocols established by the hospital, other health care  
25 provider, or the board, except as provided in ss. 743.064,  
26 766.103, and 768.13.

27 (w) Being unable to deliver respiratory care services  
28 with reasonable skill and safety to patients by reason of  
29 illness or use of alcohol, drugs, narcotics, chemicals, or any  
30 other type of material as a result of any mental or physical  
31 condition. In enforcing this paragraph, the department shall,

1 upon probable cause, have authority to compel a respiratory  
2 care practitioner or respiratory therapist to submit to a  
3 mental or physical examination by physicians designated by the  
4 department. The cost of examination shall be borne by the  
5 licensee being examined. The failure of a respiratory care  
6 practitioner or respiratory therapist to submit to such an  
7 examination when so directed constitutes an admission of the  
8 allegations against her or him, upon which a default and a  
9 final order may be entered without the taking of testimony or  
10 presentation of evidence, unless the failure was due to  
11 circumstances beyond her or his control. A respiratory care  
12 practitioner or respiratory therapist affected under this  
13 paragraph shall at reasonable intervals be afforded an  
14 opportunity to demonstrate that she or he can resume the  
15 competent delivery of respiratory care services with  
16 reasonable skill and safety to her or his patients. In any  
17 proceeding under this paragraph, neither the record of  
18 proceedings nor the orders entered by the board shall be used  
19 against a respiratory care practitioner or respiratory  
20 therapist in any other proceeding.

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

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

29 Section 26. For the purpose of incorporating the  
30 amendment to section 456.072, Florida Statutes, in references  
31

1 thereto, subsections (1) and (2) of section 468.518, Florida  
2 Statutes, are reenacted to read:

3           468.518 Grounds for disciplinary action.--

4           (1) The following acts constitute grounds for denial  
5 of a license or disciplinary action, as specified in s.  
6 456.072(2):

7           (a) Violating any provision of this part, any board or  
8 agency rule adopted pursuant thereto, or any lawful order of  
9 the board or agency previously entered in a disciplinary  
10 hearing held pursuant to this part, or failing to comply with  
11 a lawfully issued subpoena of the agency. The provisions of  
12 this paragraph also apply to any order or subpoena previously  
13 issued by the Department of Health during its period of  
14 regulatory control over this part.

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

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

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

28           (c) Attempting to procure or procuring a license to  
29 practice dietetics and nutrition or nutrition counseling by  
30 fraud or material misrepresentation of material fact.

31

1           (d) Having a license to practice dietetics and  
2 nutrition or nutrition counseling revoked, suspended, or  
3 otherwise acted against, including the denial of licensure by  
4 the licensing authority of another state, district, territory,  
5 or country.

6           (e) Being convicted or found guilty of, or entering a  
7 plea of nolo contendere to, regardless of adjudication, a  
8 crime in any jurisdiction which directly relates to the  
9 practice of dietetics and nutrition or nutrition counseling or  
10 the ability to practice dietetics and nutrition or nutrition  
11 counseling.

12           (f) Making or filing a report or record that the  
13 licensee knows to be false, willfully failing to file a report  
14 or record required by state or federal law, willfully impeding  
15 or obstructing such filing, or inducing another person to  
16 impede or obstruct such filing. Such reports or records  
17 include only those that are signed in the capacity of a  
18 licensed dietitian/nutritionist or licensed nutrition  
19 counselor.

20           (g) Advertising goods or services in a manner that is  
21 fraudulent, false, deceptive, or misleading in form or  
22 content.

23           (h) Committing an act of fraud or deceit, or of  
24 negligence, incompetency, or misconduct in the practice of  
25 dietetics and nutrition or nutrition counseling.

26           (i) Practicing with a revoked, suspended, inactive, or  
27 delinquent license.

28           (j) Treating or undertaking to treat human ailments by  
29 means other than by dietetics and nutrition practice or  
30 nutrition counseling.

31

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

4 (l) Engaging directly or indirectly in the dividing,  
5 transferring, assigning, rebating, or refunding of fees  
6 received for professional services, or profiting by means of a  
7 credit or other valuable consideration, such as an unearned  
8 commission, discount, or gratuity, with any person referring a  
9 patient or with any relative or business associate of the  
10 referring person. Nothing in this part prohibits the members  
11 of any regularly and properly organized business entity that  
12 is composed of licensees under this part and recognized under  
13 the laws of this state from making any division of their total  
14 fees among themselves as they determine necessary.

15 (m) Advertising, by or on behalf of a licensee under  
16 this part, any method of assessment or treatment which is  
17 experimental or without generally accepted scientific  
18 validation.

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

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

27 Section 27. For the purpose of incorporating the  
28 amendment to section 456.072, Florida Statutes, in references  
29 thereto, section 468.719, Florida Statutes, is reenacted to  
30 read:

31 468.719 Disciplinary actions.--

1           (1) The following acts constitute grounds for denial  
2 of a license or disciplinary action, as specified in s.  
3 456.072(2):

4           (a) Failing to include the athletic trainer's name and  
5 license number in any advertising, including, but not limited  
6 to, business cards and letterhead, related to the practice of  
7 athletic training. Advertising shall not include clothing or  
8 other novelty items.

9           (b) Committing incompetency or misconduct in the  
10 practice of athletic training.

11           (c) Committing fraud or deceit in the practice of  
12 athletic training.

13           (d) Committing negligence, gross negligence, or  
14 repeated negligence in the practice of athletic training.

15           (e) While practicing athletic training, being unable  
16 to practice athletic training with reasonable skill and safety  
17 to athletes by reason of illness or use of alcohol or drugs or  
18 as a result of any mental or physical condition.

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

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

27           Section 28. For the purpose of incorporating the  
28 amendment to section 456.072, Florida Statutes, in references  
29 thereto, section 468.811, Florida Statutes, is reenacted to  
30 read:

31           468.811 Disciplinary proceedings.--

1           (1) The following acts constitute grounds for denial  
2 of a license or disciplinary action, as specified in s.  
3 456.072(2):

4           (a) Attempting to procure a license by fraudulent  
5 misrepresentation.

6           (b) Having a license to practice orthotics,  
7 prosthetics, or pedorthics revoked, suspended, or otherwise  
8 acted against, including the denial of licensure in another  
9 jurisdiction.

10           (c) Being convicted or found guilty of or pleading  
11 nolo contendere to, regardless of adjudication, in any  
12 jurisdiction, a crime that directly relates to the practice of  
13 orthotics, prosthetics, or pedorthics, including violations of  
14 federal laws or regulations regarding orthotics, prosthetics,  
15 or pedorthics.

16           (d) Filing a report or record that the licensee knows  
17 is false, intentionally or negligently failing to file a  
18 report or record required by state or federal law, willfully  
19 impeding or obstructing such filing, or inducing another  
20 person to impede or obstruct such filing. Such reports or  
21 records include only reports or records that are signed in a  
22 person's capacity as a licensee under this act.

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

25           (f) Violation of an order of the board, agency, or  
26 department previously entered in a disciplinary hearing or  
27 failure to comply with a subpoena issued by the board, agency,  
28 or department.

29           (g) Practicing with a revoked, suspended, or inactive  
30 license.

31

1           (h) Gross or repeated malpractice or the failure to  
2 deliver orthotic, prosthetic, or pedorthic services with that  
3 level of care and skill which is recognized by a reasonably  
4 prudent licensed practitioner with similar professional  
5 training as being acceptable under similar conditions and  
6 circumstances.

7           (i) Failing to provide written notice of any  
8 applicable warranty for an orthosis, prosthesis, or pedorthic  
9 device that is provided to a patient.

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

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

18           Section 29. For the purpose of incorporating the  
19 amendment to section 456.072, Florida Statutes, in references  
20 thereto, subsections (1) and (2) of section 478.52, Florida  
21 Statutes, are reenacted to read:

22           478.52 Disciplinary proceedings.--

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

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

28           (b) Having a license or other authority to deliver  
29 electrolysis services revoked, suspended, or otherwise acted  
30 against, including denial of licensure, in another  
31 jurisdiction.



1 (c) Being convicted or found guilty of, or entering a  
2 plea of nolo contendere to, regardless of adjudication, a  
3 crime, in any jurisdiction, which directly relates to the  
4 practice of electrology.

5 (d) Willfully making or filing a false report or  
6 record, willfully failing to file a report or record required  
7 for electrologists, or willfully impeding or obstructing the  
8 filing of a report or record required by this act or inducing  
9 another person to do so.

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

12 (f) Unprofessional conduct, including any departure  
13 from, or failure to conform to, acceptable standards related  
14 to the delivery of electrolysis services.

15 (g) Engaging or attempting to engage in the illegal  
16 possession, sale, or distribution of any illegal or controlled  
17 substance.

18 (h) Willfully failing to report any known violation of  
19 this chapter.

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

23 (j) Engaging in the delivery of electrolysis services  
24 without an active license.

25 (k) Employing an unlicensed person to practice  
26 electrology.

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

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

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

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

6           (p) Judicially determined mental incompetency.

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

9           (r) Being unable to practice electrology with  
10 reasonable skill and safety because of a mental or physical  
11 condition or illness, or the use of alcohol, controlled  
12 substances, or any other substance which impairs one's ability  
13 to practice.

14           1. The department may, upon probable cause, compel a  
15 licensee to submit to a mental or physical examination by  
16 physicians designated by the department. The cost of an  
17 examination shall be borne by the licensee, and her or his  
18 failure to submit to such an examination constitutes an  
19 admission of the allegations against her or him, consequent  
20 upon which a default and a final order may be entered without  
21 the taking of testimony or presentation of evidence, unless  
22 the failure was due to circumstances beyond her or his  
23 control.

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

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

31

1           (s) Disclosing the identity of or information about a  
2 patient without written permission, except for information  
3 which does not identify a patient and which is used for  
4 training purposes in an approved electrolysis training  
5 program.

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

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

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

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

18          Section 30. For the purpose of incorporating the  
19 amendment to section 456.072, Florida Statutes, in references  
20 thereto, subsections (1) and (2) of section 480.046, Florida  
21 Statutes, are reenacted to read:

22           480.046 Grounds for disciplinary action by the  
23 board.--

24          (1) The following acts constitute grounds for denial  
25 of a license or disciplinary action, as specified in s.  
26 456.072(2):

27           (a) Attempting to procure a license to practice  
28 massage by bribery or fraudulent misrepresentation.

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

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

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

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

9 (e) Aiding, assisting, procuring, or advising any  
10 unlicensed person to practice massage contrary to the  
11 provisions of this chapter or to a rule of the department or  
12 the board.

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

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

1 (h) Gross or repeated malpractice or the failure to  
2 practice massage with that level of care, skill, and treatment  
3 which is recognized by a reasonably prudent massage therapist  
4 as being acceptable under similar conditions and  
5 circumstances.

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

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

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

18 (l) Refusing to permit the department to inspect the  
19 business premises of the licensee during regular business  
20 hours.

21 (m) Failing to keep the equipment and premises of the  
22 massage establishment in a clean and sanitary condition.

23 (n) Practicing massage at a site, location, or place  
24 which is not duly licensed as a massage establishment, except  
25 that a massage therapist, as provided by rules adopted by the  
26 board, may provide massage services, excluding colonic  
27 irrigation, at the residence of a client, at the office of the  
28 client, at a sports event, at a convention, or at a trade  
29 show.

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

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

7           Section 31. For the purpose of incorporating the  
8 amendment to section 456.072, Florida Statutes, in references  
9 thereto, subsections (1) and (2) of section 483.825, Florida  
10 Statutes, are reenacted to read:

11           483.825 Grounds for disciplinary action.--

12           (1) The following acts constitute grounds for denial  
13 of a license or disciplinary action, as specified in s.  
14 456.072(2):

15           (a) Attempting to obtain, obtaining, or renewing a  
16 license or registration under this part by bribery, by  
17 fraudulent misrepresentation, or through an error of the  
18 department or the board.

19           (b) Engaging in or attempting to engage in, or  
20 representing herself or himself as entitled to perform, any  
21 clinical laboratory procedure or category of procedures not  
22 authorized pursuant to her or his license.

23           (c) Demonstrating incompetence or making consistent  
24 errors in the performance of clinical laboratory examinations  
25 or procedures or erroneous reporting.

26           (d) Performing a test and rendering a report thereon  
27 to a person not authorized by law to receive such services.

28           (e) Has been convicted or found guilty of, or entered  
29 a plea of nolo contendere to, regardless of adjudication, a  
30 crime in any jurisdiction which directly relates to the  
31 activities of clinical laboratory personnel or involves moral

1 turpitude or fraudulent or dishonest dealing. The record of a  
2 conviction certified or authenticated in such form as to be  
3 admissible in evidence under the laws of the state shall be  
4 admissible as prima facie evidence of such guilt.

5 (f) Having been adjudged mentally or physically  
6 incompetent.

7 (g) Aiding and abetting in the violation of any  
8 provision of this part or the rules adopted hereunder.

9 (h) Reporting a test result when no laboratory test  
10 was performed on a clinical specimen.

11 (i) Knowingly advertising false services or  
12 credentials.

13 (j) Having a license revoked, suspended, or otherwise  
14 acted against, including the denial of licensure, by the  
15 licensing authority of another jurisdiction. The licensing  
16 authority's acceptance of a relinquishment of a license,  
17 stipulation, consent order, or other settlement, offered in  
18 response to or in anticipation of the filing of administrative  
19 charges against the licensee, shall be construed as action  
20 against the licensee.

21 (k) Failing to report to the board, in writing, within  
22 30 days that an action under paragraph (e), paragraph (f), or  
23 paragraph (j) has been taken against the licensee or one's  
24 license to practice as clinical laboratory personnel in  
25 another state, territory, country, or other jurisdiction.

26 (l) Being unable to perform or report clinical  
27 laboratory examinations with reasonable skill and safety to  
28 patients by reason of illness or use of alcohol, drugs,  
29 narcotics, chemicals, or any other type of material or as a  
30 result of any mental or physical condition. In enforcing this  
31 paragraph, the department shall have, upon a finding of the

1 secretary or his or her designee that probable cause exists to  
2 believe that the licensee is unable to practice because of the  
3 reasons stated in this paragraph, the authority to issue an  
4 order to compel a licensee to submit to a mental or physical  
5 examination by physicians designated by the department. If the  
6 licensee refuses to comply with such order, the department's  
7 order directing such examination may be enforced by filing a  
8 petition for enforcement in the circuit court where the  
9 licensee resides or does business. The department shall be  
10 entitled to the summary procedure provided in s. 51.011. A  
11 licensee affected under this paragraph shall at reasonable  
12 intervals be afforded an opportunity to demonstrate that he or  
13 she can resume competent practice with reasonable skill and  
14 safety to patients.

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

20 (n) Violating a previous order of the board entered in  
21 a disciplinary proceeding.

22 (o) Failing to report to the department a person or  
23 other licensee who the licensee knows is in violation of this  
24 chapter or the rules of the department or board adopted  
25 hereunder.

26 (p) Making or filing a report which the licensee knows  
27 to be false, intentionally or negligently failing to file a  
28 report or record required by state or federal law, willfully  
29 impeding or obstructing such filing or inducing another person  
30 to do so, including, but not limited to, impeding an agent of  
31 the state from obtaining a report or record for investigative



1 purposes. Such reports or records shall include only those  
2 generated in the capacity as a licensed clinical laboratory  
3 personnel.

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

14 (r) Exercising influence on a patient or client in  
15 such a manner as to exploit the patient or client for the  
16 financial gain of the licensee or other third party, which  
17 shall include, but not be limited to, the promoting, selling,  
18 or withholding of services, goods, appliances, referrals, or  
19 drugs.

20 (s) Practicing or offering to practice beyond the  
21 scope permitted by law or rule, or accepting or performing  
22 professional services or responsibilities which the licensee  
23 knows or has reason to know that he or she is not competent to  
24 perform.

25 (t) Misrepresenting or concealing a material fact at  
26 any time during any phase of the licensing, investigative, or  
27 disciplinary process, procedure, or proceeding.

28 (u) Improperly interfering with an investigation or  
29 any disciplinary proceeding.

30 (v) Engaging in or attempting to engage in sexual  
31 misconduct, causing undue embarrassment or using disparaging

1 language or language of a sexual nature towards a patient,  
2 exploiting superior/subordinate, professional/patient,  
3 instructor/student relationships for personal gain, sexual  
4 gratification, or advantage.

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

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

13 Section 32. For the purpose of incorporating the  
14 amendment to section 456.072, Florida Statutes, in references  
15 thereto, paragraphs (g) and (h) of subsection (6) of section  
16 483.901, Florida Statutes, are reenacted to read:

17 483.901 Medical physicists; definitions; licensure.--

18 (6) LICENSE REQUIRED.--An individual may not engage in  
19 the practice of medical physics, including the specialties of  
20 diagnostic radiological physics, therapeutic radiological  
21 physics, medical nuclear radiological physics, or medical  
22 health physics, without a license issued by the department for  
23 the appropriate specialty.

24 (g) The following acts constitute grounds for denial  
25 of a license or disciplinary action, as specified in s.  
26 456.072(2):

27 1. Obtaining or attempting to obtain a license by  
28 bribery, fraud, knowing misrepresentation, or concealment of  
29 material fact or through an error of the department.

30 2. Having a license denied, revoked, suspended, or  
31 otherwise acted against in another jurisdiction.

1           3. Being convicted or found guilty of, or entering a  
2 plea of nolo contendere to, regardless of adjudication, a  
3 crime in any jurisdiction which relates to the practice of, or  
4 the ability to practice, the profession of medical physics.

5           4. Willfully failing to file a report or record  
6 required for medical physics or willfully impeding or  
7 obstructing the filing of a report or record required by this  
8 section or inducing another person to do so.

9           5. Making misleading, deceptive, or fraudulent  
10 representations in or related to the practice of medical  
11 physics.

12           6. Willfully failing to report any known violation of  
13 this section or any rule adopted thereunder.

14           7. Failing to perform any statutory or legal  
15 obligation placed upon a licensee.

16           8. Aiding, assisting, procuring, employing, or  
17 advising any unlicensed person to practice medical physics  
18 contrary to this section or any rule adopted thereunder.

19           9. Delegating or contracting for the performance of  
20 professional responsibilities by a person when the licensee  
21 delegating or contracting such responsibilities knows, or has  
22 reason to know, such person is not qualified by training,  
23 experience, and authorization to perform them.

24           10. Practicing or offering to practice beyond the  
25 scope permitted by law or accepting and performing  
26 professional responsibilities the licensee knows, or has  
27 reason to know, the licensee is not competent to perform.

28           11. Gross or repeated malpractice or the inability to  
29 practice medical physics with reasonable skill and safety.

30           12. Judicially determined mental incompetency.  
31

1           13. Being unable to practice medical physics with  
2 reasonable skill and safety because of a mental or physical  
3 condition or illness or the use of alcohol, controlled  
4 substances, or any other substance which impairs one's ability  
5 to practice.

6           a. The department may, upon probable cause, compel a  
7 licensee to submit to a mental or physical examination by  
8 physicians designated by the department. The cost of an  
9 examination shall be borne by the licensee, and the licensee's  
10 failure to submit to such an examination constitutes an  
11 admission of the allegations against the licensee, consequent  
12 upon which a default and a final order may be entered without  
13 the taking of testimony or presentation of evidence, unless  
14 the failure was due to circumstances beyond the licensee's  
15 control.

16           b. A licensee who is disciplined under this  
17 subparagraph shall, at reasonable intervals, be afforded an  
18 opportunity to demonstrate that the licensee can resume the  
19 practice of medical physics with reasonable skill and safety.

20           c. With respect to any proceeding under this  
21 subparagraph, the record of proceedings or the orders entered  
22 by the department may not be used against a licensee in any  
23 other proceeding.

24           14. Violating any provision of this chapter or chapter  
25 456, or any rules adopted pursuant thereto.

26           (h) The board may enter an order denying licensure or  
27 imposing any of the penalties in s. 456.072(2) against any  
28 applicant for licensure or licensee who is found guilty of  
29 violating any provision of subsection (1) of this section or  
30 who is found guilty of violating any provision of s.  
31 456.072(1).

1           Section 33. For the purpose of incorporating the  
2 amendment to section 456.072, Florida Statutes, in references  
3 thereto, subsections (1) and (2) of section 484.014, Florida  
4 Statutes, are reenacted to read:

5           484.014 Disciplinary actions.--

6           (1) The following acts constitute grounds for denial  
7 of a license or disciplinary action, as specified in s.  
8 456.072(2):

9           (a) Procuring or attempting to procure a license by  
10 misrepresentation, bribery, or fraud or through an error of  
11 the department or the board.

12           (b) Procuring or attempting to procure a license for  
13 any other person by making or causing to be made any false  
14 representation.

15           (c) Making or filing a report or record which the  
16 licensee knows to be false, intentionally or negligently  
17 failing to file a report or record required by federal or  
18 state law, willfully impeding or obstructing such filing, or  
19 inducing another person to do so. Such reports or records  
20 shall include only those which the person is required to make  
21 or file as an optician.

22           (d) Failing to make fee or price information readily  
23 available by providing such information upon request or upon  
24 the presentation of a prescription.

25           (e) Advertising goods or services in a manner which is  
26 fraudulent, false, deceptive, or misleading in form or  
27 content.

28           (f) Fraud or deceit, or negligence, incompetency, or  
29 misconduct, in the authorized practice of opticianry.

30           (g) Practicing with a revoked, suspended, inactive, or  
31 delinquent license.

1           (h) Violation of a lawful order of the board or  
2 department previously entered in a disciplinary hearing or  
3 failing to comply with a lawfully issued subpoena of the  
4 department.

5           (i) Violation of any provision of s. 484.012.

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

10          (k) Willfully submitting to any third-party payor a  
11 claim for services which were not provided to a patient.

12          (l) Failing to keep written prescription files.

13          (m) Willfully failing to report any person who the  
14 licensee knows is in violation of this part or of rules of the  
15 department or the board.

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

19          (o) Gross or repeated malpractice.

20          (p) Permitting any person not licensed as an optician  
21 in this state to fit or dispense any lenses, spectacles,  
22 eyeglasses, or other optical devices which are part of the  
23 practice of opticianry.

24          (q) Being convicted or found guilty of, or entering a  
25 plea of nolo contendere to, regardless of adjudication, in a  
26 court of this state or other jurisdiction, a crime which  
27 relates to the ability to practice opticianry or to the  
28 practice of opticianry.

29          (r) Having been disciplined by a regulatory agency in  
30 another state for any offense that would constitute a  
31 violation of Florida law or rules regulating opticianry.

1           (s) Being unable to practice opticianry with  
2 reasonable skill and safety by reason of illness or use of  
3 drugs, narcotics, chemicals, or any other type of material or  
4 as a result of any mental or physical condition. An optician  
5 affected under this paragraph shall at reasonable intervals be  
6 afforded an opportunity to demonstrate that she or he can  
7 resume the competent practice of opticianry with reasonable  
8 skill and safety to her or his customers.

9           (t) Violating any provision of this chapter or chapter  
10 456, or any rules adopted pursuant thereto.

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

17           Section 34. For the purpose of incorporating the  
18 amendment to section 456.072, Florida Statutes, in references  
19 thereto, subsection (1) and paragraph (a) of subsection (2) of  
20 section 484.056, Florida Statutes, are reenacted to read:

21           484.056 Disciplinary proceedings.--

22           (1) The following acts constitute grounds for denial  
23 of a license or disciplinary action, as specified in s.  
24 456.072(2):

25           (a) Violation of any provision of s. 456.072(1), s.  
26 484.0512, or s. 484.053.

27           (b) Attempting to procure a license to dispense  
28 hearing aids by bribery, by fraudulent misrepresentations, or  
29 through an error of the department or the board.

30           (c) Having a license to dispense hearing aids revoked,  
31 suspended, or otherwise acted against, including the denial of

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

3 (d) Being convicted or found guilty of, or entering a  
4 plea of nolo contendere to, regardless of adjudication, a  
5 crime in any jurisdiction which directly relates to the  
6 practice of dispensing hearing aids or the ability to practice  
7 dispensing hearing aids, including violations of any federal  
8 laws or regulations regarding hearing aids.

9 (e) Making or filing a report or record which the  
10 licensee knows to be false, intentionally or negligently  
11 failing to file a report or record required by state or  
12 federal law, willfully impeding or obstructing such filing, or  
13 inducing another person to impede or obstruct such filing.  
14 Such reports or records shall include only those reports or  
15 records which are signed in one's capacity as a licensed  
16 hearing aid specialist.

17 (f) Advertising goods or services in a manner which is  
18 fraudulent, false, deceptive, or misleading in form or  
19 content.

20 (g) Proof that the licensee is guilty of fraud or  
21 deceit or of negligence, incompetency, or misconduct in the  
22 practice of dispensing hearing aids.

23 (h) Violation of a lawful order of the board or  
24 department previously entered in a disciplinary hearing or  
25 failure to comply with a lawfully issued subpoena of the board  
26 or department.

27 (i) Practicing with a revoked, suspended, inactive, or  
28 delinquent license.

29 (j) Using, or causing or promoting the use of, any  
30 advertising matter, promotional literature, testimonial,  
31 guarantee, warranty, label, brand, insignia, or other



1 representation, however disseminated or published, which is  
2 misleading, deceiving, or untruthful.

3 (k) Showing or demonstrating, or, in the event of  
4 sale, delivery of, a product unusable or impractical for the  
5 purpose represented or implied by such action.

6 (l) Misrepresentation of professional services  
7 available in the fitting, sale, adjustment, service, or repair  
8 of a hearing aid, or use of the terms "doctor," "clinic,"  
9 "clinical," "medical audiologist," "clinical audiologist,"  
10 "research audiologist," or "audiologic" or any other term or  
11 title which might connote the availability of professional  
12 services when such use is not accurate.

13 (m) Representation, advertisement, or implication that  
14 a hearing aid or its repair is guaranteed without providing  
15 full disclosure of the identity of the guarantor; the nature,  
16 extent, and duration of the guarantee; and the existence of  
17 conditions or limitations imposed upon the guarantee.

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

25 (o) Making any predictions or prognostications as to  
26 the future course of a hearing impairment, either in general  
27 terms or with reference to an individual person.

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

1           (q) Making any statement regarding the cure of the  
2 cause of a hearing impairment by the use of a hearing aid.

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

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

12           (t) Failure to submit to the board on an annual basis,  
13 or such other basis as may be provided by rule, certification  
14 of testing and calibration of audiometric testing equipment on  
15 the form approved by the board.

16           (u) Failing to provide all information as described in  
17 s. 484.051(1).

18           (v) Exercising influence on a client in such a manner  
19 as to exploit the client for financial gain of the licensee or  
20 of a third party.

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

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

29           Section 35. For the purpose of incorporating the  
30 amendment to section 456.072, Florida Statutes, in references  
31

1 thereto, subsections (1) and (2) of section 486.125, Florida  
2 Statutes, are reenacted to read:

3           486.125 Refusal, revocation, or suspension of license;  
4 administrative fines and other disciplinary measures.--

5           (1) The following acts constitute grounds for denial  
6 of a license or disciplinary action, as specified in s.  
7 456.072(2):

8           (a) Being unable to practice physical therapy with  
9 reasonable skill and safety to patients by reason of illness  
10 or use of alcohol, drugs, narcotics, chemicals, or any other  
11 type of material or as a result of any mental or physical  
12 condition.

13           1. In enforcing this paragraph, upon a finding of the  
14 secretary or the secretary's designee that probable cause  
15 exists to believe that the licensee is unable to practice  
16 physical therapy due to the reasons stated in this paragraph,  
17 the department shall have the authority to compel a physical  
18 therapist or physical therapist assistant to submit to a  
19 mental or physical examination by a physician designated by  
20 the department. If the licensee refuses to comply with such  
21 order, the department's order directing such examination may  
22 be enforced by filing a petition for enforcement in the  
23 circuit court where the licensee resides or serves as a  
24 physical therapy practitioner. The licensee against whom the  
25 petition is filed shall not be named or identified by initials  
26 in any public court records or documents, and the proceedings  
27 shall be closed to the public. The department shall be  
28 entitled to the summary procedure provided in s. 51.011.

29           2. A physical therapist or physical therapist  
30 assistant whose license is suspended or revoked pursuant to  
31 this subsection shall, at reasonable intervals, be given an

1 opportunity to demonstrate that she or he can resume the  
2 competent practice of physical therapy with reasonable skill  
3 and safety to patients.

4           3. Neither the record of proceeding nor the orders  
5 entered by the board in any proceeding under this subsection  
6 may be used against a physical therapist or physical therapist  
7 assistant in any other proceeding.

8           (b) Having committed fraud in the practice of physical  
9 therapy or deceit in obtaining a license as a physical  
10 therapist or as a physical therapist assistant.

11           (c) Being convicted or found guilty regardless of  
12 adjudication, of a crime in any jurisdiction which directly  
13 relates to the practice of physical therapy or to the ability  
14 to practice physical therapy. The entry of any plea of nolo  
15 contendere shall be considered a conviction for purpose of  
16 this chapter.

17           (d) Having treated or undertaken to treat human  
18 ailments by means other than by physical therapy, as defined  
19 in this chapter.

20           (e) Failing to maintain acceptable standards of  
21 physical therapy practice as set forth by the board in rules  
22 adopted pursuant to this chapter.

23           (f) Engaging directly or indirectly in the dividing,  
24 transferring, assigning, rebating, or refunding of fees  
25 received for professional services, or having been found to  
26 profit by means of a credit or other valuable consideration,  
27 such as an unearned commission, discount, or gratuity, with  
28 any person referring a patient or with any relative or  
29 business associate of the referring person. Nothing in this  
30 chapter shall be construed to prohibit the members of any  
31 regularly and properly organized business entity which is

1 comprised of physical therapists and which is recognized under  
2 the laws of this state from making any division of their total  
3 fees among themselves as they determine necessary.

4 (g) Having a license revoked or suspended; having had  
5 other disciplinary action taken against her or him; or having  
6 had her or his application for a license refused, revoked, or  
7 suspended by the licensing authority of another state,  
8 territory, or country.

9 (h) Violating a lawful order of the board or  
10 department previously entered in a disciplinary hearing.

11 (i) Making or filing a report or record which the  
12 licensee knows to be false. Such reports or records shall  
13 include only those which are signed in the capacity of a  
14 physical therapist.

15 (j) Practicing or offering to practice beyond the  
16 scope permitted by law or accepting and performing  
17 professional responsibilities which the licensee knows or has  
18 reason to know that she or he is not competent to perform,  
19 including, but not limited to, specific spinal manipulation.

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

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

28 Section 36. For the purpose of incorporating the  
29 amendment to section 456.072, Florida Statutes, in references  
30 thereto, section 490.009, Florida Statutes, is reenacted to  
31 read:

1           490.009 Discipline.--

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

5           (a) Attempting to obtain, obtaining, or renewing a  
6 license under this chapter by bribery or fraudulent  
7 misrepresentation or through an error of the board or  
8 department.

9           (b) Having a license to practice a comparable  
10 profession revoked, suspended, or otherwise acted against,  
11 including the denial of certification or licensure by another  
12 state, territory, or country.

13           (c) Being convicted or found guilty, regardless of  
14 adjudication, of a crime in any jurisdiction which directly  
15 relates to the practice of his or her profession or the  
16 ability to practice his or her profession. A plea of nolo  
17 contendere creates a rebuttable presumption of guilt of the  
18 underlying criminal charges. However, the board shall allow  
19 the person who is the subject of the disciplinary proceeding  
20 to present any evidence relevant to the underlying charges and  
21 circumstances surrounding the plea.

22           (d) False, deceptive, or misleading advertising or  
23 obtaining a fee or other thing of value on the representation  
24 that beneficial results from any treatment will be guaranteed.

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

27           (f) Maintaining a professional association with any  
28 person who the applicant or licensee knows, or has reason to  
29 believe, is in violation of this chapter or of a rule of the  
30 department or, in the case of psychologists, of the department  
31 or the board.

1           (g) Knowingly aiding, assisting, procuring, or  
2 advising any nonlicensed person to hold himself or herself out  
3 as licensed under this chapter.

4           (h) Failing to perform any statutory or legal  
5 obligation placed upon a person licensed under this chapter.

6           (i) Willfully making or filing a false report or  
7 record; failing to file a report or record required by state  
8 or federal law; willfully impeding or obstructing the filing  
9 of a report or record; or inducing another person to make or  
10 file a false report or record or to impede or obstruct the  
11 filing of a report or record. Such report or record includes  
12 only a report or record which requires the signature of a  
13 person licensed under this chapter.

14           (j) Paying a kickback, rebate, bonus, or other  
15 remuneration for receiving a patient or client, or receiving a  
16 kickback, rebate, bonus, or other remuneration for referring a  
17 patient or client to another provider of mental health care  
18 services or to a provider of health care services or goods;  
19 referring a patient or client to oneself for services on a  
20 fee-paid basis when those services are already being paid for  
21 by some other public or private entity; or entering into a  
22 reciprocal referral agreement.

23           (k) Committing any act upon a patient or client which  
24 would constitute sexual battery or which would constitute  
25 sexual misconduct as defined in s. 490.0111.

26           (l) Making misleading, deceptive, untrue, or  
27 fraudulent representations in the practice of any profession  
28 licensed under this chapter.

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

1 undue influence, or a form of overreaching or vexatious  
2 conduct.

3 (n) Failing to make available to a patient or client,  
4 upon written request, copies of test results, reports, or  
5 documents in the possession or under the control of the  
6 licensee which have been prepared for and paid for by the  
7 patient or client.

8 (o) Failing to respond within 30 days to a written  
9 communication from the department concerning any investigation  
10 by the department or to make available any relevant records  
11 with respect to any investigation about the licensee's conduct  
12 or background.

13 (p) Being unable to practice the profession for which  
14 he or she is licensed under this chapter with reasonable skill  
15 or competence as a result of any mental or physical condition  
16 or by reason of illness; drunkenness; or excessive use of  
17 drugs, narcotics, chemicals, or any other substance. In  
18 enforcing this paragraph, upon a finding by the secretary, the  
19 secretary's designee, or the board that probable cause exists  
20 to believe that the licensee is unable to practice the  
21 profession because of the reasons stated in this paragraph,  
22 the department shall have the authority to compel a licensee  
23 to submit to a mental or physical examination by psychologists  
24 or physicians designated by the department or board. If the  
25 licensee refuses to comply with the department's order, the  
26 department may file a petition for enforcement in the circuit  
27 court of the circuit in which the licensee resides or does  
28 business. The licensee shall not be named or identified by  
29 initials in the petition or in any other public court records  
30 or documents, and the enforcement proceedings shall be closed  
31 to the public. The department shall be entitled to the



1 summary procedure provided in s. 51.011. A licensee affected  
2 under this paragraph shall be afforded an opportunity at  
3 reasonable intervals to demonstrate that he or she can resume  
4 the competent practice for which he or she is licensed with  
5 reasonable skill and safety to patients.

6 (q) Performing any treatment or prescribing any  
7 therapy which, by the prevailing standards of the mental  
8 health professions in the community, would constitute  
9 experimentation on human subjects, without first obtaining  
10 full, informed, and written consent.

11 (r) Failing to meet the minimum standards of  
12 performance in professional activities when measured against  
13 generally prevailing peer performance, including the  
14 undertaking of activities for which the licensee is not  
15 qualified by training or experience.

16 (s) Delegating professional responsibilities to a  
17 person whom the licensee knows or has reason to know is not  
18 qualified by training or experience to perform such  
19 responsibilities.

20 (t) Violating a rule relating to the regulation of the  
21 profession or a lawful order of the department previously  
22 entered in a disciplinary hearing.

23 (u) Failing to maintain in confidence a communication  
24 made by a patient or client in the context of such services,  
25 except as provided in s. 490.0147.

26 (v) Making public statements which are derived from  
27 test data, client contacts, or behavioral research and which  
28 identify or damage research subjects or clients.

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

31

1           (2) The department, or in the case of psychologists,  
2 the board, may enter an order denying licensure or imposing  
3 any of the penalties in s. 456.072(2) against any applicant  
4 for licensure or licensee who is found guilty of violating any  
5 provision of subsection (1) of this section or who is found  
6 guilty of violating any provision of s. 456.072(1).

7           Section 37. For the purpose of incorporating the  
8 amendment to section 456.072, Florida Statutes, in references  
9 thereto, section 491.009, Florida Statutes, is reenacted to  
10 read:

11           491.009 Discipline.--

12           (1) The following acts constitute grounds for denial  
13 of a license or disciplinary action, as specified in s.  
14 456.072(2):

15           (a) Attempting to obtain, obtaining, or renewing a  
16 license, registration, or certificate under this chapter by  
17 bribery or fraudulent misrepresentation or through an error of  
18 the board or the department.

19           (b) Having a license, registration, or certificate to  
20 practice a comparable profession revoked, suspended, or  
21 otherwise acted against, including the denial of certification  
22 or licensure by another state, territory, or country.

23           (c) Being convicted or found guilty of, regardless of  
24 adjudication, or having entered a plea of nolo contendere to,  
25 a crime in any jurisdiction which directly relates to the  
26 practice of his or her profession or the ability to practice  
27 his or her profession. However, in the case of a plea of nolo  
28 contendere, the board shall allow the person who is the  
29 subject of the disciplinary proceeding to present evidence in  
30 mitigation relevant to the underlying charges and  
31 circumstances surrounding the plea.

1 (d) False, deceptive, or misleading advertising or  
2 obtaining a fee or other thing of value on the representation  
3 that beneficial results from any treatment will be guaranteed.

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

6 (f) Maintaining a professional association with any  
7 person who the applicant, licensee, registered intern, or  
8 certificateholder knows, or has reason to believe, is in  
9 violation of this chapter or of a rule of the department or  
10 the board.

11 (g) Knowingly aiding, assisting, procuring, or  
12 advising any nonlicensed, nonregistered, or noncertified  
13 person to hold himself or herself out as licensed, registered,  
14 or certified under this chapter.

15 (h) Failing to perform any statutory or legal  
16 obligation placed upon a person licensed, registered, or  
17 certified under this chapter.

18 (i) Willfully making or filing a false report or  
19 record; failing to file a report or record required by state  
20 or federal law; willfully impeding or obstructing the filing  
21 of a report or record; or inducing another person to make or  
22 file a false report or record or to impede or obstruct the  
23 filing of a report or record. Such report or record includes  
24 only a report or record which requires the signature of a  
25 person licensed, registered, or certified under this chapter.

26 (j) Paying a kickback, rebate, bonus, or other  
27 remuneration for receiving a patient or client, or receiving a  
28 kickback, rebate, bonus, or other remuneration for referring a  
29 patient or client to another provider of mental health care  
30 services or to a provider of health care services or goods;  
31 referring a patient or client to oneself for services on a

1 fee-paid basis when those services are already being paid for  
2 by some other public or private entity; or entering into a  
3 reciprocal referral agreement.

4 (k) Committing any act upon a patient or client which  
5 would constitute sexual battery or which would constitute  
6 sexual misconduct as defined pursuant to s. 491.0111.

7 (l) Making misleading, deceptive, untrue, or  
8 fraudulent representations in the practice of any profession  
9 licensed, registered, or certified under this chapter.

10 (m) Soliciting patients or clients personally, or  
11 through an agent, through the use of fraud, intimidation,  
12 undue influence, or a form of overreaching or vexatious  
13 conduct.

14 (n) Failing to make available to a patient or client,  
15 upon written request, copies of tests, reports, or documents  
16 in the possession or under the control of the licensee,  
17 registered intern, or certificateholder which have been  
18 prepared for and paid for by the patient or client.

19 (o) Failing to respond within 30 days to a written  
20 communication from the department or the board concerning any  
21 investigation by the department or the board, or failing to  
22 make available any relevant records with respect to any  
23 investigation about the licensee's, registered intern's, or  
24 certificateholder's conduct or background.

25 (p) Being unable to practice the profession for which  
26 he or she is licensed, registered, or certified under this  
27 chapter with reasonable skill or competence as a result of any  
28 mental or physical condition or by reason of illness;  
29 drunkenness; or excessive use of drugs, narcotics, chemicals,  
30 or any other substance. In enforcing this paragraph, upon a  
31 finding by the secretary, the secretary's designee, or the

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

25           (q) Performing any treatment or prescribing any  
26 therapy which, by the prevailing standards of the mental  
27 health professions in the community, would constitute  
28 experimentation on human subjects, without first obtaining  
29 full, informed, and written consent.

30           (r) Failing to meet the minimum standards of  
31 performance in professional activities when measured against

1 generally prevailing peer performance, including the  
2 undertaking of activities for which the licensee, registered  
3 intern, or certificateholder is not qualified by training or  
4 experience.

5 (s) Delegating professional responsibilities to a  
6 person whom the licensee, registered intern, or  
7 certificateholder knows or has reason to know is not qualified  
8 by training or experience to perform such responsibilities.

9 (t) Violating a rule relating to the regulation of the  
10 profession or a lawful order of the department or the board  
11 previously entered in a disciplinary hearing.

12 (u) Failure of the licensee, registered intern, or  
13 certificateholder to maintain in confidence a communication  
14 made by a patient or client in the context of such services,  
15 except as provided in s. 491.0147.

16 (v) Making public statements which are derived from  
17 test data, client contacts, or behavioral research and which  
18 identify or damage research subjects or clients.

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

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

27 Section 38. Paragraph (d) is added to subsection (1)  
28 of section 458.345, Florida Statutes, to read:

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

1           (1) Any person desiring to practice as a resident  
2 physician, assistant resident physician, house physician,  
3 intern, or fellow in fellowship training which leads to  
4 subspecialty board certification in this state, or any person  
5 desiring to practice as a resident physician, assistant  
6 resident physician, house physician, intern, or fellow in  
7 fellowship training in a teaching hospital in this state as  
8 defined in s. 408.07(44) or s. 395.805(2), who does not hold a  
9 valid, active license issued under this chapter shall apply to  
10 the department to be registered and shall remit a fee not to  
11 exceed \$300 as set by the board. The department shall  
12 register any applicant the board certifies has met the  
13 following requirements:

14           (d) Has completed, upon initial registration, the  
15 1-hour educational course in the prescribing and pharmacology  
16 of controlled substances as set forth in section 2 of this  
17 act. An applicant who has not taken a course at the time of  
18 registration shall be allowed up to 6 months within which to  
19 complete this requirement.

20           Section 39. Subsection (1) of section 461.013, Florida  
21 Statutes, is reenacted and amended, and subsection (2) of said  
22 section is reenacted, to read:

23           461.013 Grounds for disciplinary action; action by the  
24 board; investigations by department.--

25           (1) The following acts constitute grounds for denial  
26 of a license or disciplinary action, as specified in s.  
27 456.072(2):

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

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

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

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

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

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

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

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

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

30           (j) Making misleading, deceptive, untrue, or  
31 fraudulent representations in the practice of podiatric



1 medicine or employing a trick or scheme in the practice of  
2 podiatric medicine when such scheme or trick fails to conform  
3 to the generally prevailing standards of treatment in the  
4 podiatric community.

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

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

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

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

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

1 not in the best interest of the patient and is not in the  
2 course of the podiatric physician's professional practice,  
3 without regard to her or his intent.

4 (p) Prescribing, dispensing, or administering any  
5 medicinal drug appearing on any schedule set forth in chapter  
6 893 by the podiatric physician to herself or himself except  
7 those prescribed, dispensed, or administered to the podiatric  
8 physician by another practitioner authorized to prescribe,  
9 dispense, or administer them.

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

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

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

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

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

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

1           (w) Violating a lawful order of the board or  
2 department previously entered in a disciplinary hearing or  
3 failing to comply with a lawfully issued subpoena of the board  
4 or department.

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

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

19           (z) Fraud, deceit, or misconduct in the practice of  
20 podiatric medicine.

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

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

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

3 (cc) Presigning blank prescription forms.

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

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

12 Section 40. Paragraphs (h), (i), (j), (k), and (l) are  
13 added to subsection (1) of section 893.04, Florida Statutes,  
14 to read:

15 893.04 Pharmacist and practitioner.--

16 (1) A pharmacist, in good faith and in the course of  
17 professional practice only, may dispense controlled substances  
18 upon a written or oral prescription of a practitioner, under  
19 the following conditions:

20 (h) A pharmacist may not dispense a Schedule II  
21 controlled substance; codeine, hydrocodone, dihydrocodeine,  
22 ethylmorphine, or morphine, as scheduled in Schedules II and  
23 III; or a drug of abuse designated by the Department of  
24 Health, Bureau of Pharmacy Services, by rule under the  
25 electronic prescription-monitoring system to any individual  
26 not personally known to the pharmacist without first obtaining  
27 suitable identification and documenting, in a log book kept by  
28 the pharmacist, the identity of the individual obtaining the  
29 controlled substance or drug. The log book entry must contain  
30 the printed name, address, telephone number if available,  
31 driver's license number or other suitable identification

1 number, and signature of the person obtaining the controlled  
2 substance or drug. If the individual does not have suitable  
3 identification or it is impracticable to obtain such  
4 identification, the pharmacist may dispense the controlled  
5 substance or drug only when the pharmacist determines, in the  
6 exercise of his or her professional judgment, that the order  
7 is valid and necessary for treatment. In such a case, the  
8 pharmacist or his or her designee must obtain the other  
9 information required under this paragraph, and the pharmacist  
10 or pharmacist's designee must sign the log to indicate that  
11 suitable identification was not available and that the  
12 pharmacist's professional judgment was exercised prior to  
13 dispensing the controlled substance or drug. The Board of  
14 Pharmacy may adopt, by rule, procedures for a pharmacist to  
15 verify the validity of a prescription for a Schedule II  
16 controlled substance; codeine, hydrocodone, dihydrocodeine,  
17 ethylmorphine, or morphine, as scheduled in Schedules II and  
18 III; or any other drug designated by the Department of Health,  
19 Bureau of Pharmacy Services, by rule, for circumstances when  
20 it is otherwise impracticable for the pharmacist or dispensing  
21 practitioner to obtain suitable identification from the  
22 patient or the patient's agent. For purposes of this  
23 paragraph, identification is suitable only if it contains the  
24 photograph, printed name, and signature of the individual  
25 obtaining the controlled substance or drug.

26 (i) Any pharmacist who dispenses by mail a Schedule II  
27 controlled substance or drug subject to the requirements of  
28 this section shall be exempt from the requirements to obtain  
29 suitable identification.

30 (j) All prescriptions issued for a Schedule II  
31 controlled substance; codeine, hydrocodone, dihydrocodeine,

1 ethylmorphine, or morphine, as scheduled in Schedules II and  
2 III; or a drug of abuse designated by the Department of  
3 Health, Bureau of Pharmacy Services, by rule under the  
4 electronic prescription-monitoring system must include both a  
5 written and numerical notation of quantity on the face of the  
6 prescription.

7 (k) A pharmacist may not dispense more than a 30-day  
8 supply of a controlled substance listed in Schedule III upon  
9 an oral prescription.

10 (l) A pharmacist may not knowingly fill a prescription  
11 that has been mutilated or forged for a Schedule II controlled  
12 substance; codeine, hydrocodone, dihydrocodeine,  
13 ethylmorphine, or morphine, as scheduled in Schedules II and  
14 III; or a drug of abuse designated by the Department of  
15 Health, Bureau of Pharmacy Services, by rule under the  
16 electronic prescription-monitoring system.

17 Section 41. Section 893.065, Florida Statutes, is  
18 created to read:

19 893.065 Voluntary program for counterfeit-resistant  
20 prescription documents.--The Department of Health, Bureau of  
21 Pharmacy Services, may, by rule, after consultation with the  
22 prescription-monitoring program advisory council established  
23 under section 5 of this act, develop a voluntary program for  
24 counterfeit-resistant prescription documents to be used by  
25 practitioners who prescribe controlled substances or any drug  
26 of abuse designated by the Department of Health, Bureau of  
27 Pharmacy Services, by rule under the electronic  
28 prescription-monitoring system established under section 5 of  
29 this act. The Department of Health, Bureau of Pharmacy  
30 Services, may develop, by rule, a counterfeit-resistant  
31 prescription blank, optically scannable form, or smart card

1 form for voluntary use by practitioners who prescribe  
2 controlled substances or any drug of abuse reportable under  
3 the electronic prescription-monitoring system. The Department  
4 of Health, Bureau of Pharmacy Services, may, by rule, require  
5 the prescription documents to be printed or produced on  
6 distinctive paper or material, to be serially numbered, and to  
7 bear the preprinted or encoded name, address, and category of  
8 professional licensure of the practitioner to whom they are  
9 issued and that practitioner's federal registry number for  
10 controlled substances. The prescription documents may be  
11 issued by the Department of Health, Bureau of Pharmacy  
12 Services, in serially numbered groups to prescribing  
13 practitioners. If such documents are issued by the Department  
14 of Health, Bureau of Pharmacy Services, to implement a  
15 voluntary program for counterfeit-resistant prescription  
16 documents, a copy or other record of each document utilized  
17 must be available for inspection by the Department of Health,  
18 Bureau of Pharmacy Services, and all costs of preparing,  
19 issuing, and tracking prescription documents may be covered by  
20 the Department of Health, Bureau of Pharmacy Services.

21           Section 42. If any law amended by this act was also  
22 amended by a law enacted during the 2002 Regular Session of  
23 the Legislature, such laws shall be construed to have been  
24 enacted during the same session of the Legislature and full  
25 effect shall be given to each if possible.

26           Section 43. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

Provides for specified licensing boards to adopt rules governing the prescribing of controlled substances in emergency department settings. Requires certain health care providers to complete education courses relating to the prescription and pharmacology of controlled substances. Provides for the emergency suspension of certain licenses for prescribing violations. Requires law enforcement agencies, the Department of Health, the Medical Examiners Commission within the Department of Law Enforcement, the statewide prosecutor, and state attorneys to share certain information regarding health care practitioners, and requires a study and a report. Requires the Department of Health, Bureau of Pharmacy Services, to establish an electronic system to monitor the prescribing of certain controlled substances. Establishes an advisory council and provides for its membership, duties, staff, and compensation. Eliminates certain requirements for HIV and AIDS education courses. Revises disciplinary penalties applicable to health care practitioners. Requires certain resident physicians, interns, and fellows to complete an educational course in the prescribing and pharmacology of controlled substances. Prohibits the presigning of blank prescription forms. Provides additional requirements for pharmacists regarding the identification of persons to whom controlled substances are dispensed. Prohibits certain prescribing practitioners from possessing, administering, dispensing, or prescribing controlled substances. Provides for a voluntary program for counterfeit-resistant prescription documents. See bill for details.