

Bill No. CS for SB 28-E

Amendment No. Barcode 625390

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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11 Senator Burt moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 15, between lines 29 and 30,

15

16 insert:

17 Section 7. Paragraph (d) of subsection (2) of section

18 456.072, Florida Statutes, is amended to read:

19 456.072 Grounds for discipline; penalties;

20 enforcement.--

21 (2) When the board, or the department when there is no

22 board, finds any person guilty of the grounds set forth in

23 subsection (1) or of any grounds set forth in the applicable

24 practice act, including conduct constituting a substantial

25 violation of subsection (1) or a violation of the applicable

26 practice act which occurred prior to obtaining a license, it

27 may enter an order imposing one or more of the following

28 penalties:

29 (d) Imposition of an administrative fine not to exceed

30 ~~\$10,000~~ \$25,000 for each count or separate offense. If the

31 violation is for fraud or making a false or fraudulent

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

3
4 In determining what action is appropriate, the board, or
5 department when there is no board, must first consider what
6 sanctions are necessary to protect the public or to compensate
7 the patient. Only after those sanctions have been imposed may
8 the disciplining authority consider and include in the order
9 requirements designed to rehabilitate the practitioner. All
10 costs associated with compliance with orders issued under this
11 subsection are the obligation of the practitioner.

12 Section 1. For the purpose of incorporating the
13 amendment to section 456.072, Florida Statutes, in a reference
14 thereto, subsection (2) of section 456.082, Florida Statutes,
15 is reenacted to read:

16 456.082 Disclosure of confidential information.--

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

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

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

29 (1) The following acts constitute grounds for denial
30 of a license or disciplinary action, as specified in s.
31 456.072(2):

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

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

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

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

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

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

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

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

26 (i) Making or filing a report which the licensee knows
27 to be false, intentionally or negligently failing to file a
28 report or record required by state or federal law, willfully
29 impeding or obstructing such filing or inducing another person
30 to do so. Such reports or records shall include only those
31 which are signed in the capacity as a licensed acupuncturist.

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

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

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

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

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

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

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

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

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

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

30 (s) Violating a lawful order of the board previously
31 entered in a disciplinary hearing or failing to comply with a

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1 lawfully issued subpoena of the department.

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

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

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

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

15 (x) 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 3. For the purpose of incorporating the
24 amendment to section 456.072, Florida Statutes, in references
25 thereto, subsections (1) and (2) of section 458.331, Florida
26 Statutes, are reenacted to read:

27 458.331 Grounds for disciplinary action; action by the
28 board and department.--

29 (1) The following acts constitute grounds for denial
30 of a license or disciplinary action, as specified in s.
31 456.072(2):

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

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

15 (c) Being convicted or found guilty of, or entering a
16 plea of nolo contendere to, regardless of adjudication, a
17 crime in any jurisdiction which directly relates to the
18 practice of medicine or to the ability to practice medicine.

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

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

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

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

31 (h) Making or filing a report which the licensee knows

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1 to be false, intentionally or negligently failing to file a
2 report or record required by state or federal law, willfully
3 impeding or obstructing such filing or inducing another person
4 to do so. Such reports or records shall include only those
5 which are signed in the capacity as a licensed physician.

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

16 (j) Exercising influence within a patient-physician
17 relationship for purposes of engaging a patient in sexual
18 activity. A patient shall be presumed to be incapable of
19 giving free, full, and informed consent to sexual activity
20 with his or her physician.

21 (k) Making deceptive, untrue, or fraudulent
22 representations in or related to the practice of medicine or
23 employing a trick or scheme in the practice of medicine.

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

29 (m) Failing to keep legible, as defined by department
30 rule in consultation with the board, medical records that
31 identify the licensed physician or the physician extender and

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1 supervising physician by name and professional title who is or
2 are responsible for rendering, ordering, supervising, or
3 billing for each diagnostic or treatment procedure and that
4 justify the course of treatment of the patient, including, but
5 not limited to, patient histories; examination results; test
6 results; records of drugs prescribed, dispensed, or
7 administered; and reports of consultations and
8 hospitalizations.

9 (n) Exercising influence on the patient or client in
10 such a manner as to exploit the patient or client for
11 financial gain of the licensee or of a third party, which
12 shall include, but not be limited to, the promoting or selling
13 of services, goods, appliances, or drugs.

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

17 (p) Performing professional services which have not
18 been duly authorized by the patient or client, or his or her
19 legal representative, except as provided in s. 743.064, s.
20 766.103, or s. 768.13.

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

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1 (r) Prescribing, dispensing, or administering any
2 medicinal drug appearing on any schedule set forth in chapter
3 893 by the physician to himself or herself, except one
4 prescribed, dispensed, or administered to the physician by
5 another practitioner authorized to prescribe, dispense, or
6 administer medicinal drugs.

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

31 (t) Gross or repeated malpractice or the failure to

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

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

26 (v) Practicing or offering to practice beyond the
27 scope permitted by law or accepting and performing
28 professional responsibilities which the licensee knows or has
29 reason to know that he or she is not competent to perform. The
30 board may establish by rule standards of practice and
31 standards of care for particular practice settings, including,

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1 but not limited to, education and training, equipment and
2 supplies, medications including anesthetics, assistance of and
3 delegation to other personnel, transfer agreements,
4 sterilization, records, performance of complex or multiple
5 procedures, informed consent, and policy and procedure
6 manuals.

7 (w) 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 qualified
10 by training, experience, or licensure to perform them.

11 (x) Violating a lawful order of the board or
12 department previously entered in a disciplinary hearing or
13 failing to comply with a lawfully issued subpoena of the
14 department.

15 (y) Conspiring with another licensee or with any other
16 person to commit an act, or committing an act, which would
17 tend to coerce, intimidate, or preclude another licensee from
18 lawfully advertising his or her services.

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

21 (aa) Presigning blank prescription forms.

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

24 (cc) Prescribing, ordering, dispensing, administering,
25 supplying, selling, or giving any drug which is a Schedule II
26 amphetamine or a Schedule II sympathomimetic amine drug or any
27 compound thereof, pursuant to chapter 893, to or for any
28 person except for:

29 1. The treatment of narcolepsy; hyperkinesia;
30 behavioral syndrome characterized by the developmentally
31 inappropriate symptoms of moderate to severe distractibility,

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1 short attention span, hyperactivity, emotional lability, and
2 impulsivity; or drug-induced brain dysfunction;

3 2. The differential diagnostic psychiatric evaluation
4 of depression or the treatment of depression shown to be
5 refractory to other therapeutic modalities; or

6 3. The clinical investigation of the effects of such
7 drugs or compounds when an investigative protocol therefor is
8 submitted to, reviewed, and approved by the board before such
9 investigation is begun.

10 (dd) Failing to supervise adequately the activities of
11 those physician assistants, paramedics, emergency medical
12 technicians, or advanced registered nurse practitioners acting
13 under the supervision of the physician.

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

24 (ff) Prescribing, ordering, dispensing, administering,
25 supplying, selling, or giving amygdalin (laetrile) to any
26 person.

27 (gg) Misrepresenting or concealing a material fact at
28 any time during any phase of a licensing or disciplinary
29 process or procedure.

30 (hh) Improperly interfering with an investigation or
31 with any disciplinary proceeding.

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1 (ii) Failing to report to the department any licensee
2 under this chapter or under chapter 459 who the physician or
3 physician assistant knows has violated the grounds for
4 disciplinary action set out in the law under which that person
5 is licensed and who provides health care services in a
6 facility licensed under chapter 395, or a health maintenance
7 organization certificated under part I of chapter 641, in
8 which the physician or physician assistant also provides
9 services.

10 (jj) Being found by any court in this state to have
11 provided corroborating written medical expert opinion attached
12 to any statutorily required notice of claim or intent or to
13 any statutorily required response rejecting a claim, without
14 reasonable investigation.

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

19 (ll) Advertising or holding oneself out as a
20 board-certified specialist, if not qualified under s.
21 458.3312, in violation of this chapter.

22 (mm) Failing to comply with the requirements of ss.
23 381.026 and 381.0261 to provide patients with information
24 about their patient rights and how to file a patient
25 complaint.

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

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

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

10 Section 4. For the purpose of incorporating the
11 amendment to section 456.072, Florida Statutes, in a reference
12 thereto, paragraph (g) of subsection (7) of section 458.347,
13 Florida Statutes, is reenacted to read:

14 458.347 Physician assistants.--

15 (7) PHYSICIAN ASSISTANT LICENSURE.--

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

22 Section 5. For the purpose of incorporating the
23 amendment to section 456.072, Florida Statutes, in references
24 thereto, subsections (1) and (2) of section 459.015, Florida
25 Statutes, are reenacted to read:

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

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 (a) Attempting to obtain, obtaining, or renewing a

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1 license to practice osteopathic medicine or a certificate
2 issued under this chapter by bribery, by fraudulent
3 misrepresentations, or through an error of the department or
4 the board.

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

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

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

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

30 (f) Aiding, assisting, procuring, or advising any
31 unlicensed person to practice osteopathic medicine contrary to

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1 this chapter or to a rule of the department or the board.

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

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

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

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

24 (k) Refusing to provide health care based on a
25 patient's participation in pending or past litigation or
26 participation in any disciplinary action conducted pursuant to
27 this chapter, unless such litigation or disciplinary action
28 directly involves the osteopathic physician requested to
29 provide services.

30 (l) Exercising influence within a patient-physician
31 relationship for purposes of engaging a patient in sexual

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1 activity. A patient shall be presumed to be incapable of
2 giving free, full, and informed consent to sexual activity
3 with his or her physician.

4 (m) Making deceptive, untrue, or fraudulent
5 representations in or related to the practice of osteopathic
6 medicine or employing a trick or scheme in the practice of
7 osteopathic medicine.

8 (n) Soliciting patients, either personally or through
9 an agent, through the use of fraud, intimidation, undue
10 influence, or forms of overreaching or vexatious conduct. A
11 solicitation is any communication which directly or implicitly
12 requests an immediate oral response from the recipient.

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

24 (p) Fraudulently altering or destroying records
25 relating to patient care or treatment, including, but not
26 limited to, patient histories, examination results, and test
27 results.

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

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1 services, goods, appliances, or drugs.

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

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

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

22 (u) Prescribing or dispensing any medicinal drug
23 appearing on any schedule set forth in chapter 893 by the
24 osteopathic physician for himself or herself or administering
25 any such drug by the osteopathic physician to himself or
26 herself unless such drug is prescribed for the osteopathic
27 physician by another practitioner authorized to prescribe
28 medicinal drugs.

29 (v) Prescribing, ordering, dispensing, administering,
30 supplying, selling, or giving amygdalin (laetrile) to any
31 person.

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

25 (x) Gross or repeated malpractice or the failure to
26 practice osteopathic medicine with that level of care, skill,
27 and treatment which is recognized by a reasonably prudent
28 similar osteopathic physician as being acceptable under
29 similar conditions and circumstances. The board shall give
30 great weight to the provisions of s. 766.102 when enforcing
31 this paragraph. As used in this paragraph, "repeated

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

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

29 (z) Practicing or offering to practice beyond the
30 scope permitted by law or accepting and performing
31 professional responsibilities which the licensee knows or has

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1 reason to know that he or she is not competent to perform. The
2 board may establish by rule standards of practice and
3 standards of care for particular practice settings, including,
4 but not limited to, education and training, equipment and
5 supplies, medications including anesthetics, assistance of and
6 delegation to other personnel, transfer agreements,
7 sterilization, records, performance of complex or multiple
8 procedures, informed consent, and policy and procedure
9 manuals.

10 (aa) 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 them.

14 (bb) 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 board
17 or department.

18 (cc) Conspiring with another licensee or with any
19 other person to commit an act, or committing an act, which
20 would tend to coerce, intimidate, or preclude another licensee
21 from lawfully advertising his or her services.

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

24 (ee) Presigning blank prescription forms.

25 (ff) Prescribing any medicinal drug appearing on
26 Schedule II in chapter 893 by the osteopathic physician for
27 office use.

28 (gg) Prescribing, ordering, dispensing, administering,
29 supplying, selling, or giving any drug which is a Schedule II
30 amphetamine or Schedule II sympathomimetic amine drug or any
31 compound thereof, pursuant to chapter 893, to or for any

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1 person except for:

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

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

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

14 (hh) Failing to supervise adequately the activities of
15 those physician assistants, paramedics, emergency medical
16 technicians, advanced registered nurse practitioners, or other
17 persons acting under the supervision of the osteopathic
18 physician.

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

29 (jj) Misrepresenting or concealing a material fact at
30 any time during any phase of a licensing or disciplinary
31 process or procedure.

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1 (kk) Improperly interfering with an investigation or
2 with any disciplinary proceeding.

3 (ll) Failing to report to the department any licensee
4 under chapter 458 or under this chapter who the osteopathic
5 physician or physician assistant knows has violated the
6 grounds for disciplinary action set out in the law under which
7 that person is licensed and who provides health care services
8 in a facility licensed under chapter 395, or a health
9 maintenance organization certificated under part I of chapter
10 641, in which the osteopathic physician or physician assistant
11 also provides services.

12 (mm) Being found by any court in this state to have
13 provided corroborating written medical expert opinion attached
14 to any statutorily required notice of claim or intent or to
15 any statutorily required response rejecting a claim, without
16 reasonable investigation.

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

19 (oo) Failing to comply with the requirements of ss.
20 381.026 and 381.0261 to provide patients with information
21 about their patient rights and how to file a patient
22 complaint.

23 (pp) 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). In determining what action is appropriate, the
31 board must first consider what sanctions are necessary to

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1 protect the public or to compensate the patient. Only after
2 those sanctions have been imposed may the disciplining
3 authority consider and include in the order requirements
4 designed to rehabilitate the physician. All costs associated
5 with compliance with orders issued under this subsection are
6 the obligation of the physician.

7 Section 6. For the purpose of incorporating the
8 amendment to section 456.072, Florida Statutes, in a reference
9 thereto, paragraph (f) of subsection (7) of section 459.022,
10 Florida Statutes, is reenacted to read:

11 459.022 Physician assistants.--

12 (7) PHYSICIAN ASSISTANT LICENSURE.--

13 (f) The Board of Osteopathic Medicine may impose any
14 of the penalties authorized under ss. 456.072 and 459.015(2)
15 upon a physician assistant if the physician assistant or the
16 supervising physician has been found guilty of or is being
17 investigated for any act that constitutes a violation of this
18 chapter or chapter 456.

19 Section 7. For the purpose of incorporating the
20 amendment to section 456.072, Florida Statutes, in references
21 thereto, subsections (1) and (2) of section 460.413, Florida
22 Statutes, are reenacted to read:

23 460.413 Grounds for disciplinary action; action by
24 board or 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 chiropractic medicine by bribery, by
30 fraudulent misrepresentations, or through an error of the
31 department or the board.

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1 (b) Having a license to practice chiropractic 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 chiropractic medicine or to the
8 ability to practice chiropractic 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) Causing to be advertised, by any means whatsoever,
13 any advertisement which does not contain an assertion or
14 statement which would identify herself or himself as a
15 chiropractic physician or identify such chiropractic clinic or
16 related institution in which she or he practices or in which
17 she or he is owner, in whole or in part, as a chiropractic
18 institution.

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

21 (g) 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 or the board.

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

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

29 (j) 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

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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 of a licensed chiropractic
4 physician.

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

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

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

23 (n) Exercising influence on the patient or client in
24 such a manner as to exploit the patient or client for
25 financial gain of the licensee or of a third party which shall
26 include, but not be limited to, the promotion or sale of
27 services, goods or appliances, or drugs.

28 (o) Performing professional services which have not
29 been duly authorized by the patient or client or her or his
30 legal representative except as provided in ss. 743.064,
31 766.103, and 768.13.

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

4 (q) Being unable to practice chiropractic medicine
5 with reasonable skill and safety to patients by reason of
6 illness or use of alcohol, drugs, narcotics, chemicals, or any
7 other type of material or as a result of any mental or
8 physical condition. In enforcing this paragraph, upon a
9 finding by the secretary of the department, or his or her
10 designee, or the probable cause panel of the board that
11 probable cause exists to believe that the licensee is unable
12 to practice the profession because of reasons stated in this
13 paragraph, the department shall have the authority to compel a
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 the department's order, the department
17 may file a petition for enforcement in the circuit court of
18 the circuit in which the licensee resides or does business.
19 The department shall be entitled to the summary procedure
20 provided in s. 51.011. The record of proceedings to obtain a
21 compelled mental or physical examination shall not be used
22 against a licensee in any other proceedings. A chiropractic
23 physician affected under this paragraph shall at reasonable
24 intervals be afforded an opportunity to demonstrate that she
25 or he can resume the competent practice of chiropractic
26 medicine with reasonable skill and safety to patients.

27 (r) Gross or repeated malpractice or the failure to
28 practice chiropractic medicine at a level of care, skill, and
29 treatment which is recognized by a reasonably prudent
30 chiropractic physician as being acceptable under similar
31 conditions and circumstances. The board shall give great

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1 weight to the standards for malpractice in s. 766.102 in
2 interpreting this provision. A recommended order by an
3 administrative law judge, or a final order of the board
4 finding a violation under this section shall specify whether
5 the licensee was found to have committed "gross malpractice,"
6 "repeated malpractice," or "failure to practice chiropractic
7 medicine with that level of care, skill, and treatment which
8 is recognized as being acceptable under similar conditions and
9 circumstances" or any combination thereof, and any publication
10 by the board shall so specify.

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

16 (t) 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 (u) 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 (v) 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
27 department.

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

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1 (x) Submitting to any third-party payor a claim for a
2 service or treatment which was not actually provided to a
3 patient.

4 (y) Failing to preserve identity of funds and property
5 of a patient. As provided by rule of the board, money or other
6 property entrusted to a chiropractic physician for a specific
7 purpose, including advances for costs and expenses of
8 examination or treatment, is to be held in trust and must be
9 applied only to that purpose. Money and other property of
10 patients coming into the hands of a chiropractic physician are
11 not subject to counterclaim or setoff for chiropractic
12 physician's fees, and a refusal to account for and deliver
13 over such money and property upon demand shall be deemed a
14 conversion. This is not to preclude the retention of money or
15 other property upon which the chiropractic physician has a
16 valid lien for services or to preclude the payment of agreed
17 fees from the proceeds of transactions for examinations or
18 treatments. Controversies as to the amount of the fees are
19 not grounds for disciplinary proceedings unless the amount
20 demanded is clearly excessive or extortionate, or the demand
21 is fraudulent. All funds of patients paid to a chiropractic
22 physician, other than advances for costs and expenses, shall
23 be deposited in one or more identifiable bank accounts
24 maintained in the state in which the chiropractic physician's
25 office is situated, and no funds belonging to the chiropractic
26 physician shall be deposited therein except as follows:

27 1. Funds reasonably sufficient to pay bank charges may
28 be deposited therein.

29 2. Funds belonging in part to a patient and in part
30 presently or potentially to the physician must be deposited
31 therein, but the portion belonging to the physician may be

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1 withdrawn when due unless the right of the physician to
2 receive it is disputed by the patient, in which event the
3 disputed portion shall not be withdrawn until the dispute is
4 finally resolved.

5
6 Every chiropractic physician shall maintain complete records
7 of all funds, securities, and other properties of a patient
8 coming into the possession of the physician and render
9 appropriate accounts to the patient regarding them. In
10 addition, every chiropractic physician shall promptly pay or
11 deliver to the patient, as requested by the patient, the
12 funds, securities, or other properties in the possession of
13 the physician which the patient is entitled to receive.

14 (z) Offering to accept or accepting payment for
15 services rendered by assignment from any third-party payor
16 after offering to accept or accepting whatever the third-party
17 payor covers as payment in full, if the effect of the offering
18 or acceptance is to eliminate or give the impression of
19 eliminating the need for payment by an insured of any required
20 deductions applicable in the policy of the insured.

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

24 (bb) Advertising a fee or charge for a service or
25 treatment which is different from the fee or charge the
26 licensee submits to third-party payors for that service or
27 treatment.

28 (cc) Advertising any reduced or discounted fees for
29 services or treatments, or advertising any free services or
30 treatments, without prominently stating in the advertisement
31 the usual fee of the licensee for the service or treatment

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1 which is the subject of the discount, rebate, or free
2 offering.

3 (dd) Using acupuncture without being certified
4 pursuant to s. 460.403(9)(f).

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

14 (ff) Violating any provision of this chapter or
15 chapter 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). In determining what action is appropriate, the
22 board must first consider what sanctions are necessary to
23 protect the public or to compensate the patient. Only after
24 those sanctions have been imposed may the disciplining
25 authority consider and include in the order requirements
26 designed to rehabilitate the chiropractic physician. All costs
27 associated with compliance with orders issued under this
28 subsection are the obligation of the chiropractic physician.

29 Section 8. For the purpose of incorporating the
30 amendment to section 456.072, Florida Statutes, in references
31 thereto, subsections (1) and (2) of section 462.14, Florida

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1 Statutes, are reenacted to read:

2 462.14 Grounds for disciplinary action; action by the
3 department.--

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) Attempting to obtain, obtaining, or renewing a
8 license to practice naturopathic medicine by bribery, by
9 fraudulent misrepresentation, or through an error of the
10 department.

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

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

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

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

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

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

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

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

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

18 (k) Exercising influence within a patient-physician
19 relationship for purposes of engaging a patient in sexual
20 activity. A patient shall be presumed to be incapable of
21 giving free, full, and informed consent to sexual activity
22 with her or his physician.

23 (l) Making deceptive, untrue, or fraudulent
24 representations in the practice of naturopathic medicine or
25 employing a trick or scheme in the practice of naturopathic
26 medicine when such scheme or trick fails to conform to the
27 generally prevailing standards of treatment in the medical
28 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

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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 medical records justifying
5 the course of treatment of the patient, including, but not
6 limited to, patient histories, examination results, test
7 results, X rays, and records of the prescribing, dispensing
8 and administering of drugs.

9 (o) Exercising influence on the patient or client in
10 such a manner as to exploit the patient or client for the
11 financial gain of the licensee or of a third party, which
12 shall include, but not be limited to, the promoting or selling
13 of services, goods, appliances, or drugs and the promoting or
14 advertising on any prescription form of a community pharmacy
15 unless the form also states "This prescription may be filled
16 at any pharmacy of your choice."

17 (p) Performing professional services which have not
18 been duly authorized by the patient or client, or her or his
19 legal representative, except as provided in s. 743.064, s.
20 766.103, or s. 768.13.

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

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1 (r) Prescribing, dispensing, or administering any
2 medicinal drug appearing on any schedule set forth in chapter
3 893 by the naturopathic physician to herself or himself,
4 except one prescribed, dispensed, or administered to the
5 naturopathic physician by another practitioner authorized to
6 prescribe, dispense, or administer medicinal drugs.

7 (s) Being unable to practice naturopathic medicine
8 with reasonable skill and safety to patients by reason of
9 illness or use of alcohol, drugs, narcotics, chemicals, or any
10 other type of material or as a result of any mental or
11 physical condition. In enforcing this paragraph, the
12 department shall have, upon probable cause, authority to
13 compel a naturopathic physician to submit to a mental or
14 physical examination by physicians designated by the
15 department. The failure of a naturopathic physician to submit
16 to such an examination when so directed shall constitute an
17 admission of the allegations against her or him upon which a
18 default and final order may be entered without the taking of
19 testimony or presentation of evidence, unless the failure was
20 due to circumstances beyond the naturopathic physician's
21 control. A naturopathic physician affected under this
22 paragraph shall at reasonable intervals be afforded an
23 opportunity to demonstrate that she or he can resume the
24 competent practice of naturopathic medicine with reasonable
25 skill and safety to patients. In any proceeding under this
26 paragraph, neither the record of proceedings nor the orders
27 entered by the department may be used against a naturopathic
28 physician in any other proceeding.

29 (t) Gross or repeated malpractice or the failure to
30 practice naturopathic medicine with that level of care, skill,
31 and treatment which is recognized by a reasonably prudent

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1 similar physician as being acceptable under similar conditions
2 and circumstances. The department shall give great weight to
3 the provisions of s. 766.102 when enforcing this paragraph.

4 (u) Performing any procedure or prescribing any
5 therapy which, by the prevailing standards of medical practice
6 in the community, constitutes experimentation on a human
7 subject, without first obtaining full, informed, and written
8 consent.

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

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

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

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

26 (aa) Presigning blank prescription forms.

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

30 (cc) Prescribing, ordering, dispensing, administering,
31 supplying, selling, or giving any drug which is an amphetamine

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1 or sympathomimetic amine drug, or a compound designated
2 pursuant to chapter 893 as a Schedule II controlled substance
3 to or for any person except for:

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

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

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

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

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

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

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1 guilty of violating any provision of subsection (1) of this
2 section or who is found guilty of violating any provision of
3 s. 456.072(1).

4 Section 9. For the purpose of incorporating the
5 amendment to section 456.072, Florida Statutes, in references
6 thereto, subsections (1) and (2) of section 463.016, Florida
7 Statutes, are reenacted to read:

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

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

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

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

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

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

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

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1 inducing another person to do so. Such reports or records
2 shall include only those which are signed by the licensee in
3 her or his capacity as a licensed practitioner.

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

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

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

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

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

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

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

23 (m) Gross or repeated malpractice.

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

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

30 A licensed practitioner affected under this paragraph shall at
31 reasonable intervals be afforded an opportunity to demonstrate

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1 that she or he can resume the competent practice of optometry
2 with reasonable skill and safety to patients.

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

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

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

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

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

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

24 Section 10. For the purpose of incorporating the
25 amendment to section 456.072, Florida Statutes, in references
26 thereto, subsections (1) and (2) of section 464.018, Florida
27 Statutes, are reenacted to read:

28 464.018 Disciplinary actions.--

29 (1) The following acts constitute grounds for denial
30 of a license or disciplinary action, as specified in s.
31 456.072(2):

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1 (a) Procuring, attempting to procure, or renewing a
2 license to practice nursing by bribery, by knowing
3 misrepresentations, or through an error of the department or
4 the board.

5 (b) Having a license to practice nursing revoked,
6 suspended, or otherwise acted against, including the denial of
7 licensure, by the licensing authority of another state,
8 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 directly relates to the
12 practice of nursing or to the ability to practice nursing.

13 (d) Being found guilty, regardless of adjudication, of
14 any of the following offenses:

- 15 1. A forcible felony as defined in chapter 776.
- 16 2. A violation of chapter 812, relating to theft,
17 robbery, and related crimes.
- 18 3. A violation of chapter 817, relating to fraudulent
19 practices.
- 20 4. A violation of chapter 800, relating to lewdness
21 and indecent exposure.
- 22 5. A violation of chapter 784, relating to assault,
23 battery, and culpable negligence.
- 24 6. A violation of chapter 827, relating to child
25 abuse.
- 26 7. A violation of chapter 415, relating to protection
27 from abuse, neglect, and exploitation.
- 28 8. A violation of chapter 39, relating to child abuse,
29 abandonment, and neglect.

30 (e) Having been found guilty of, regardless of
31 adjudication, or entered a plea of nolo contendere or guilty

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1 to, any offense prohibited under s. 435.03 or under any
2 similar statute of another jurisdiction; or having committed
3 an act which constitutes domestic violence as defined in s.
4 741.28.

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

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

13 (h) Unprofessional conduct, which shall include, but
14 not be limited to, any departure from, or the failure to
15 conform to, the minimal standards of acceptable and prevailing
16 nursing practice, in which case actual injury need not be
17 established.

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

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

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

14 (k) Failing to report to the department any person who
15 the licensee knows is in violation of this part or of the
16 rules of the department or the board; however, if the licensee
17 verifies that such person is actively participating in a
18 board-approved program for the treatment of a physical or
19 mental condition, the licensee is required to report such
20 person only to an impaired professionals consultant.

21 (l) Knowingly violating any provision of this part, a
22 rule of the board or the department, or a lawful order of the
23 board or department previously entered in a disciplinary
24 proceeding or failing to comply with a lawfully issued
25 subpoena of the department.

26 (m) Failing to report to the department any licensee
27 under chapter 458 or under chapter 459 who the nurse 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 or a health maintenance organization certificated under part I

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1 of chapter 641, in which the nurse also provides services.

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

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

10 Section 11. For the purpose of incorporating the
11 amendment to section 456.072, Florida Statutes, in references
12 thereto, subsections (1) and (2) of section 465.016, Florida
13 Statutes, are reenacted to read:

14 465.016 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) Obtaining a license by misrepresentation or fraud
19 or through an error of the department or the board.

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

23 (c) Permitting any person not licensed as a pharmacist
24 in this state or not registered as an intern in this state, or
25 permitting a registered intern who is not acting under the
26 direct and immediate personal supervision of a licensed
27 pharmacist, to fill, compound, or dispense any prescriptions
28 in a pharmacy owned and operated by such pharmacist or in a
29 pharmacy where such pharmacist is employed or on duty.

30 (d) Being unfit or incompetent to practice pharmacy by
31 reason of:

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1 1. Habitual intoxication.

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

4 3. Any abnormal physical or mental condition which
5 threatens the safety of persons to whom she or he might sell
6 or dispense prescriptions, drugs, or medical supplies or for
7 whom she or he might manufacture, prepare, or package, or
8 supervise the manufacturing, preparation, or packaging of,
9 prescriptions, drugs, or medical supplies.

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

14 (f) Having been convicted or found guilty, regardless
15 of adjudication, in a court of this state or other
16 jurisdiction, of a crime which directly relates to the ability
17 to practice pharmacy or to the practice of pharmacy. A plea
18 of nolo contendere constitutes a conviction for purposes of
19 this provision.

20 (g) Using in the compounding of a prescription, or
21 furnishing upon prescription, an ingredient or article
22 different in any manner from the ingredient or article
23 prescribed, except as authorized in s. 465.019(6) or s.
24 465.025.

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

28 (i) Compounding, dispensing, or distributing a legend
29 drug, including any controlled substance, other than in the
30 course of the professional practice of pharmacy. For purposes
31 of this paragraph, it shall be legally presumed that the

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1 compounding, dispensing, or distributing of legend drugs in
2 excessive or inappropriate quantities is not in the best
3 interests of the patient and is not in the course of the
4 professional practice of pharmacy.

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

12 (k) Failing to make prescription fee or price
13 information readily available by failing to provide such
14 information upon request and upon the presentation of a
15 prescription for pricing or dispensing. Nothing in this
16 section shall be construed to prohibit the quotation of price
17 information on a prescription drug to a potential consumer by
18 telephone.

19 (l) Placing in the stock of any pharmacy any part of
20 any prescription compounded or dispensed which is returned by
21 a patient; however, in a hospital, nursing home, correctional
22 facility, or extended care facility in which unit-dose
23 medication is dispensed to inpatients, each dose being
24 individually sealed and the individual unit dose or unit-dose
25 system labeled with the name of the drug, dosage strength,
26 manufacturer's control number, and expiration date, if any,
27 the unused unit dose of medication may be returned to the
28 pharmacy for redispensing. Each pharmacist shall maintain
29 appropriate records for any unused or returned medicinal
30 drugs.

31 (m) Being unable to practice pharmacy with reasonable

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

8 (n) Violating a rule of the board or department or
9 violating an order of the board or department previously
10 entered in a disciplinary hearing.

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

19 (p) Failing to notify the Board of Pharmacy in writing
20 within 20 days of the commencement or cessation of the
21 practice of the profession of pharmacy in Florida when such
22 commencement or cessation of the practice of the profession of
23 pharmacy in Florida was a result of a pending or completed
24 disciplinary action or investigation in another jurisdiction.

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

27 (r) Violating any provision of this chapter or chapter
28 456, 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

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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).

4 Section 12. For the purpose of incorporating the
5 amendment to section 456.072, Florida Statutes, in references
6 thereto, subsections (1) and (2) of section 466.028, Florida
7 Statutes, are reenacted to read:

8 466.028 Grounds for disciplinary action; action by the
9 board.--

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

13 (a) Attempting to obtain, obtaining, or renewing a
14 license under this chapter by bribery, fraudulent
15 misrepresentations, or through an error of the department or
16 the board.

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

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

27 (d) Advertising goods or services in a manner which is
28 fraudulent, false, deceptive, or misleading in form or content
29 contrary to s. 466.019 or rules of the board adopted pursuant
30 thereto.

31 (e) Advertising, practicing, or attempting to practice

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1 under a name other than one's own.

2 (f) Failing to report to the department any person who
3 the licensee knows, or has reason to believe, is clearly in
4 violation of this chapter or of the rules of the department or
5 the board.

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

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

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

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

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

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

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

31 (n) Failing to make available to a patient or client,

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1 or to her or his legal representative or to the department if
2 authorized in writing by the patient, copies of documents in
3 the possession or under control of the licensee which relate
4 to the patient or client.

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

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

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

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

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1 by, the board before such investigation is begun.

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

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

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

30 (v) Failure to provide adequate radiation safeguards.

31 (w) Performing any procedure or prescribing any

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1 therapy which, by the prevailing standards of dental practice
2 in the community, would constitute experimentation on human
3 subjects, without first obtaining full, informed, and written
4 consent.

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

27 (y) 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 (z) Delegating professional responsibilities to a

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1 person who is not qualified by training, experience, or
2 licensure to perform them.

3 (aa) The violation of a lawful order of the board or
4 department previously entered in a disciplinary hearing; or
5 failure to comply with a lawfully issued subpoena of the board
6 or department.

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

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

14 (dd) Presigning blank prescription or laboratory work
15 order forms.

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

26 (ff) Operating or causing to be operated a dental
27 office in such a manner as to result in dental treatment that
28 is below minimum acceptable standards of performance for the
29 community. This includes, but is not limited to, the use of
30 substandard materials or equipment, the imposition of time
31 limitations within which dental procedures are to be

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1 performed, or the failure to maintain patient records as
2 required by this chapter.

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

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

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

15 (jj) Advertising specialty services in violation of
16 this chapter.

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

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

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

9 Section 13. For the purpose of incorporating the
10 amendment to section 456.072, Florida Statutes, in references
11 thereto, subsections (1) and (2) of section 467.203, Florida
12 Statutes, are reenacted to read:

13 467.203 Disciplinary actions; penalties.--

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

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

20 (b) Having a license to practice midwifery revoked,
21 suspended, or otherwise acted against, including being denied
22 licensure, by the licensing authority of another state,
23 territory, or country.

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

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

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1 federal law; or willfully impeding or obstructing such filing
2 or inducing another to do so. Such reports or records shall
3 include only those which are signed in the midwife's capacity
4 as a licensed midwife.

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

6 (f) Engaging in unprofessional conduct, which
7 includes, but is not limited to, any departure from, or the
8 failure to conform to, the standards of practice of midwifery
9 as established by the department, in which case actual injury
10 need not be established.

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

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

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

25 (j) Violating any provision of this chapter or chapter
26 456, or any rules adopted pursuant thereto.

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

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1 s. 456.072(1).

2 Section 14. For the purpose of incorporating the
3 amendment to section 456.072, Florida Statutes, in references
4 thereto, subsections (1) and (2) of section 468.1295, Florida
5 Statutes, are reenacted to read:

6 468.1295 Disciplinary proceedings.--

7 (1) The following acts constitute grounds for denial
8 of a license or disciplinary action, as specified in s.
9 456.072(2):

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

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

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

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

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

31 (f) Being proven guilty of fraud or deceit or of

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1 negligence, incompetency, or misconduct in the practice of
2 speech-language pathology or audiology.

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

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

9 (i) Using, or causing or promoting the use of, any
10 advertising matter, promotional literature, testimonial,
11 guarantee, warranty, label, brand, insignia, or other
12 representation, however disseminated or published, which is
13 misleading, deceiving, or untruthful.

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

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

21 (l) Aiding, assisting, procuring, employing, or
22 advising any licensee or business entity to practice
23 speech-language pathology or audiology contrary to this part,
24 chapter 456, or any rule adopted pursuant thereto.

25 (m) Misrepresenting the professional services
26 available in the fitting, sale, adjustment, service, or repair
27 of a hearing aid, or using any other term or title which might
28 connote the availability of professional services when such
29 use is not accurate.

30 (n) Representing, advertising, or implying that a
31 hearing aid or its repair is guaranteed without providing full

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1 disclosure of the identity of the guarantor; the nature,
2 extent, and duration of the guarantee; and the existence of
3 conditions or limitations imposed upon the guarantee.

4 (o) Representing, directly or by implication, that a
5 hearing aid utilizing bone conduction has certain specified
6 features, such as the absence of anything in the ear or
7 leading to the ear, or the like, without disclosing clearly
8 and conspicuously that the instrument operates on the bone
9 conduction principle and that in many cases of hearing loss
10 this type of instrument may not be suitable.

11 (p) Stating or implying that the use of any hearing
12 aid will improve or preserve hearing or prevent or retard the
13 progression of a hearing impairment or that it will have any
14 similar or opposite effect.

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

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

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

26 (t) Failing to notify the department in writing of a
27 change in current mailing and place-of-practice address within
28 30 days after such change.

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

31 (v) Exercising influence on a client in such a manner

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1 as to exploit the client for financial gain of the licensee or
2 of a third party.

3 (w) Practicing or offering to practice beyond the
4 scope permitted by law or accepting and performing
5 professional responsibilities the licensee or
6 certificateholder knows, or has reason to know, the licensee
7 or certificateholder is not competent to perform.

8 (x) Aiding, assisting, procuring, or employing any
9 unlicensed person to practice speech-language pathology or
10 audiology.

11 (y) Delegating or contracting for the performance of
12 professional responsibilities by a person when the licensee
13 delegating or contracting for performance of such
14 responsibilities knows, or has reason to know, such person is
15 not qualified by training, experience, and authorization to
16 perform them.

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

20 (aa) Being unable to practice the profession for which
21 he or she is licensed or certified under this chapter with
22 reasonable skill or competence as a result of any mental or
23 physical condition or by reason of illness, drunkenness, or
24 use of drugs, narcotics, chemicals, or any other substance. In
25 enforcing this paragraph, upon a finding by the secretary, his
26 or her designee, or the board that probable cause exists to
27 believe that the licensee or certificateholder is unable to
28 practice the profession because of the reasons stated in this
29 paragraph, the department shall have the authority to compel a
30 licensee or certificateholder to submit to a mental or
31 physical examination by a physician, psychologist, clinical

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1 social worker, marriage and family therapist, or mental health
2 counselor designated by the department or board. If the
3 licensee or certificateholder refuses to comply with the
4 department's order directing the examination, such order may
5 be enforced by filing a petition for enforcement in the
6 circuit court in the circuit in which the licensee or
7 certificateholder resides or does business. The department
8 shall be entitled to the summary procedure provided in s.
9 51.011. A licensee or certificateholder affected under this
10 paragraph shall at reasonable intervals be afforded an
11 opportunity to demonstrate that he or she can resume the
12 competent practice for which he or she is licensed or
13 certified with reasonable skill and safety to patients.

14 (bb) Violating any provision of this chapter or
15 chapter 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 15. For the purpose of incorporating the
23 amendment to section 456.072, Florida Statutes, in references
24 thereto, subsections (1) and (2) of section 468.1755, Florida
25 Statutes, are reenacted to read:

26 468.1755 Disciplinary proceedings.--

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

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

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

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

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

15 (e) Making or filing a report or record which the
16 licensee knows to be false, intentionally 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 impede or obstruct such filing. Such reports or
20 records shall include only those which are signed in the
21 capacity of a licensed nursing home administrator.

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

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

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

30 (i) Violation of a lawful order of the board or
31 department previously entered in a disciplinary hearing or

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1 failing to comply with a lawfully issued subpoena of the board
2 or department.

3 (j) Practicing with a revoked, suspended, inactive, or
4 delinquent license.

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

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

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1 and safety to patients.

2 (m) Willfully or repeatedly violating any of the
3 provisions of the law, code, or rules of the licensing or
4 supervising authority or agency of the state or political
5 subdivision thereof having jurisdiction of the operation and
6 licensing of nursing homes.

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

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

13 (p) Discriminating with respect to patients,
14 employees, or staff on account of race, religion, color, sex,
15 or national origin.

16 (q) Failing to implement an ongoing quality assurance
17 program directed by an interdisciplinary team that meets at
18 least every other month.

19 (r) 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 16. For the purpose of incorporating the
28 amendment to section 456.072, Florida Statutes, in references
29 thereto, subsections (1) and (2) of section 468.217, Florida
30 Statutes, are reenacted to read:

31 468.217 Denial of or refusal to renew license;

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1 suspension and revocation of license and other disciplinary
2 measures.--

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 occupational therapy by bribery, by
8 fraudulent misrepresentation, or through an error of the
9 department or the board.

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

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

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

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

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

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

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

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1 (i) Making or filing a report which the licensee knows
2 to be false, intentionally or negligently failing to file a
3 report or record required by state or federal law, willfully
4 impeding or obstructing such filing or inducing another person
5 to do so. Such reports or records include only those which
6 are signed in the capacity as a licensed occupational
7 therapist or occupational therapy assistant.

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

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

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

31 (m) Soliciting patients, either personally or through

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1 an agent, through the use of fraud, intimidation, undue
2 influence, or a form of overreaching or vexatious conduct. A
3 "solicitation" is any communication which directly or
4 implicitly requests an immediate oral response from the
5 recipient.

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

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

14 (p) 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. 768.13.

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

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

27 (s) 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 he or she is not competent to perform.

31 (t) Being unable to practice occupational therapy with

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

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

28 (v) 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
31 department.

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1 (w) Conspiring with another licensee or with any other
2 person to commit an act, or committing an act, which would
3 tend to coerce, intimidate, or preclude another licensee from
4 lawfully advertising his or her services.

5 (x) 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 17. For the purpose of incorporating the
14 amendment to section 456.072, Florida Statutes, in references
15 thereto, subsections (1) and (2) of section 468.365, Florida
16 Statutes, are reenacted to read:

17 468.365 Disciplinary grounds and actions.--

18 (1) The following acts constitute grounds for denial
19 of a license or disciplinary action, as specified in s.
20 456.072(2):

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

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

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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
4 respiratory care services or to the ability to deliver such
5 services.

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

13 (e) Circulating false, misleading, or deceptive
14 advertising.

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

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

24 (h) Willfully failing to report any violation of this
25 part.

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

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

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

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

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

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

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

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

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

31 (q) Exercising influence within a respiratory care

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

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

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

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

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

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

29 (w) Being unable to deliver respiratory care services
30 with reasonable skill and safety to patients by reason of
31 illness or use of alcohol, drugs, narcotics, chemicals, or any

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

23 (x) Violating any provision of this chapter or chapter
24 456, 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 Section 18. For the purpose of incorporating the

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1 amendment to section 456.072, Florida Statutes, in references
2 thereto, subsections (1) and (2) of section 468.518, Florida
3 Statutes, are reenacted to read:

4 468.518 Grounds for disciplinary action.--

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

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

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

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

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

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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 (k) Failing to maintain acceptable standards of

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1 practice as set forth by the board and the council in rules
2 adopted pursuant to this part.

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

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

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

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

26 Section 19. For the purpose of incorporating the
27 amendment to section 456.072, Florida Statutes, in references
28 thereto, section 468.719, Florida Statutes, is reenacted to
29 read:

30 468.719 Disciplinary actions.--

31 (1) The following acts constitute grounds for denial

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1 of a license or disciplinary action, as specified in s.
2 456.072(2):

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

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

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

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

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

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

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

26 Section 20. For the purpose of incorporating the
27 amendment to section 456.072, Florida Statutes, in references
28 thereto, section 468.811, Florida Statutes, is reenacted to
29 read:

30 468.811 Disciplinary proceedings.--

31 (1) The following acts constitute grounds for denial

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1 of a license or disciplinary action, as specified in s.
2 456.072(2):

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

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

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

15 (d) Filing a report or record that the licensee knows
16 is 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 impede or obstruct such filing. Such reports or
20 records include only reports or records that are signed in a
21 person's capacity as a licensee under this act.

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

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

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

30 (h) Gross or repeated malpractice or the failure to
31 deliver orthotic, prosthetic, or pedorthic services with that

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1 level of care and skill which is recognized by a reasonably
2 prudent licensed practitioner with similar professional
3 training as being acceptable under similar conditions and
4 circumstances.

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

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

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

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

20 478.52 Disciplinary proceedings.--

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

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

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

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

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1 crime, in any jurisdiction, which directly relates to the
2 practice of electrology.

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

8 (e) Circulating false, misleading, or deceptive
9 advertising.

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

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

16 (h) Willfully failing to report any known violation of
17 this chapter.

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

21 (j) Engaging in the delivery of electrolysis services
22 without an active license.

23 (k) Employing an unlicensed person to practice
24 electrology.

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

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

30 (n) Delegating professional responsibilities to a
31 person the licensee knows, or has reason to know, is

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1 unqualified by training, experience, or licensure to perform.

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

4 (p) Judicially determined mental incompetency.

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

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

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

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

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

29 (s) Disclosing the identity of or information about a
30 patient without written permission, except for information
31 which does not identify a patient and which is used for

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1 training purposes in an approved electrolysis training
2 program.

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

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

7 (v) Violating any provision of this chapter or chapter
8 456, or any rules adopted pursuant thereto.

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

15 Section 22. For the purpose of incorporating the
16 amendment to section 456.072, Florida Statutes, in references
17 thereto, subsections (1) and (2) of section 480.046, Florida
18 Statutes, are reenacted to read:

19 480.046 Grounds for disciplinary action by the
20 board.--

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

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

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

30 (c) Being convicted or found guilty, regardless of
31 adjudication, of a crime in any jurisdiction which directly

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1 relates to the practice of massage or to the ability to
2 practice massage. Any plea of nolo contendere shall be
3 considered a conviction for purposes of this chapter.

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

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

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

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

28 (h) Gross or repeated malpractice or the failure to
29 practice massage with that level of care, skill, and treatment
30 which is recognized by a reasonably prudent massage therapist
31 as being acceptable under similar conditions and

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1 | circumstances.

2 | (i) Practicing or offering to practice beyond the
3 | scope permitted by law or accepting and performing
4 | professional responsibilities which the licensee knows or has
5 | reason to know that she or he is not competent to perform.

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

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

14 | (l) Refusing to permit the department to inspect the
15 | business premises of the licensee during regular business
16 | hours.

17 | (m) Failing to keep the equipment and premises of the
18 | massage establishment in a clean and sanitary condition.

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

26 | (o) Violating any provision of this chapter or chapter
27 | 456, or any rules adopted pursuant thereto.

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

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

3 Section 23. For the purpose of incorporating the
4 amendment to section 456.072, Florida Statutes, in references
5 thereto, subsections (1) and (2) of section 483.825, Florida
6 Statutes, are reenacted to read:

7 483.825 Grounds for disciplinary action.--

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

11 (a) Attempting to obtain, obtaining, or renewing a
12 license or registration under this part by bribery, by
13 fraudulent misrepresentation, or through an error of the
14 department or the board.

15 (b) Engaging in or attempting to engage in, or
16 representing herself or himself as entitled to perform, any
17 clinical laboratory procedure or category of procedures not
18 authorized pursuant to her or his license.

19 (c) Demonstrating incompetence or making consistent
20 errors in the performance of clinical laboratory examinations
21 or procedures or erroneous reporting.

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

24 (e) Has been convicted or found guilty of, or entered
25 a plea of nolo contendere to, regardless of adjudication, a
26 crime in any jurisdiction which directly relates to the
27 activities of clinical laboratory personnel or involves moral
28 turpitude or fraudulent or dishonest dealing. The record of a
29 conviction certified or authenticated in such form as to be
30 admissible in evidence under the laws of the state shall be
31 admissible as prima facie evidence of such guilt.

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1 (f) Having been adjudged mentally or physically
2 incompetent.

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

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

7 (i) Knowingly advertising false services or
8 credentials.

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

17 (k) Failing to report to the board, in writing, within
18 30 days that an action under paragraph (e), paragraph (f), or
19 paragraph (j) has been taken against the licensee or one's
20 license to practice as clinical laboratory personnel in
21 another state, territory, country, or other jurisdiction.

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

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1 examination by physicians designated by the department. If the
2 licensee refuses to comply with such order, the department's
3 order directing such examination may be enforced by filing a
4 petition for enforcement in the circuit court where the
5 licensee resides or does business. The department shall be
6 entitled to the summary procedure provided in s. 51.011. A
7 licensee affected under this paragraph shall at reasonable
8 intervals be afforded an opportunity to demonstrate that he or
9 she can resume competent practice with reasonable skill and
10 safety to patients.

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

16 (n) Violating a previous order of the board entered in
17 a disciplinary proceeding.

18 (o) Failing to report to the department a person or
19 other licensee who the licensee knows is in violation of this
20 chapter or the rules of the department or board adopted
21 hereunder.

22 (p) Making or filing a report which the licensee knows
23 to be false, intentionally or negligently failing to file a
24 report or record required by state or federal law, willfully
25 impeding or obstructing such filing or inducing another person
26 to do so, including, but not limited to, impeding an agent of
27 the state from obtaining a report or record for investigative
28 purposes. Such reports or records shall include only those
29 generated in the capacity as a licensed clinical laboratory
30 personnel.

31 (q) Paying or receiving any commission, bonus,

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

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

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

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

24 (u) Improperly interfering with an investigation or
25 any disciplinary proceeding.

26 (v) Engaging in or attempting to engage in sexual
27 misconduct, causing undue embarrassment or using disparaging
28 language or language of a sexual nature towards a patient,
29 exploiting superior/subordinate, professional/patient,
30 instructor/student relationships for personal gain, sexual
31 gratification, or advantage.

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1 (w) Violating any provision of this chapter or chapter
2 456, or any rules adopted pursuant thereto.

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

9 Section 24. For the purpose of incorporating the
10 amendment to section 456.072, Florida Statutes, in references
11 thereto, paragraphs (g) and (h) of subsection (6) of section
12 483.901, Florida Statutes, are reenacted to read:

13 483.901 Medical physicists; definitions; licensure.--

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

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

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

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

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

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- 1 4. Willfully failing to file a report or record
- 2 required for medical physics or willfully impeding or
- 3 obstructing the filing of a report or record required by this
- 4 section or inducing another person to do so.
- 5 5. Making misleading, deceptive, or fraudulent
- 6 representations in or related to the practice of medical
- 7 physics.
- 8 6. Willfully failing to report any known violation of
- 9 this section or any rule adopted thereunder.
- 10 7. Failing to perform any statutory or legal
- 11 obligation placed upon a licensee.
- 12 8. Aiding, assisting, procuring, employing, or
- 13 advising any unlicensed person to practice medical physics
- 14 contrary to this section or any rule adopted thereunder.
- 15 9. Delegating or contracting for the performance of
- 16 professional responsibilities by a person when the licensee
- 17 delegating or contracting such responsibilities knows, or has
- 18 reason to know, such person is not qualified by training,
- 19 experience, and authorization to perform them.
- 20 10. Practicing or offering to practice beyond the
- 21 scope permitted by law or accepting and performing
- 22 professional responsibilities the licensee knows, or has
- 23 reason to know, the licensee is not competent to perform.
- 24 11. Gross or repeated malpractice or the inability to
- 25 practice medical physics with reasonable skill and safety.
- 26 12. Judicially determined mental incompetency.
- 27 13. Being unable to practice medical physics with
- 28 reasonable skill and safety because of a mental or physical
- 29 condition or illness or the use of alcohol, controlled
- 30 substances, or any other substance which impairs one's ability
- 31 to practice.

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

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

15 c. With respect to any proceeding under this
 16 subparagraph, the record of proceedings or the orders entered
 17 by the department may not be used against a licensee in any
 18 other proceeding.

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

21 (h) 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 25. For the purpose of incorporating the
 28 amendment to section 456.072, Florida Statutes, in references
 29 thereto, subsections (1) and (2) of section 484.014, Florida
 30 Statutes, are reenacted to read:

31 484.014 Disciplinary actions.--

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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 misrepresentation, bribery, or fraud or through an error of
6 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) Making or filing a report or record which the
11 licensee knows to be false, intentionally or negligently
12 failing to file a report or record required by federal or
13 state law, willfully impeding or obstructing such filing, or
14 inducing another person to do so. Such reports or records
15 shall include only those which the person is required to make
16 or file as an optician.

17 (d) Failing to make fee or price information readily
18 available by providing such information upon request or upon
19 the presentation of a prescription.

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

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

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

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

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

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1 (j) Conspiring with another licensee or with any
2 person to commit an act, or committing an act, which would
3 coerce, intimidate, or preclude another licensee from lawfully
4 advertising her or his services.

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

7 (l) Failing to keep written prescription files.

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

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

14 (o) Gross or repeated malpractice.

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

19 (q) Being convicted or found guilty of, or entering a
20 plea of nolo contendere to, regardless of adjudication, in a
21 court of this state or other jurisdiction, a crime which
22 relates to the ability to practice opticianry or to the
23 practice of opticianry.

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

27 (s) Being unable to practice opticianry with
28 reasonable skill and safety by reason of illness or use of
29 drugs, narcotics, chemicals, or any other type of material or
30 as a result of any mental or physical condition. An optician
31 affected under this paragraph shall at reasonable intervals be

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1 afforded an opportunity to demonstrate that she or he can
2 resume the competent practice of opticianry with reasonable
3 skill and safety to her or his customers.

4 (t) Violating any provision of this chapter or chapter
5 456, 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 26. For the purpose of incorporating the
13 amendment to section 456.072, Florida Statutes, in references
14 thereto, subsection (1) and paragraph (a) of subsection (2) of
15 section 484.056, Florida Statutes, are reenacted to read:

16 484.056 Disciplinary proceedings.--

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

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

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

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

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1 practice of dispensing hearing aids or the ability to practice
2 dispensing hearing aids, including violations of any federal
3 laws or regulations regarding hearing aids.

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

12 (f) Advertising goods or services in a manner which is
13 fraudulent, false, deceptive, or misleading in form or
14 content.

15 (g) Proof that the licensee is guilty of fraud or
16 deceit or of negligence, incompetency, or misconduct in the
17 practice of dispensing hearing aids.

18 (h) Violation of a lawful order of the board or
19 department previously entered in a disciplinary hearing or
20 failure to comply with a lawfully issued subpoena of the board
21 or department.

22 (i) Practicing with a revoked, suspended, inactive, or
23 delinquent license.

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

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

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

8 (m) Representation, advertisement, or implication that
9 a hearing aid or its repair is guaranteed without providing
10 full disclosure of the identity of the guarantor; the nature,
11 extent, and duration of the guarantee; and the existence of
12 conditions or limitations imposed upon the guarantee.

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

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

23 (p) Stating or implying that the use of any hearing
24 aid will improve or preserve hearing or prevent or retard the
25 progression of a hearing impairment or that it will have any
26 similar or opposite effect.

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

29 (r) Representing or implying that a hearing aid is or
30 will be "custom-made," "made to order," or "prescription-made"
31 or in any other sense specially fabricated for an individual

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1 person when such is not the case.

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

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

11 (u) Failing to provide all information as described in
12 s. 484.051(1).

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

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

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

24 Section 27. For the purpose of incorporating the
25 amendment to section 456.072, Florida Statutes, in references
26 thereto, subsections (1) and (2) of section 486.125, Florida
27 Statutes, are reenacted to read:

28 486.125 Refusal, revocation, or suspension of license;
29 administrative fines and other disciplinary measures.--

30 (1) The following acts constitute grounds for denial
31 of a license or disciplinary action, as specified in s.

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1 456.072(2):

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

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

23 2. A physical therapist or physical therapist
24 assistant whose license is suspended or revoked pursuant to
25 this subsection shall, at reasonable intervals, be given an
26 opportunity to demonstrate that she or he can resume the
27 competent practice of physical therapy with reasonable skill
28 and safety to patients.

29 3. Neither the record of proceeding nor the orders
30 entered by the board in any proceeding under this subsection
31 may be used against a physical therapist or physical therapist

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1 assistant in any other proceeding.

2 (b) Having committed fraud in the practice of physical
3 therapy or deceit in obtaining a license as a physical
4 therapist or as a physical therapist assistant.

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 physical therapy or to the ability
8 to practice physical therapy. The entry of any plea of nolo
9 contendere shall be considered a conviction for purpose of
10 this chapter.

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

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

17 (f) Engaging directly or indirectly in the dividing,
18 transferring, assigning, rebating, or refunding of fees
19 received for professional services, or having been found to
20 profit by means of a credit or other valuable consideration,
21 such as an unearned commission, discount, or gratuity, with
22 any person referring a patient or with any relative or
23 business associate of the referring person. Nothing in this
24 chapter shall be construed to prohibit the members of any
25 regularly and properly organized business entity which is
26 comprised of physical therapists and which is recognized under
27 the laws of this state from making any division of their total
28 fees among themselves as they determine necessary.

29 (g) Having a license revoked or suspended; having had
30 other disciplinary action taken against her or him; or having
31 had her or his application for a license refused, revoked, or

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

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

5 (i) Making or filing a report or record which the
6 licensee knows to be false. Such reports or records shall
7 include only those which are signed in the capacity of a
8 physical therapist.

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

14 (k) 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 28. For the purpose of incorporating the
23 amendment to section 456.072, Florida Statutes, in references
24 thereto, section 490.009, Florida Statutes, is reenacted to
25 read:

26 490.009 Discipline.--

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

30 (a) Attempting to obtain, obtaining, or renewing a
31 license under this chapter by bribery or fraudulent

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1 misrepresentation or through an error of the board or
2 department.

3 (b) Having a license to practice a comparable
4 profession revoked, suspended, or otherwise acted against,
5 including the denial of certification or licensure by another
6 state, territory, or country.

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

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

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

21 (f) Maintaining a professional association with any
22 person who the applicant or licensee knows, or has reason to
23 believe, is in violation of this chapter or of a rule of the
24 department or, in the case of psychologists, of the department
25 or the board.

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

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

31 (i) Willfully making or filing a false report or

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1 record; failing to file a report or record required by state
2 or federal law; willfully impeding or obstructing the filing
3 of a report or record; or inducing another person to make or
4 file a false report or record or to impede or obstruct the
5 filing of a report or record. Such report or record includes
6 only a report or record which requires the signature of a
7 person licensed under this chapter.

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

17 (k) Committing any act upon a patient or client which
18 would constitute sexual battery or which would constitute
19 sexual misconduct as defined in s. 490.0111.

20 (l) Making misleading, deceptive, untrue, or
21 fraudulent representations in the practice of any profession
22 licensed under this chapter.

23 (m) Soliciting patients or clients personally, or
24 through an agent, through the use of fraud, intimidation,
25 undue influence, or a form of overreaching or vexatious
26 conduct.

27 (n) Failing to make available to a patient or client,
28 upon written request, copies of test results, reports, or
29 documents in the possession or under the control of the
30 licensee which have been prepared for and paid for by the
31 patient or client.

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1 (o) Failing to respond within 30 days to a written
2 communication from the department concerning any investigation
3 by the department or to make available any relevant records
4 with respect to any investigation about the licensee's conduct
5 or background.

6 (p) Being unable to practice the profession for which
7 he or she is licensed under this chapter with reasonable skill
8 or competence as a result of any mental or physical condition
9 or by reason of illness; drunkenness; or excessive use of
10 drugs, narcotics, chemicals, or any other substance. In
11 enforcing this paragraph, upon a finding by the secretary, the
12 secretary's designee, or the board that probable cause exists
13 to believe that the licensee is unable to practice the
14 profession because of the reasons stated in this paragraph,
15 the department shall have the authority to compel a licensee
16 to submit to a mental or physical examination by psychologists
17 or physicians designated by the department or board. If the
18 licensee refuses to comply with the department's order, the
19 department may file a petition for enforcement in the circuit
20 court of the circuit in which the licensee resides or does
21 business. The licensee shall not be named or identified by
22 initials in the petition or in any other public court records
23 or documents, and the enforcement proceedings shall be closed
24 to the public. The department shall be entitled to the
25 summary procedure provided in s. 51.011. A licensee affected
26 under this paragraph shall be afforded an opportunity at
27 reasonable intervals to demonstrate that he or she can resume
28 the competent practice for which he or she is licensed with
29 reasonable skill and safety to patients.

30 (q) Performing any treatment or prescribing any
31 therapy which, by the prevailing standards of the mental

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

4 (r) Failing to meet the minimum standards of
5 performance in professional activities when measured against
6 generally prevailing peer performance, including the
7 undertaking of activities for which the licensee is not
8 qualified by training or experience.

9 (s) Delegating professional responsibilities to a
10 person whom the licensee knows or has reason to know is not
11 qualified by training or experience to perform such
12 responsibilities.

13 (t) Violating a rule relating to the regulation of the
14 profession or a lawful order of the department previously
15 entered in a disciplinary hearing.

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

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

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

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

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

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1 thereto, section 491.009, Florida Statutes, is reenacted to
2 read:

3 491.009 Discipline.--

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) Attempting to obtain, obtaining, or renewing a
8 license, registration, or certificate under this chapter by
9 bribery or fraudulent misrepresentation or through an error of
10 the board or the department.

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

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

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

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

29 (f) Maintaining a professional association with any
30 person who the applicant, licensee, registered intern, or
31 certificateholder knows, or has reason to believe, is in

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1 violation of this chapter or of a rule of the department or
2 the board.

3 (g) Knowingly aiding, assisting, procuring, or
4 advising any nonlicensed, nonregistered, or noncertified
5 person to hold himself or herself out as licensed, registered,
6 or certified under this chapter.

7 (h) Failing to perform any statutory or legal
8 obligation placed upon a person licensed, registered, or
9 certified under this chapter.

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

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

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

30 (l) Making misleading, deceptive, untrue, or
31 fraudulent representations in the practice of any profession

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1 licensed, registered, or certified under this chapter.

2 (m) Soliciting patients or clients personally, or
3 through an agent, through the use of fraud, intimidation,
4 undue influence, or a form of overreaching or vexatious
5 conduct.

6 (n) Failing to make available to a patient or client,
7 upon written request, copies of tests, reports, or documents
8 in the possession or under the control of the licensee,
9 registered intern, or certificateholder which have been
10 prepared for and paid for by the patient or client.

11 (o) Failing to respond within 30 days to a written
12 communication from the department or the board concerning any
13 investigation by the department or the board, or failing to
14 make available any relevant records with respect to any
15 investigation about the licensee's, registered intern's, or
16 certificateholder's conduct or background.

17 (p) Being unable to practice the profession for which
18 he or she is licensed, registered, or certified under this
19 chapter with reasonable skill or competence as a result of any
20 mental or physical condition or by reason of illness;
21 drunkenness; or excessive use of drugs, narcotics, chemicals,
22 or any other substance. In enforcing this paragraph, upon a
23 finding by the secretary, the secretary's designee, or the
24 board that probable cause exists to believe that the licensee,
25 registered intern, or certificateholder is unable to practice
26 the profession because of the reasons stated in this
27 paragraph, the department shall have the authority to compel a
28 licensee, registered intern, or certificateholder to submit to
29 a mental or physical examination by psychologists, physicians,
30 or other licensees under this chapter, designated by the
31 department or board. If the licensee, registered intern, or

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

17 (q) Performing any treatment or prescribing any
18 therapy which, by the prevailing standards of the mental
19 health professions in the community, would constitute
20 experimentation on human subjects, without first obtaining
21 full, informed, and written consent.

22 (r) Failing to meet the minimum standards of
23 performance in professional activities when measured against
24 generally prevailing peer performance, including the
25 undertaking of activities for which the licensee, registered
26 intern, or certificateholder is not qualified by training or
27 experience.

28 (s) Delegating professional responsibilities to a
29 person whom the licensee, registered intern, or
30 certificateholder knows or has reason to know is not qualified
31 by training or experience to perform such responsibilities.

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1 (t) Violating a rule relating to the regulation of the
2 profession or a lawful order of the department or the board
3 previously entered in a disciplinary hearing.

4 (u) Failure of the licensee, registered intern, or
5 certificateholder to maintain in confidence a communication
6 made by a patient or client in the context of such services,
7 except as provided in s. 491.0147.

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

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

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

19
20 (Redesignate subsequent sections.)

21
22
23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 On page 2, line 7, after the semicolon

26
27 insert:

28 amending s. 456.072, F.S.; revising
29 disciplinary penalties applicable to health
30 care practitioners; reenacting ss. 456.082(2),
31 457.109(1) and (2), 458.331(1) and (2),

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