

1 A bill to be entitled
2 An act relating to health care; providing for
3 specified licensing boards to adopt rules
4 governing the prescribing of controlled
5 substances; requiring certain health care
6 providers to complete education courses
7 relating to the prescription of controlled
8 substances; providing penalties; providing for
9 the emergency suspension of certain licenses
10 for prescribing violations; requiring the
11 Department of Health, the Department of Law
12 Enforcement, the Statewide Prosecutor, and
13 State Attorneys to share certain information
14 regarding health care practitioners; requiring
15 a report; requiring the Department of Health to
16 establish an electronic system for identifying
17 licensees and patients who engage in certain
18 fraudulent or illegal practices; authorizing
19 the Department of Health to contract for the
20 administration of the electronic monitoring
21 system for certain controlled substances;
22 establishing an advisory council and providing
23 for its membership, duties, staff, and
24 compensation; requiring the Department of
25 Health to recommend performance-based measures
26 to the Legislature for the electronic
27 monitoring system; requiring that the
28 Department of Health report to the Legislature
29 on implementation of the electronic monitoring
30 system; providing requirements for the report;
31 providing duties of the Bureau of Pharmacy

1 Services with respect to the purposes and use
2 of the electronic monitoring system;
3 prohibiting the use of specified funds for the
4 electronic monitoring system; amending s.
5 456.033, F.S.; eliminating certain requirements
6 for HIV and AIDS education courses; repealing
7 ss. 458.319(4) and 459.008(5), F.S.; relating
8 to continuing education requirements for
9 renewal of licensure by physicians and
10 osteopathic physicians, to conform; amending s.
11 456.072, F.S.; revising disciplinary penalties
12 applicable to health care practitioners;
13 reenacting ss. 456.082(2), 457.109(1) and (2),
14 458.331(1) and (2), 458.347(7)(g), 459.015(1)
15 and (2), 459.022(7)(f), 460.413(1) and (2),
16 461.013(1) and (2), 462.14(1) and (2),
17 463.016(1) and (2), 464.018(1) and (2),
18 465.016(1) and (2), 466.028(1) and (2),
19 467.203(1) and (2), 468.1295(1) and (2),
20 468.1755(1) and (2), 468.217(1) and (2),
21 468.365(1) and (2), 468.518(1) and (2),
22 468.719, 468.811, 478.52(1) and (2), 480.046(1)
23 and (2), 483.825(1) and (2), 483.901(6)(g) and
24 (h), 484.014(1) and (2), 484.056(1) and (2)(a),
25 486.125(1) and (2), 490.009, and 491.009, F.S.,
26 relating to grounds for disciplinary action
27 applicable to persons involved in health care
28 practice, including acupuncture, medical
29 practice, osteopathic medicine, chiropractic
30 medicine, podiatric medicine, naturopathy,
31 optometry, nursing, pharmacy, dentistry,

1 midwifery, speech-language pathology and
2 audiology, nursing home administration,
3 occupational therapy, respiratory therapy,
4 dietetics and nutrition practice, athletic
5 trainers, orthotics, prosthetics, and
6 pedorthics, electrolysis, massage practice,
7 clinical laboratory personnel, medical
8 physicists, dispensing of optical devices and
9 hearing aids, physical therapy practice,
10 psychological services, and clinical,
11 counseling, and psychotherapy services, to
12 incorporate the amendment to s. 456.072, F.S.,
13 in references thereto; amending s. 458.345,
14 F.S.; requiring certain resident physicians,
15 interns, and fellows to complete an educational
16 course in prescribing controlled substances;
17 amending s. 461.013, F.S.; prohibiting the
18 presigning of blank prescription forms and
19 providing penalties; amending s. 893.04, F.S.;
20 providing additional requirements for
21 pharmacists regarding the identification of
22 persons to whom controlled substances are
23 dispensed; prohibiting certain prescribing
24 practitioners from possessing, administering,
25 dispensing, or prescribing controlled
26 substances; directing local and regional boards
27 of education to prohibit personnel from
28 recommending use of psychotropic drugs on a
29 child; amending s. 499.007, F.S., relating to
30 misbranded drugs and devices; providing for
31 construction of the act in pari materia with

1 laws enacted during the Regular Session of the
2 Legislature; providing an appropriation;
3 providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Physicians; rules establishing prescribing
8 guidelines.--To minimize the diversion and resultant abuse of
9 controlled substances, the Board of Medicine and the Board of
10 Osteopathic Medicine shall adopt rules to establish guidelines
11 for prescribing controlled substances to patients in
12 emergency-department settings. Such guidelines must allow
13 physicians to provide legitimate medical treatment of acute
14 and chronic pain and require them to recognize and prevent
15 abuse of pain medications prescribed in emergency-department
16 settings. The guidelines must also consider requirements of
17 state and federal law and of the Joint Commission on the
18 Accreditation of Healthcare Organizations. Each board shall
19 consult with the Florida College of Emergency Physicians in
20 developing these guidelines.

21 Section 2. Instruction required for certain licensees
22 in prescribing and pharmacology.--

23 (1) The appropriate professional licensing board shall
24 require each person licensed under chapter 458, chapter 459,
25 chapter 461, chapter 462, part I of chapter 464, or chapter
26 466, Florida Statutes, to complete a 1-hour educational
27 course, approved by the board, on appropriate prescribing and
28 pharmacology of controlled substances, as part of the
29 licensee's initial license renewal after January 1, 2003. The
30 course shall provide education in the state and federal laws
31 and rules governing the prescribing and dispensing of

1 controlled substances; in appropriate evaluation of patients
2 for any risk of drug diversion and the resulting abuse of
3 controlled substances; in the use of informed consent and
4 other protocols, such as discussing the risks and benefits of
5 using controlled substances with patients, to prevent drug
6 diversion; in the need to keep accurate and complete medical
7 records to justify treatment with controlled substances; in
8 addiction and substance-abuse issues with respect to patients;
9 in the appropriate use of recognized pain-management
10 guidelines; and in the need for consultation and referral of
11 patients who are at risk for misuse of medication or diversion
12 of controlled substances, when appropriate.

13 (2) The board may approve additional equivalent
14 courses that satisfy the requirements of subsection (1). Each
15 licensing board that requires a licensee to complete an
16 educational course pursuant to this section shall include the
17 hours required to complete the course in the total required
18 continuing educational requirements.

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

23 (4) A licensee who fails to comply with this section
24 is subject to disciplinary action under each respective
25 practice act and section 456.072(1)(k), Florida Statutes. In
26 addition to disciplinary action by the board, the licensee
27 must complete the course no later than 1 year first receiving
28 notice of disciplinary action pursuant to this section. Unless
29 the board grants the licensee a waiver for good cause shown,
30 the licensee forfeits the privilege to prescribe or dispense
31 controlled substances until the licensee completes the course.

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

7 (6) The board may adopt rules necessary to administer
8 this section.

9 Section 3. Emergency suspension orders; controlled
10 substances.--Upon receipt of sufficient evidence from any
11 agency authorized to enforce chapter 893, Florida Statutes,
12 regarding a violation of section 458.331(1)(q), section
13 458.331(1)(r), section 458.331(1)(aa), section 459.015(1)(t),
14 section 459.015(1)(u), section 459.015(1)(ee), section
15 461.013(1)(o), section 461.013(1)(p), section 461.013(1)(dd),
16 section 462.14(1)(q), section 462.14(1)(r), section
17 462.14(1)(aa), section 464.018(1)(i), section 465.016(1)(e),
18 section 465.016(1)(i), section 466.028(1)(p), section
19 466.028(1)(q), section 466.028(1)(r), or section
20 466.028(1)(dd), Florida Statutes, or of chapter 893, Florida
21 Statutes, by a licensed health care practitioner who is
22 authorized to prescribe, dispense, or administer controlled
23 substances, the Department of Health shall review the case and
24 if there is a reason to believe that the practitioner is a
25 danger to the public health, safety, or welfare as set forth
26 in section 120.60(6), Florida Statutes, shall recommend the
27 suspension or restriction of the practitioner's license to the
28 Secretary of Health within 10 working days after receiving
29 such evidence. If a sufficient basis is found to exist, the
30 Secretary of Health must suspend or restrict the license of

31

1 the practitioner in accordance with section 120.60(6), Florida
2 Statutes.

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

5 (1) In order to facilitate the efficiency of the
6 Department of Health's investigation of applicable violations
7 involving the diversion of controlled substances by such
8 practitioners, or other violations of criminal law that may
9 adversely affect a practitioner's licensed practice, any law
10 enforcement agency that arrests a person known or suspected to
11 be a health care practitioner licensed by the state shall
12 promptly notify the Department of Health and provide it with:

13 (a) Notice of the arrest, including the name of the
14 arresting agency and lead investigator, detective, or officer
15 in the case;

16 (b) The name of the person charged;

17 (c) All known personal identifying information related
18 to the person arrested;

19 (d) The date of the arrest;

20 (e) The charges for which the person is arrested;

21 (f) The agency case number assigned to the arrest; and

22 (g) The arrest report, investigative report, or
23 statement of the allegations supporting the arrest.

24 (2) A state attorney or the Statewide Prosecutor, upon
25 the filing of an indictment or information against a person
26 known or suspected to be a health care practitioner licensed
27 by the state, shall forward a copy of the indictment or
28 information to the Department of Health.

29 (3) The Medical Examiners Commission within the
30 Department of Law Enforcement shall report to the Department
31 of Health quarterly any information, including the medical

1 history and medical care at the time of death, which is in its
2 possession regarding the deaths of persons whose proximate
3 cause of death was lethal levels of controlled substances in
4 their bodies as such information has been reported to the
5 commission by the medical examiners within the state.

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

21 (5) To help the Department of Health and regulatory
22 boards control the diversion and resultant abuse of controlled
23 substances, the Department of Health and the Department of Law
24 Enforcement shall study the feasibility of expanding the
25 electronic exchange of information to facilitate the transfer
26 to the Department of Health of criminal-history information
27 involving licensed health care practitioners who are
28 authorized to prescribe, administer, or dispense controlled
29 substances. The study must address whether the collection and
30 retention of fingerprint information concerning licensed
31 health care practitioners subject to the profiling provisions

1 of sections 456.039 and 456.0391, Florida Statutes, is
2 advisable as a means of better regulating such practitioners
3 and guarding against abuse of the privileges of such licensure
4 with respect to controlling the diversion and resultant abuse
5 of controlled substances. The Department of Law Enforcement
6 shall investigate the feasibility of the electronic
7 transmission of information from medical examiners within this
8 state to the Department of Health regarding autopsies and
9 other public reports that attribute death to
10 controlled-substance abuse. The Department of Law Enforcement,
11 in consultation with the Department of Health, must submit a
12 report of its findings to the Legislature by November 1, 2002.

13 Section 5. Electronic monitoring system for
14 prescriptions.--

15 (1) By July 1, 2003, the Department of Health shall
16 design and establish an electronic system consistent with the
17 National Council of Prescription Drug Programs (NCPDP)
18 standards or the American Society for Automation in Pharmacy
19 (ASAP) standards to monitor the prescribing of Schedule II
20 controlled substances; other drugs designated by rule by the
21 Secretary of Health under this section; and codeine,
22 hydrocodone, dihydrocodeine, ethylmorphine, and morphine, as
23 scheduled in Schedule II and Schedule III, by health care
24 practitioners within the state or the dispensing of such
25 controlled substances to an address within the state by a
26 pharmacy permitted or registered by the Board of Pharmacy. The
27 Department of Health may administer or contract for the
28 administration of the electronic monitoring system established
29 under this section.

30 (2) All Schedule II controlled substances; codeine,
31 hydrocodone, dihydrocodeine, ethylmorphine, and morphine as

1 scheduled in Schedule II and Schedule III; and any other drug
2 designated by the Secretary of Health under this section shall
3 be included in the electronic monitoring system. The Secretary
4 of Health may, by rule, designate any other drug for inclusion
5 in such system after consideration of the following:

6 (a) Whether the substance has been rescheduled by rule
7 adopted by the United States Attorney General pursuant to s.
8 201 of the Comprehensive Drug Abuse Prevention and Control Act
9 of 1970, 21 U.S.C. s. 811.

10 (b) The substance's actual or relative potential for
11 abuse as defined in chapter 893, Florida Statutes.

12 (c) Scientific evidence of the substance's
13 pharmacological effect, if known.

14 (d) The state of current scientific knowledge
15 regarding the substance.

16 (e) The substance's history and current pattern of
17 abuse.

18 (f) The scope, duration, and significance of abuse.

19 (g) What, if any, risk there is to the public health.

20 (h) The substance's psychic or physiological
21 dependence liability.

22 (i) The recommendations of the prescription monitoring
23 advisory council.

24 (3) Beginning September 1, 2002, or 60 days after the
25 effective date of the rule prescribing the format for the
26 electronic monitoring system, whichever occurs later, each
27 controlled substance or drug subject to this section which is
28 dispensed in this state must be timely reported to the
29 Department of Health. Such data must be reported each time
30 that:

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

1 (b) A drug that is designated by the Secretary of
2 Health under subsection (2) is dispensed; or

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

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

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

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

17 (5) The data required under this section includes:

18 (a) The patient's name.

19 (b) The patient's address.

20 (c) The national drug code number of the substance
21 dispensed.

22 (d) The date that the substance is dispensed.

23 (e) The quantity of substance dispensed.

24 (f) The dispenser's National Association of Board's of
25 Pharmacy (NABP) number.

26 (g) The prescribing practitioner's United States Drug
27 Enforcement Administration Number.

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

30 (7) A dispenser must transmit the information required
31 by this section in an electronic format approved by rule of

1 the Board of Pharmacy after consultation with the advisory
2 council and the Department of Health unless a specific waiver
3 is granted to that dispenser by the Department of Health. The
4 information transmitted may be maintained by any department
5 receiving it for up to 12 months. However, any department
6 receiving such information may maintain it longer than 12
7 months if the information is pertinent to an ongoing
8 investigation arising under this act. Notwithstanding section
9 119.041, Florida Statutes, the information transmitted under
10 this section for each prescription dispensed must be purged
11 from the electronic monitoring system within 2 years after the
12 date of the prescription. For purposes of this subsection, a
13 refill of a prescription is a new prescription.

14 (8) The Department of Health shall establish a
15 17-member prescription-monitoring advisory council to assist
16 it in identifying drugs of abuse to be recommended to the
17 Secretary of Health and annually to the Legislature for
18 inclusion in the monitoring system and in implementing the
19 system.

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

1 physician who is licensed in this state under chapter 459,
2 Florida Statutes, who is recommended by the Florida
3 Osteopathic Medical Association; a physician who is licensed
4 in this state under chapter 458 or chapter 459, Florida
5 Statutes, who is recommended by the Florida Academy of Family
6 Physicians; a podiatric physician who is licensed in this
7 state under chapter 461, Florida Statutes, who is recommended
8 by the Florida Podiatric Medical Association; a pharmacist who
9 is licensed in this state under chapter 465, Florida Statutes,
10 and who is recommended by the Florida Society of Health-System
11 Pharmacists; a pharmacist who is licensed in this state under
12 chapter 465, Florida Statutes, who is recommended by the
13 Florida Pharmacy Association; a pharmacist who is licensed in
14 this state under chapter 465, Florida Statutes, who is
15 recommended by the Florida Retail Federation; a pharmacist who
16 is licensed in this state under chapter 465, Florida Statutes,
17 who is recommended by the National Community Pharmacy
18 Association; a dentist who is licensed in this state under
19 chapter 466, Florida Statutes, who is recommended by the
20 Florida Dental Association; a veterinarian who is licensed in
21 this state under chapter 474, Florida Statutes, who is
22 recommended by the Florida Veterinary Medical Association; a
23 designee of the Florida Chapter of the National Association of
24 Drug Diversion Investigators who has expertise in the
25 investigation of drug-diversion cases; and a prosecutor who
26 has expertise in the criminal prosecution of drug-diversion
27 cases. At least one physician licensed under chapter 458 or
28 chapter 459, Florida Statutes, must specialize in or have
29 expertise in psychiatry, addiction, and substance abuse. At
30 least one physician licensed under chapter 458 or chapter 459,
31

1 Florida Statutes, must specialize in or have expertise in
2 hospice care and geriatrics.

3 (b) The advisory council members shall meet no more
4 often than quarterly at the call of the chairperson and shall
5 serve without compensation. However, such members may receive
6 reimbursement, as provided in section 112.061, Florida
7 Statutes, for per diem and travel expenses incurred in the
8 performance of their official duties.

9 (c) The Department of Health shall provide staff and
10 other administrative assistance that is reasonably necessary
11 to assist the advisory council in carrying out its
12 responsibilities.

13 (9) The Department of Health shall use the electronic
14 system established under this section for the purpose of
15 identifying licensees and patients who engage in fraudulent or
16 illegal practices relating to the use or prescribing of
17 controlled substances. Cases may be referred to the
18 appropriate licensing board or to an appropriate law
19 enforcement agency for investigation if a physician or dentist
20 licensed under chapter 458, chapter 459, chapter 461, or
21 chapter 466 and an attorney for the state determine that
22 reasonable cause exists to believe that the patient or
23 licensee has engaged in fraudulent or illegal activity. If the
24 licensee holds a license under chapter 458, chapter 459,
25 chapter 461, or chapter 466, the consulting physician or
26 dentist must hold a license under the same chapter as the
27 licensee. The Department of Health may provide information
28 contained in the electronic monitoring system to a licensed
29 health care practitioner for the purpose of providing
30 diagnostic or treatment services to an individual patient or
31 consumer under the practitioner's care. This subsection shall

1 not be construed to require the health care practitioner to
2 check the electronic monitoring system for every patient and
3 shall not be construed to create any obligation or liability
4 on the part of the health care practitioner.

5 (10) The Department of Health shall submit a report to
6 the President of the Senate and the Speaker of the House of
7 Representatives by March 1, 2003, which recommends
8 performance-based measures for the electronic monitoring
9 system established under this section and provides the status
10 of implementation of the system. By July 1 of each year,
11 beginning in 2004, the Department of Health shall report to
12 the President of the Senate and the Speaker of the House of
13 Representatives on the status of implementation of the
14 electronic monitoring system. The annual report must include a
15 report of the Department of Health's compliance with any
16 performance-based measures established by the Legislature for
17 the electronic monitoring system and other relevant statistics
18 and information.

19 (11) Funds from the Medical Quality Assurance Trust
20 Fund may not be used to establish, use, or maintain the
21 electronic monitoring system.

22 (12) The Department of Health shall adopt rules
23 pursuant to section 120.536(1) and section 120.574, Florida
24 Statutes, necessary to administer this section.

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

27 456.033 Requirement for instruction for certain
28 licensees on HIV and AIDS.--

29 (1) The appropriate board shall require each person
30 licensed or certified under chapter 457; ~~chapter 458; chapter~~
31 ~~459;~~chapter 460; ~~chapter 461;~~chapter 463; part I of chapter

1 464; chapter 465; ~~chapter 466~~; part II, part III, part V, or
2 part X of chapter 468; or chapter 486 to complete a continuing
3 educational course, approved by the board, on human
4 immunodeficiency virus and acquired immune deficiency syndrome
5 as part of biennial relicensure or recertification. The course
6 shall consist of education on the modes of transmission,
7 infection control procedures, clinical management, and
8 prevention of human immunodeficiency virus and acquired immune
9 deficiency syndrome. Such course shall include information on
10 current Florida law on acquired immune deficiency syndrome and
11 its impact on testing, confidentiality of test results,
12 treatment of patients, and any protocols and procedures
13 applicable to human immunodeficiency virus counseling and
14 testing, reporting, the offering of HIV testing to pregnant
15 women, and partner notification issues pursuant to ss. 381.004
16 and 384.25.

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

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

27 Section 7. Subsection (4) of section 458.319 and
28 subsection (5) of section 459.008, Florida Statutes, are
29 repealed.

30 Section 8. Paragraph (d) of subsection (2) of section
31 456.072, Florida Statutes, is amended to read:

1 456.072 Grounds for discipline; penalties;
2 enforcement.--

3 (2) When the board, or the department when there is no
4 board, finds any person guilty of the grounds set forth in
5 subsection (1) or of any grounds set forth in the applicable
6 practice act, including conduct constituting a substantial
7 violation of subsection (1) or a violation of the applicable
8 practice act which occurred prior to obtaining a license, it
9 may enter an order imposing one or more of the following
10 penalties:

11 (d) Imposition of an administrative fine not to exceed
12 \$25,000~~\$10,000~~ for each count or separate offense. If the
13 violation is for fraud or making a false or fraudulent
14 representation, the board, or the department if there is no
15 board, must impose a fine of \$10,000 per count or offense.

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

25 Section 9. For the purpose of incorporating the
26 amendment to section 456.072, Florida Statutes, in a reference
27 thereto, subsection (2) of section 456.082, Florida Statutes,
28 is reenacted to read:

29 456.082 Disclosure of confidential information.--

30 (2) Any person who willfully violates any provision of
31 this section is guilty of a misdemeanor of the first degree,

1 punishable as provided in s. 775.082 or s. 775.083, and may be
2 subject to discipline pursuant to s. 456.072, and, if
3 applicable, shall be removed from office, employment, or the
4 contractual relationship.

5 Section 10. For the purpose of incorporating the
6 amendment to section 456.072, Florida Statutes, in references
7 thereto, subsections (1) and (2) of section 457.109, Florida
8 Statutes, are reenacted to read:

9 457.109 Disciplinary actions; grounds; action by the
10 board.--

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

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

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

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

26 (d) False, deceptive, or misleading advertising or
27 advertising which claims that acupuncture is useful in curing
28 any disease.

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

31

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

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

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

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

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

20 (k) Making deceptive, untrue, or fraudulent
21 representations in the practice of acupuncture or employing a
22 trick or scheme in the practice of acupuncture when such
23 scheme or trick fails to conform to the generally prevailing
24 standards of treatment in the community.

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

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

1 (n) Exercising influence on the patient to exploit the
2 patient for the financial gain of the licensee or of a third
3 party.

4 (o) Being unable to practice acupuncture with
5 reasonable skill and safety to patients by reason of illness
6 or use of alcohol, drugs, narcotics, chemicals, or any other
7 type of material or as a result of any mental or physical
8 condition. In enforcing this paragraph, upon a finding of the
9 secretary or the secretary's designee that probable cause
10 exists to believe that the licensee is unable to serve as an
11 acupuncturist due to the reasons stated in this paragraph, the
12 department shall have the authority to issue an order to
13 compel the licensee to submit to a mental or physical
14 examination by a physician designated by the department. If
15 the licensee refuses to comply with such order, the
16 department's order directing such examination may be enforced
17 by filing a petition for enforcement in the circuit court
18 where the licensee resides or serves as an acupuncturist. The
19 licensee against whom the petition is filed shall not be named
20 or identified by initials in any public court record or
21 document, and the proceedings shall be closed to the public.
22 The department shall be entitled to the summary procedure
23 provided in s. 51.011. An acupuncturist affected under this
24 paragraph shall at reasonable intervals be afforded an
25 opportunity to demonstrate that he or she can resume the
26 competent practice of acupuncture with reasonable skill and
27 safety to patients. In any proceeding under this paragraph,
28 neither the record of proceedings nor the orders entered by
29 the department shall be used against an acupuncturist in any
30 other proceeding.

31

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

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

10 (r) 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 (s) Violating a lawful order of the board previously
15 entered in a disciplinary hearing or failing to comply with a
16 lawfully issued subpoena of the department.

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

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

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

26 (w) Failing to comply with any rule of the board
27 relating to health and safety, including, but not limited to,
28 the sterilization of needles and equipment and the disposal of
29 potentially infectious materials.

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

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

7 Section 11. For the purpose of incorporating the
8 amendment to section 456.072, Florida Statutes, in references
9 thereto, subsections (1) and (2) of section 458.331, Florida
10 Statutes, are reenacted to read:

11 458.331 Grounds for disciplinary action; action by the
12 board and department.--

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

16 (a) Attempting to obtain, obtaining, or renewing a
17 license to practice medicine by bribery, by fraudulent
18 misrepresentations, or through an error of the department or
19 the board.

20 (b) Having a license or the authority to practice
21 medicine revoked, suspended, or otherwise acted against,
22 including the denial of licensure, by the licensing authority
23 of any jurisdiction, including its agencies or subdivisions.
24 The licensing authority's acceptance of a physician's
25 relinquishment of a license, stipulation, consent order, or
26 other settlement, offered in response to or in anticipation of
27 the filing of administrative charges against the physician's
28 license, shall be construed as action against the physician's
29 license.

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

1 crime in any jurisdiction which directly relates to the
2 practice of medicine or to the ability to practice medicine.

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

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

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

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

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

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

31

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

6 (k) Making deceptive, untrue, or fraudulent
7 representations in or related to the practice of medicine or
8 employing a trick or scheme in the practice of medicine.

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

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

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

30
31

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

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

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

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

25 (s) Being unable to practice medicine with reasonable
26 skill and safety to patients by reason of illness or use of
27 alcohol, drugs, narcotics, chemicals, or any other type of
28 material or as a result of any mental or physical condition.
29 In enforcing this paragraph, the department shall have, upon a
30 finding of the secretary or the secretary's designee that
31 probable cause exists to believe that the licensee is unable

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

18 (t) Gross or repeated malpractice or the failure to
19 practice medicine with that level of care, skill, and
20 treatment which is recognized by a reasonably prudent similar
21 physician as being acceptable under similar conditions and
22 circumstances. The board shall give great weight to the
23 provisions of s. 766.102 when enforcing this paragraph. As
24 used in this paragraph, "repeated malpractice" includes, but
25 is not limited to, three or more claims for medical
26 malpractice within the previous 5-year period resulting in
27 indemnities being paid in excess of \$25,000 each to the
28 claimant in a judgment or settlement and which incidents
29 involved negligent conduct by the physician. As used in this
30 paragraph, "gross malpractice" or "the failure to practice
31 medicine with that level of care, skill, and treatment which

1 is recognized by a reasonably prudent similar physician as
2 being acceptable under similar conditions and circumstances,"
3 shall not be construed so as to require more than one
4 instance, event, or act. Nothing in this paragraph shall be
5 construed to require that a physician be incompetent to
6 practice medicine in order to be disciplined pursuant to this
7 paragraph.

8 (u) Performing any procedure or prescribing any
9 therapy which, by the prevailing standards of medical practice
10 in the community, would constitute experimentation on a human
11 subject, without first obtaining full, informed, and written
12 consent.

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

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

29 (x) Violating a lawful order of the board or
30 department previously entered in a disciplinary hearing or
31

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

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

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

9 (aa) Presigning blank prescription forms.

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

12 (cc) Prescribing, ordering, dispensing, administering,
13 supplying, selling, or giving any drug which is a Schedule II
14 amphetamine or a Schedule II sympathomimetic amine drug or any
15 compound thereof, pursuant to chapter 893, to or for any
16 person except for:

17 1. The treatment of narcolepsy; hyperkinesia;
18 behavioral syndrome characterized by the developmentally
19 inappropriate symptoms of moderate to severe distractibility,
20 short attention span, hyperactivity, emotional lability, and
21 impulsivity; or drug-induced brain dysfunction;

22 2. The differential diagnostic psychiatric evaluation
23 of depression or the treatment of depression shown to be
24 refractory to other therapeutic modalities; or

25 3. The clinical investigation of the effects of such
26 drugs or compounds when an investigative protocol therefor is
27 submitted to, reviewed, and approved by the board before such
28 investigation is begun.

29 (dd) Failing to supervise adequately the activities of
30 those physician assistants, paramedics, emergency medical
31

1 technicians, or advanced registered nurse practitioners acting
2 under the supervision of the physician.

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

13 (ff) Prescribing, ordering, dispensing, administering,
14 supplying, selling, or giving amygdalin (laetrile) to any
15 person.

16 (gg) Misrepresenting or concealing a material fact at
17 any time during any phase of a licensing or disciplinary
18 process or procedure.

19 (hh) Improperly interfering with an investigation or
20 with any disciplinary proceeding.

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

30 (jj) Being found by any court in this state to have
31 provided corroborating written medical expert opinion attached

1 to any statutorily required notice of claim or intent or to
2 any statutorily required response rejecting a claim, without
3 reasonable investigation.

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

8 (ll) Advertising or holding oneself out as a
9 board-certified specialist, if not qualified under s.
10 458.3312, in violation of this chapter.

11 (mm) Failing to comply with the requirements of ss.
12 381.026 and 381.0261 to provide patients with information
13 about their patient rights and how to file a patient
14 complaint.

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

30 Section 12. For the purpose of incorporating the
31 amendment to section 456.072, Florida Statutes, in a reference

1 thereto, paragraph (g) of subsection (7) of section 458.347,
2 Florida Statutes, is reenacted to read:

3 458.347 Physician assistants.--

4 (7) PHYSICIAN ASSISTANT LICENSURE.--

5 (g) The Board of Medicine may impose any of the
6 penalties authorized under ss. 456.072 and 458.331(2) upon a
7 physician assistant if the physician assistant or the
8 supervising physician has been found guilty of or is being
9 investigated for any act that constitutes a violation of this
10 chapter or chapter 456.

11 Section 13. For the purpose of incorporating the
12 amendment to section 456.072, Florida Statutes, in references
13 thereto, subsections (1) and (2) of section 459.015, Florida
14 Statutes, are reenacted to read:

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

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

20 (a) Attempting to obtain, obtaining, or renewing a
21 license to practice osteopathic medicine or a certificate
22 issued under this chapter by bribery, by fraudulent
23 misrepresentations, or through an error of the department or
24 the board.

25 (b) Having a license or the authority to practice
26 osteopathic medicine revoked, suspended, or otherwise acted
27 against, including the denial of licensure, by the licensing
28 authority of any jurisdiction, including its agencies or
29 subdivisions. The licensing authority's acceptance of a
30 physician's relinquishment of license, stipulation, consent
31 order, or other settlement offered in response to or in

1 anticipation of the filing of administrative charges against
2 the physician shall be construed as action against the
3 physician's license.

4 (c) Being convicted or found guilty, regardless of
5 adjudication, of a crime in any jurisdiction which directly
6 relates to the practice of osteopathic medicine or to the
7 ability to practice osteopathic medicine. A plea of nolo
8 contendere shall create a rebuttable presumption of guilt to
9 the underlying criminal charges.

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

11 (e) Failing to report to the department or the
12 department's impaired professional consultant any person who
13 the licensee or certificateholder knows is in violation of
14 this chapter or of the rules of the department or the board.
15 A treatment provider, approved pursuant to s. 456.076, shall
16 provide the department or consultant with information in
17 accordance with the requirements of s. 456.076(3), (4), (5),
18 and (6).

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

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

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

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

1 those which are signed in the capacity as a licensed
2 osteopathic physician.

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

13 (k) Refusing to provide health care based on a
14 patient's participation in pending or past litigation or
15 participation in any disciplinary action conducted pursuant to
16 this chapter, unless such litigation or disciplinary action
17 directly involves the osteopathic physician requested to
18 provide services.

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

24 (m) Making deceptive, untrue, or fraudulent
25 representations in or related to the practice of osteopathic
26 medicine or employing a trick or scheme in the practice of
27 osteopathic medicine.

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

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

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

14 (p) Fraudulently altering or destroying records
15 relating to patient care or treatment, including, but not
16 limited to, patient histories, examination results, and test
17 results.

18 (q) Exercising influence on the patient or client in
19 such a manner as to exploit the patient or client for
20 financial gain of the licensee or of a third party which shall
21 include, but not be limited to, the promotion or sale of
22 services, goods, appliances, or drugs.

23 (r) Promoting or advertising on any prescription form
24 of a community pharmacy, unless the form shall also state
25 "This prescription may be filled at any pharmacy of your
26 choice."

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

31

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

13 (u) Prescribing or dispensing any medicinal drug
14 appearing on any schedule set forth in chapter 893 by the
15 osteopathic physician for himself or herself or administering
16 any such drug by the osteopathic physician to himself or
17 herself unless such drug is prescribed for the osteopathic
18 physician by another practitioner authorized to prescribe
19 medicinal drugs.

20 (v) Prescribing, ordering, dispensing, administering,
21 supplying, selling, or giving amygdalin (laetrile) to any
22 person.

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

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

16 (x) Gross or repeated malpractice or the failure to
17 practice osteopathic medicine with that level of care, skill,
18 and treatment which is recognized by a reasonably prudent
19 similar osteopathic physician as being acceptable under
20 similar conditions and circumstances. The board shall give
21 great weight to the provisions of s. 766.102 when enforcing
22 this paragraph. As used in this paragraph, "repeated
23 malpractice" includes, but is not limited to, three or more
24 claims for medical malpractice within the previous 5-year
25 period resulting in indemnities being paid in excess of
26 \$25,000 each to the claimant in a judgment or settlement and
27 which incidents involved negligent conduct by the osteopathic
28 physician. As used in this paragraph, "gross malpractice" or
29 "the failure to practice osteopathic medicine with that level
30 of care, skill, and treatment which is recognized by a
31 reasonably prudent similar osteopathic physician as being

1 acceptable under similar conditions and circumstances" shall
2 not be construed so as to require more than one instance,
3 event, or act. Nothing in this paragraph shall be construed to
4 require that an osteopathic physician be incompetent to
5 practice osteopathic medicine in order to be disciplined
6 pursuant to this paragraph. A recommended order by an
7 administrative law judge or a final order of the board finding
8 a violation under this paragraph shall specify whether the
9 licensee was found to have committed "gross malpractice,"
10 "repeated malpractice," or "failure to practice osteopathic
11 medicine with that level of care, skill, and treatment which
12 is recognized as being acceptable under similar conditions and
13 circumstances," or any combination thereof, and any
14 publication by the board shall so specify.

15 (y) Performing any procedure or prescribing any
16 therapy which, by the prevailing standards of medical practice
17 in the community, would constitute experimentation on human
18 subjects, without first obtaining full, informed, and written
19 consent.

20 (z) Practicing or offering to practice beyond the
21 scope permitted by law or accepting and performing
22 professional responsibilities which the licensee knows or has
23 reason to know that he or she is not competent to perform. The
24 board may establish by rule standards of practice and
25 standards of care for particular practice settings, including,
26 but not limited to, education and training, equipment and
27 supplies, medications including anesthetics, assistance of and
28 delegation to other personnel, transfer agreements,
29 sterilization, records, performance of complex or multiple
30 procedures, informed consent, and policy and procedure
31 manuals.

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

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

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

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

15 (ee) Presigning blank prescription forms.

16 (ff) Prescribing any medicinal drug appearing on
17 Schedule II in chapter 893 by the osteopathic physician for
18 office use.

19 (gg) Prescribing, ordering, dispensing, administering,
20 supplying, selling, or giving any drug which is a Schedule II
21 amphetamine or Schedule II sympathomimetic amine drug or any
22 compound thereof, pursuant to chapter 893, to or for any
23 person except for:

24 1. The treatment of narcolepsy; hyperkinesis;
25 behavioral syndrome characterized by the developmentally
26 inappropriate symptoms of moderate to severe distractability,
27 short attention span, hyperactivity, emotional lability, and
28 impulsivity; or drug-induced brain dysfunction;

29 2. The differential diagnostic psychiatric evaluation
30 of depression or the treatment of depression shown to be
31 refractory to other therapeutic modalities; or

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

5 (hh) Failing to supervise adequately the activities of
6 those physician assistants, paramedics, emergency medical
7 technicians, advanced registered nurse practitioners, or other
8 persons acting under the supervision of the osteopathic
9 physician.

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

20 (jj) Misrepresenting or concealing a material fact at
21 any time during any phase of a licensing or disciplinary
22 process or procedure.

23 (kk) Improperly interfering with an investigation or
24 with any disciplinary proceeding.

25 (ll) Failing to report to the department any licensee
26 under chapter 458 or under this chapter who the osteopathic
27 physician or physician assistant knows has violated the
28 grounds for disciplinary action set out in the law under which
29 that person is licensed and who provides health care services
30 in a facility licensed under chapter 395, or a health
31 maintenance organization certificated under part I of chapter

1 641, in which the osteopathic physician or physician assistant
2 also provides services.

3 (mm) Being found by any court in this state to have
4 provided corroborating written medical expert opinion attached
5 to any statutorily required notice of claim or intent or to
6 any statutorily required response rejecting a claim, without
7 reasonable investigation.

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

10 (oo) Failing to comply with the requirements of ss.
11 381.026 and 381.0261 to provide patients with information
12 about their patient rights and how to file a patient
13 complaint.

14 (pp) 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 physician. All costs associated
27 with compliance with orders issued under this subsection are
28 the obligation of the physician.

29 Section 14. For the purpose of incorporating the
30 amendment to section 456.072, Florida Statutes, in a reference
31

1 thereto, paragraph (f) of subsection (7) of section 459.022,
2 Florida Statutes, is reenacted to read:

3 459.022 Physician assistants.--

4 (7) PHYSICIAN ASSISTANT LICENSURE.--

5 (f) The Board of Osteopathic Medicine may impose any
6 of the penalties authorized under ss. 456.072 and 459.015(2)
7 upon a physician assistant if the physician assistant or the
8 supervising physician has been found guilty of or is being
9 investigated for any act that constitutes a violation of this
10 chapter or chapter 456.

11 Section 15. For the purpose of incorporating the
12 amendment to section 456.072, Florida Statutes, in references
13 thereto, subsections (1) and (2) of section 460.413, Florida
14 Statutes, are reenacted to read:

15 460.413 Grounds for disciplinary action; action by
16 board or department.--

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

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

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

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

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

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

4 (e) Causing to be advertised, by any means whatsoever,
5 any advertisement which does not contain an assertion or
6 statement which would identify herself or himself as a
7 chiropractic physician or identify such chiropractic clinic or
8 related institution in which she or he practices or in which
9 she or he is owner, in whole or in part, as a chiropractic
10 institution.

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

13 (g) Failing to report to the department any person who
14 the licensee knows is in violation of this chapter or of the
15 rules of the department or the board.

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

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

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

28 (k) Making misleading, deceptive, untrue, or
29 fraudulent representations in the practice of chiropractic
30 medicine or employing a trick or scheme in the practice of
31 chiropractic medicine when such trick or scheme fails to

1 conform to the generally prevailing standards of treatment in
2 the chiropractic medical community.

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

6 (m) Failing to keep legibly written chiropractic
7 medical records that identify clearly by name and credentials
8 the licensed chiropractic physician rendering, ordering,
9 supervising, or billing for each examination or treatment
10 procedure and that justify the course of treatment of the
11 patient, including, but not limited to, patient histories,
12 examination results, test results, X rays, and diagnosis of a
13 disease, condition, or injury. X rays need not be retained
14 for more than 4 years.

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

20 (o) Performing professional services which have not
21 been duly authorized by the patient or client or her or his
22 legal representative except as provided in ss. 743.064,
23 766.103, and 768.13.

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

27 (q) Being unable to practice chiropractic medicine
28 with reasonable skill and safety to patients by reason of
29 illness or use of alcohol, drugs, narcotics, chemicals, or any
30 other type of material or as a result of any mental or
31 physical condition. In enforcing this paragraph, upon a

1 finding by the secretary of the department, or his or her
2 designee, or the probable cause panel of the board that
3 probable cause exists to believe that the licensee is unable
4 to practice the profession because of reasons stated in this
5 paragraph, the department shall have the authority to compel a
6 licensee to submit to a mental or physical examination by a
7 physician designated by the department. If the licensee
8 refuses to comply with the department's order, the department
9 may file a petition for enforcement in the circuit court of
10 the circuit in which the licensee resides or does business.
11 The department shall be entitled to the summary procedure
12 provided in s. 51.011. The record of proceedings to obtain a
13 compelled mental or physical examination shall not be used
14 against a licensee in any other proceedings. A chiropractic
15 physician affected under this paragraph shall at reasonable
16 intervals be afforded an opportunity to demonstrate that she
17 or he can resume the competent practice of chiropractic
18 medicine with reasonable skill and safety to patients.

19 (r) Gross or repeated malpractice or the failure to
20 practice chiropractic medicine at a level of care, skill, and
21 treatment which is recognized by a reasonably prudent
22 chiropractic physician as being acceptable under similar
23 conditions and circumstances. The board shall give great
24 weight to the standards for malpractice in s. 766.102 in
25 interpreting this provision. A recommended order by an
26 administrative law judge, or a final order of the board
27 finding a violation under this section shall specify whether
28 the licensee was found to have committed "gross malpractice,"
29 "repeated malpractice," or "failure to practice chiropractic
30 medicine with that level of care, skill, and treatment which
31 is recognized as being acceptable under similar conditions and

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

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

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

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

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

20 (w) 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 (x) Submitting to any third-party payor a claim for a
25 service or treatment which was not actually provided to a
26 patient.

27 (y) Failing to preserve identity of funds and property
28 of a patient. As provided by rule of the board, money or other
29 property entrusted to a chiropractic physician for a specific
30 purpose, including advances for costs and expenses of
31 examination or treatment, is to be held in trust and must be

1 applied only to that purpose. Money and other property of
2 patients coming into the hands of a chiropractic physician are
3 not subject to counterclaim or setoff for chiropractic
4 physician's fees, and a refusal to account for and deliver
5 over such money and property upon demand shall be deemed a
6 conversion. This is not to preclude the retention of money or
7 other property upon which the chiropractic physician has a
8 valid lien for services or to preclude the payment of agreed
9 fees from the proceeds of transactions for examinations or
10 treatments. Controversies as to the amount of the fees are
11 not grounds for disciplinary proceedings unless the amount
12 demanded is clearly excessive or extortionate, or the demand
13 is fraudulent. All funds of patients paid to a chiropractic
14 physician, other than advances for costs and expenses, shall
15 be deposited in one or more identifiable bank accounts
16 maintained in the state in which the chiropractic physician's
17 office is situated, and no funds belonging to the chiropractic
18 physician shall be deposited therein except as follows:

19 1. Funds reasonably sufficient to pay bank charges may
20 be deposited therein.

21 2. Funds belonging in part to a patient and in part
22 presently or potentially to the physician must be deposited
23 therein, but the portion belonging to the physician may be
24 withdrawn when due unless the right of the physician to
25 receive it is disputed by the patient, in which event the
26 disputed portion shall not be withdrawn until the dispute is
27 finally resolved.

28

29 Every chiropractic physician shall maintain complete records
30 of all funds, securities, and other properties of a patient
31 coming into the possession of the physician and render

1 appropriate accounts to the patient regarding them. In
2 addition, every chiropractic physician shall promptly pay or
3 deliver to the patient, as requested by the patient, the
4 funds, securities, or other properties in the possession of
5 the physician which the patient is entitled to receive.

6 (z) Offering to accept or accepting payment for
7 services rendered by assignment from any third-party payor
8 after offering to accept or accepting whatever the third-party
9 payor covers as payment in full, if the effect of the offering
10 or acceptance is to eliminate or give the impression of
11 eliminating the need for payment by an insured of any required
12 deductions applicable in the policy of the insured.

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

16 (bb) Advertising a fee or charge for a service or
17 treatment which is different from the fee or charge the
18 licensee submits to third-party payors for that service or
19 treatment.

20 (cc) Advertising any reduced or discounted fees for
21 services or treatments, or advertising any free services or
22 treatments, without prominently stating in the advertisement
23 the usual fee of the licensee for the service or treatment
24 which is the subject of the discount, rebate, or free
25 offering.

26 (dd) Using acupuncture without being certified
27 pursuant to s. 460.403(9)(f).

28 (ee) Failing to report to the department any licensee
29 under chapter 458 or under chapter 459 who the chiropractic
30 physician or chiropractic physician's assistant knows has
31 violated the grounds for disciplinary action set out in the

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

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

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

21 Section 16. For the purpose of incorporating the
22 amendment to section 456.072, Florida Statutes, in references
23 thereto, subsections (1) and (2) of section 462.14, Florida
24 Statutes, are reenacted to read:

25 462.14 Grounds for disciplinary action; action by the
26 department.--

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 to practice naturopathic medicine by bribery, by

1 fraudulent misrepresentation, or through an error of the
2 department.

3 (b) Having a license to practice naturopathic medicine
4 revoked, suspended, or otherwise acted against, including the
5 denial of licensure, by the licensing authority of 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 naturopathic medicine or to the
10 ability to practice naturopathic medicine. Any plea of nolo
11 contendere shall be considered a conviction for purposes of
12 this chapter.

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

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

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

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

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

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

31

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

11 (k) Exercising influence within a patient-physician
12 relationship for purposes of engaging a patient in sexual
13 activity. A patient shall be presumed to be incapable of
14 giving free, full, and informed consent to sexual activity
15 with her or his physician.

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

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

28 (n) Failing to keep written medical records justifying
29 the course of treatment of the patient, including, but not
30 limited to, patient histories, examination results, test
31

1 results, X rays, and records of the prescribing, dispensing
2 and administering of drugs.

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

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

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

26 (r) Prescribing, dispensing, or administering any
27 medicinal drug appearing on any schedule set forth in chapter
28 893 by the naturopathic physician to herself or himself,
29 except one prescribed, dispensed, or administered to the
30 naturopathic physician by another practitioner authorized to
31 prescribe, dispense, or administer medicinal drugs.

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

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

29 (u) Performing any procedure or prescribing any
30 therapy which, by the prevailing standards of medical practice
31 in the community, constitutes experimentation on a human

1 subject, without first obtaining full, informed, and written
2 consent.

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

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

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

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

20 (aa) Presigning blank prescription forms.

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

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

29 1. The treatment of narcolepsy; hyperkinesis;
30 behavioral syndrome in children characterized by the
31 developmentally inappropriate symptoms of moderate to severe

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

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

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

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

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

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

29 Section 17. For the purpose of incorporating the
30 amendment to section 456.072, Florida Statutes, in references
31

1 thereto, subsections (1) and (2) of section 463.016, Florida
2 Statutes, are reenacted to read:

3 463.016 Grounds for disciplinary action; action by the
4 board.--

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) Procuring or attempting to procure a license to
9 practice optometry by bribery, by fraudulent
10 misrepresentations, or through an error of the department or
11 board.

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

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

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

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

30
31

1 (f) Advertising goods or services in a manner which is
2 fraudulent, false, deceptive, or misleading in form or
3 content.

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

6 (h) A violation or repeated violations of provisions
7 of this chapter, or of chapter 456, and any rules promulgated
8 pursuant thereto.

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

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

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

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

20 (m) Gross or repeated malpractice.

21 (n) Practicing with a revoked, suspended, inactive, or
22 delinquent license.

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

27 A licensed practitioner affected under this paragraph shall at
28 reasonable intervals be afforded an opportunity to demonstrate
29 that she or he can resume the competent practice of optometry
30 with reasonable skill and safety to patients.

31

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

4 (q) Violating any provision of s. 463.014 or s.
5 463.015.

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

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

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

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

22 Section 18. For the purpose of incorporating the
23 amendment to section 456.072, Florida Statutes, in references
24 thereto, subsections (1) and (2) of section 464.018, Florida
25 Statutes, are reenacted to read:

26 464.018 Disciplinary actions.--

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) Procuring, attempting to procure, or renewing a
31 license to practice nursing by bribery, by knowing

1 misrepresentations, or through an error of the department or
2 the board.

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

7 (c) Being convicted or found guilty of, or entering a
8 plea of nolo contendere to, regardless of adjudication, a
9 crime in any jurisdiction which directly relates to the
10 practice of nursing or to the ability to practice nursing.

11 (d) Being found guilty, regardless of adjudication, of
12 any of the following offenses:

13 1. A forcible felony as defined in chapter 776.

14 2. A violation of chapter 812, relating to theft,
15 robbery, and related crimes.

16 3. A violation of chapter 817, relating to fraudulent
17 practices.

18 4. A violation of chapter 800, relating to lewdness
19 and indecent exposure.

20 5. A violation of chapter 784, relating to assault,
21 battery, and culpable negligence.

22 6. A violation of chapter 827, relating to child
23 abuse.

24 7. A violation of chapter 415, relating to protection
25 from abuse, neglect, and exploitation.

26 8. A violation of chapter 39, relating to child abuse,
27 abandonment, and neglect.

28 (e) Having been found guilty of, regardless of
29 adjudication, or entered a plea of nolo contendere or guilty
30 to, any offense prohibited under s. 435.03 or under any
31 similar statute of another jurisdiction; or having committed

1 an act which constitutes domestic violence as defined in s.
2 741.28.

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

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

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

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

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

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

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

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

24 (m) Failing to report to the department any licensee
25 under chapter 458 or under chapter 459 who the nurse knows has
26 violated the grounds for disciplinary action set out in the
27 law under which that person is licensed and who provides
28 health care services in a facility licensed under chapter 395,
29 or a health maintenance organization certificated under part I
30 of chapter 641, in which the nurse also provides services.

31

1 (n) 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 19. For the purpose of incorporating the
10 amendment to section 456.072, Florida Statutes, in references
11 thereto, subsections (1) and (2) of section 465.016, Florida
12 Statutes, are reenacted to read:

13 465.016 Disciplinary actions.--

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

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

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

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

31 1. Habitual intoxication.

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

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

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

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

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

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

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

1 excessive or inappropriate quantities is not in the best
2 interests of the patient and is not in the course of the
3 professional practice of pharmacy.

4 (j) 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 federal or
7 state law, willfully impeding or obstructing such filing, or
8 inducing another person to do so. Such reports or records
9 include only those which the licensee is required to make or
10 file in her or his capacity as a licensed pharmacist.

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

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

30 (m) Being unable to practice pharmacy with reasonable
31 skill and safety by reason of illness, use of drugs,

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

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

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

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

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

26 (r) 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

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

3 Section 20. For the purpose of incorporating the
4 amendment to section 456.072, Florida Statutes, in references
5 thereto, subsections (1) and (2) of section 466.028, Florida
6 Statutes, are reenacted to read:

7 466.028 Grounds for disciplinary action; action by the
8 board.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (n) Failing to make available to a patient or client,
31 or to her or his legal representative or to the department if

1 authorized in writing by the patient, copies of documents in
2 the possession or under control of the licensee which relate
3 to the patient or client.

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

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

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

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

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

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

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

29 (v) Failure to provide adequate radiation safeguards.

30 (w) Performing any procedure or prescribing any
31 therapy which, by the prevailing standards of dental practice

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

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

26 (y) 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 she or he is not competent to perform.

30
31

1 (z) Delegating professional responsibilities to a
2 person who is not qualified by training, experience, or
3 licensure to perform them.

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

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

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

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

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

1 limitations within which dental procedures are to be
2 performed, or the failure to maintain patient records as
3 required by this chapter.

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

6 (hh) Failing to report to the department any licensee
7 under chapter 458 or chapter 459 who the dentist 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 dentist also provides services.

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

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

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

31

1 organization, or a prepaid limited health service
2 organization.

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

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

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

15 467.203 Disciplinary actions; penalties.--

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

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

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

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

31

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

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

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

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

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

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

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

30 (2) The department may enter an order denying
31 licensure or imposing any of the penalties in s. 456.072(2)

1 against any applicant for licensure or licensee who is found
2 guilty of violating any provision of subsection (1) of this
3 section or who is found guilty of violating any provision of
4 s. 456.072(1).

5 Section 22. For the purpose of incorporating the
6 amendment to section 456.072, Florida Statutes, in references
7 thereto, subsections (1) and (2) of section 468.1295, Florida
8 Statutes, are reenacted to read:

9 468.1295 Disciplinary proceedings.--

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 by
14 bribery, by fraudulent misrepresentation, or through an error
15 of the department or the board.

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

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

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

31

1 (e) Advertising goods or services in a manner which is
2 fraudulent, false, deceptive, or misleading in form or
3 content.

4 (f) Being proven guilty of fraud or deceit or of
5 negligence, incompetency, or misconduct in the practice of
6 speech-language pathology or audiology.

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

11 (h) Practicing with a revoked, suspended, inactive, or
12 delinquent license.

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

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

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

25 (l) Aiding, assisting, procuring, employing, or
26 advising any licensee or business entity to practice
27 speech-language pathology or audiology contrary to this part,
28 chapter 456, or any rule adopted pursuant thereto.

29 (m) Misrepresenting the professional services
30 available in the fitting, sale, adjustment, service, or repair
31 of a hearing aid, or using any other term or title which might

1 connote the availability of professional services when such
2 use is not accurate.

3 (n) Representing, advertising, or implying that a
4 hearing aid or its repair is guaranteed without providing full
5 disclosure of the identity of the guarantor; the nature,
6 extent, and duration of the guarantee; and the existence of
7 conditions or limitations imposed upon the guarantee.

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

15 (p) Stating or implying that the use of any hearing
16 aid will improve or preserve hearing or prevent or retard the
17 progression of a hearing impairment or that it will have any
18 similar or opposite effect.

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

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

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

30
31

1 (t) Failing to notify the department in writing of a
2 change in current mailing and place-of-practice address within
3 30 days after such change.

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

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

9 (w) Practicing or offering to practice beyond the
10 scope permitted by law or accepting and performing
11 professional responsibilities the licensee or
12 certificateholder knows, or has reason to know, the licensee
13 or certificateholder is not competent to perform.

14 (x) Aiding, assisting, procuring, or employing any
15 unlicensed person to practice speech-language pathology or
16 audiology.

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

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

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

1 or her designee, or the board that probable cause exists to
2 believe that the licensee or certificateholder is unable to
3 practice the profession because of the reasons stated in this
4 paragraph, the department shall have the authority to compel a
5 licensee or certificateholder to submit to a mental or
6 physical examination by a physician, psychologist, clinical
7 social worker, marriage and family therapist, or mental health
8 counselor designated by the department or board. If the
9 licensee or certificateholder refuses to comply with the
10 department's order directing the examination, such order may
11 be enforced by filing a petition for enforcement in the
12 circuit court in the circuit in which the licensee or
13 certificateholder resides or does business. The department
14 shall be entitled to the summary procedure provided in s.
15 51.011. A licensee or certificateholder affected under this
16 paragraph shall at reasonable intervals be afforded an
17 opportunity to demonstrate that he or she can resume the
18 competent practice for which he or she is licensed or
19 certified with reasonable skill and safety to patients.

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

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

28 Section 23. For the purpose of incorporating the
29 amendment to section 456.072, Florida Statutes, in references
30 thereto, subsections (1) and (2) of section 468.1755, Florida
31 Statutes, are reenacted to read:

1 468.1755 Disciplinary proceedings.--

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

5 (a) Violation of any provision of s. 456.072(1) or s.
6 468.1745(1).

7 (b) Attempting to procure a license to practice
8 nursing home administration by bribery, by fraudulent
9 misrepresentation, or through an error of the department or
10 the board.

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

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

21 (e) Making or filing a report or record which the
22 licensee knows to be false, intentionally failing to file a
23 report or record required by state or federal law, willfully
24 impeding or obstructing such filing, or inducing another
25 person to impede or obstruct such filing. Such reports or
26 records shall include only those which are signed in the
27 capacity of a licensed nursing home administrator.

28 (f) Authorizing the discharge or transfer of a
29 resident for a reason other than those provided in ss. 400.022
30 and 400.0255.

31

1 (g) Advertising goods or services in a manner which is
2 fraudulent, false, deceptive, or misleading in form or
3 content.

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

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

10 (j) Practicing with a revoked, suspended, inactive, or
11 delinquent license.

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

15 (l) Being unable to practice nursing home
16 administration with reasonable skill and safety to patients by
17 reason of illness, drunkenness, use of drugs, narcotics,
18 chemicals, or any other material or substance or as a result
19 of any mental or physical condition. In enforcing this
20 paragraph, upon a finding of the secretary or his or her
21 designee that probable cause exists to believe that the
22 licensee is unable to serve as a nursing home administrator
23 due to the reasons stated in this paragraph, the department
24 shall have the authority to issue an order to compel the
25 licensee to submit to a mental or physical examination by a
26 physician designated by the department. If the licensee
27 refuses to comply with such order, the department's order
28 directing such examination may be enforced by filing a
29 petition for enforcement in the circuit court where the
30 licensee resides or serves as a nursing home administrator.
31 The licensee against whom the petition is filed shall not be

1 named or identified by initials in any public court records or
2 documents, and the proceedings shall be closed to the public.
3 The department shall be entitled to the summary procedure
4 provided in s. 51.011. A licensee affected under this
5 paragraph shall have the opportunity, at reasonable intervals,
6 to demonstrate that he or she can resume the competent
7 practice of nursing home administration with reasonable skill
8 and safety to patients.

9 (m) Willfully or repeatedly violating any of the
10 provisions of the law, code, or rules of the licensing or
11 supervising authority or agency of the state or political
12 subdivision thereof having jurisdiction of the operation and
13 licensing of nursing homes.

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

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

20 (p) Discriminating with respect to patients,
21 employees, or staff on account of race, religion, color, sex,
22 or national origin.

23 (q) Failing to implement an ongoing quality assurance
24 program directed by an interdisciplinary team that meets at
25 least every other month.

26 (r) 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

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

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

7 468.217 Denial of or refusal to renew license;
8 suspension and revocation of license and other disciplinary
9 measures.--

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 to practice occupational therapy by bribery, by
15 fraudulent misrepresentation, or through an error of the
16 department or the board.

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

21 (c) Being convicted or found guilty, regardless of
22 adjudication, of a crime in any jurisdiction which directly
23 relates to the practice of occupational therapy or to the
24 ability to practice occupational therapy. A plea of nolo
25 contendere shall be considered a conviction for the purposes
26 of this part.

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

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

30
31

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

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

7 (h) Failing to perform any statutory or legal
8 obligation placed upon a licensed occupational therapist or
9 occupational therapy assistant.

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

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

28 (k) Exercising influence within a patient-therapist
29 relationship for purposes of engaging a patient in sexual
30 activity. A patient is presumed to be incapable of giving
31 free, full, and informed consent to sexual activity with the

1 patient's occupational therapist or occupational therapy
2 assistant.

3 (l) Making deceptive, untrue, or fraudulent
4 representations in the practice of occupational therapy or
5 employing a trick or scheme in the practice of occupational
6 therapy if such scheme or trick fails to conform to the
7 generally prevailing standards of treatment in the
8 occupational therapy community.

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

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

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

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

26 (q) Gross or repeated malpractice or the failure to
27 practice occupational therapy with that level of care, skill,
28 and treatment which is recognized by a reasonably prudent
29 similar occupational therapist or occupational therapy
30 assistant as being acceptable under similar conditions and
31 circumstances.

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

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

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

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

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

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

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

26 468.365 Disciplinary grounds and actions.--

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) Procuring, attempting to procure, or renewing a
31 license as provided by this part by bribery, by fraudulent

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

3 (b) Having licensure, certification, registration, or
4 other authority, by whatever name known, to deliver
5 respiratory care services revoked, suspended, or otherwise
6 acted against, including the denial of licensure,
7 certification, registration, or other authority to deliver
8 respiratory care services by the licensing authority of
9 another state, territory, or country.

10 (c) Being convicted or found guilty of, or entering a
11 plea of nolo contendere to, regardless of adjudication, a
12 crime in any jurisdiction which directly relates to
13 respiratory care services or to the ability to deliver such
14 services.

15 (d) Willfully making or filing a false report or
16 record, willfully failing to file a report or record required
17 by state or federal law, or willfully impeding or obstructing
18 such filing or inducing another person to do so. Such reports
19 or records include only those reports or records which require
20 the signature of a respiratory care practitioner or
21 respiratory therapist licensed pursuant to this part.

22 (e) Circulating false, misleading, or deceptive
23 advertising.

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

29 (g) Engaging or attempting to engage in the
30 possession, sale, or distribution of controlled substances, as
31

- 1 set forth by law, for any purpose other than a legitimate
2 purpose.
- 3 (h) Willfully failing to report any violation of this
4 part.
- 5 (i) Violating a lawful order of the board or
6 department previously entered in a disciplinary hearing.
- 7 (j) Engaging in the delivery of respiratory care
8 services with a revoked, suspended, or inactive license.
- 9 (k) Permitting, aiding, assisting, procuring, or
10 advising any person who is not licensed pursuant to this part,
11 contrary to this part or to any rule of the department or the
12 board.
- 13 (l) Failing to perform any statutory or legal
14 obligation placed upon a respiratory care practitioner or
15 respiratory therapist licensed pursuant to this part.
- 16 (m) Accepting and performing professional
17 responsibilities which the licensee knows, or has reason to
18 know, she or he is not competent to perform.
- 19 (n) Delegating professional responsibilities to a
20 person when the licensee delegating such responsibilities
21 knows, or has reason to know, that such person is not
22 qualified by training, experience, or licensure to perform
23 them.
- 24 (o) Gross or repeated malpractice or the failure to
25 deliver respiratory care services with that level of care,
26 skill, and treatment which is recognized by a reasonably
27 prudent respiratory care practitioner or respiratory therapist
28 with similar professional training as being acceptable under
29 similar conditions and circumstances.
- 30 (p) Paying or receiving any commission, bonus,
31 kickback, or rebate to or from, or engaging in any split-fee

1 arrangement in any form whatsoever with, a person,
2 organization, or agency, either directly or indirectly, for
3 goods or services rendered to patients referred by or to
4 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 the licensee from receiving a fee for professional
9 consultation services.

10 (q) Exercising influence within a respiratory care
11 relationship for the purpose of engaging a patient in sexual
12 activity. A patient is presumed to be incapable of giving
13 free, full, and informed consent to sexual activity with the
14 patient's respiratory care practitioner or respiratory
15 therapist.

16 (r) Making deceptive, untrue, or fraudulent
17 representations in the delivery of respiratory care services
18 or employing a trick or scheme in the delivery of respiratory
19 care services if such a scheme or trick fails to conform to
20 the generally prevailing standards of other licensees within
21 the community.

22 (s) Soliciting patients, either personally or through
23 an agent, through the use of fraud, deception, or otherwise
24 misleading statements or through the exercise of intimidation
25 or undue influence.

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

28 (u) Exercising influence on the patient in such a
29 manner as to exploit the patient for the financial gain of the
30 licensee or a third party, which includes, but is not limited
31

1 to, the promoting or selling of services, goods, appliances,
2 or drugs.

3 (v) Performing professional services which have not
4 been duly ordered by a physician licensed pursuant to chapter
5 458 or chapter 459 and which are not in accordance with
6 protocols established by the hospital, other health care
7 provider, or the board, except as provided in ss. 743.064,
8 766.103, and 768.13.

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

1 against a respiratory care practitioner or respiratory
2 therapist in any other proceeding.

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

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

11 Section 26. For the purpose of incorporating the
12 amendment to section 456.072, Florida Statutes, in references
13 thereto, subsections (1) and (2) of section 468.518, Florida
14 Statutes, are reenacted to read:

15 468.518 Grounds for disciplinary action.--

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

19 (a) Violating any provision of this part, any board or
20 agency rule adopted pursuant thereto, or any lawful order of
21 the board or agency previously entered in a disciplinary
22 hearing held pursuant to this part, or failing to comply with
23 a lawfully issued subpoena of the agency. The provisions of
24 this paragraph also apply to any order or subpoena previously
25 issued by the Department of Health during its period of
26 regulatory control over this part.

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

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

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

9 (c) Attempting to procure or procuring a license to
10 practice dietetics and nutrition or nutrition counseling by
11 fraud or material misrepresentation of material fact.

12 (d) Having a license to practice dietetics and
13 nutrition or nutrition counseling revoked, suspended, or
14 otherwise acted against, including the denial of licensure by
15 the licensing authority of another state, district, territory,
16 or country.

17 (e) Being convicted or found guilty of, or entering a
18 plea of nolo contendere to, regardless of adjudication, a
19 crime in any jurisdiction which directly relates to the
20 practice of dietetics and nutrition or nutrition counseling or
21 the ability to practice dietetics and nutrition or nutrition
22 counseling.

23 (f) Making or filing a report or record that the
24 licensee knows to be false, willfully failing to file a report
25 or record required by state or federal law, willfully impeding
26 or obstructing such filing, or inducing another person to
27 impede or obstruct such filing. Such reports or records
28 include only those that are signed in the capacity of a
29 licensed dietitian/nutritionist or licensed nutrition
30 counselor.

31

1 (g) Advertising goods or services in a manner that is
2 fraudulent, false, deceptive, or misleading in form or
3 content.

4 (h) Committing an act of fraud or deceit, or of
5 negligence, incompetency, or misconduct in the practice of
6 dietetics and nutrition or nutrition counseling.

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

9 (j) Treating or undertaking to treat human ailments by
10 means other than by dietetics and nutrition practice or
11 nutrition counseling.

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

15 (l) Engaging directly or indirectly in the dividing,
16 transferring, assigning, rebating, or refunding of fees
17 received for professional services, or profiting by means of a
18 credit or other valuable consideration, such as an unearned
19 commission, discount, or gratuity, with any person referring a
20 patient or with any relative or business associate of the
21 referring person. Nothing in this part prohibits the members
22 of any regularly and properly organized business entity that
23 is composed of licensees under this part and recognized under
24 the laws of this state from making any division of their total
25 fees among themselves as they determine necessary.

26 (m) Advertising, by or on behalf of a licensee under
27 this part, any method of assessment or treatment which is
28 experimental or without generally accepted scientific
29 validation.

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

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

7 Section 27. For the purpose of incorporating the
8 amendment to section 456.072, Florida Statutes, in references
9 thereto, section 468.719, Florida Statutes, is reenacted to
10 read:

11 468.719 Disciplinary actions.--

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

15 (a) Failing to include the athletic trainer's name and
16 license number in any advertising, including, but not limited
17 to, business cards and letterhead, related to the practice of
18 athletic training. Advertising shall not include clothing or
19 other novelty items.

20 (b) Committing incompetency or misconduct in the
21 practice of athletic training.

22 (c) Committing fraud or deceit in the practice of
23 athletic training.

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

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

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

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

7 Section 28. For the purpose of incorporating the
8 amendment to section 456.072, Florida Statutes, in references
9 thereto, section 468.811, Florida Statutes, is reenacted to
10 read:

11 468.811 Disciplinary proceedings.--

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

15 (a) Attempting to procure a license by fraudulent
16 misrepresentation.

17 (b) Having a license to practice orthotics,
18 prosthetics, or pedorthics revoked, suspended, or otherwise
19 acted against, including the denial of licensure in another
20 jurisdiction.

21 (c) Being convicted or found guilty of or pleading
22 nolo contendere to, regardless of adjudication, in any
23 jurisdiction, a crime that directly relates to the practice of
24 orthotics, prosthetics, or pedorthics, including violations of
25 federal laws or regulations regarding orthotics, prosthetics,
26 or pedorthics.

27 (d) Filing a report or record that the licensee knows
28 is false, intentionally or negligently failing to file a
29 report or record required by state or federal law, willfully
30 impeding or obstructing such filing, or inducing another
31 person to impede or obstruct such filing. Such reports or

1 records include only reports or records that are signed in a
2 person's capacity as a licensee under this act.

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

5 (f) Violation of an order of the board, agency, or
6 department previously entered in a disciplinary hearing or
7 failure to comply with a subpoena issued by the board, agency,
8 or department.

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

11 (h) Gross or repeated malpractice or the failure to
12 deliver orthotic, prosthetic, or pedorthic services with that
13 level of care and skill which is recognized by a reasonably
14 prudent licensed practitioner with similar professional
15 training as being acceptable under similar conditions and
16 circumstances.

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

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

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

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

1 478.52 Disciplinary proceedings.--

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

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

7 (b) Having a license or other authority to deliver
8 electrolysis services revoked, suspended, or otherwise acted
9 against, including denial of licensure, in another
10 jurisdiction.

11 (c) Being convicted or found guilty of, or entering a
12 plea of nolo contendere to, regardless of adjudication, a
13 crime, in any jurisdiction, which directly relates to the
14 practice of electrology.

15 (d) Willfully making or filing a false report or
16 record, willfully failing to file a report or record required
17 for electrologists, or willfully impeding or obstructing the
18 filing of a report or record required by this act or inducing
19 another person to do so.

20 (e) Circulating false, misleading, or deceptive
21 advertising.

22 (f) Unprofessional conduct, including any departure
23 from, or failure to conform to, acceptable standards related
24 to the delivery of electrolysis services.

25 (g) Engaging or attempting to engage in the illegal
26 possession, sale, or distribution of any illegal or controlled
27 substance.

28 (h) Willfully failing to report any known violation of
29 this chapter.

30
31

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

4 (j) Engaging in the delivery of electrolysis services
5 without an active license.

6 (k) Employing an unlicensed person to practice
7 electrology.

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

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

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

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

18 (p) Judicially determined mental incompetency.

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

21 (r) Being unable to practice electrology with
22 reasonable skill and safety because of a mental or physical
23 condition or illness, or the use of alcohol, controlled
24 substances, or any other substance which impairs one's ability
25 to practice.

26 1. The department may, upon probable cause, compel a
27 licensee to submit to a mental or physical examination by
28 physicians designated by the department. The cost of an
29 examination shall be borne by the licensee, and her or his
30 failure to submit to such an examination constitutes an
31 admission of the allegations against her or him, consequent

1 upon which a default and a final order may be entered without
2 the taking of testimony or presentation of evidence, unless
3 the failure was due to circumstances beyond her or his
4 control.

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

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

12 (s) Disclosing the identity of or information about a
13 patient without written permission, except for information
14 which does not identify a patient and which is used for
15 training purposes in an approved electrolysis training
16 program.

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

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

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

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

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

1 thereto, subsections (1) and (2) of section 480.046, Florida
2 Statutes, are reenacted to read:

3 480.046 Grounds for disciplinary action by the
4 board.--

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

8 (a) Attempting to procure a license to practice
9 massage by bribery or fraudulent misrepresentation.

10 (b) Having a license to practice massage revoked,
11 suspended, or otherwise acted against, including the denial of
12 licensure, by the licensing authority of another state,
13 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 massage or to the ability to
17 practice massage. Any plea of nolo contendere shall be
18 considered a conviction for purposes of this chapter.

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

20 (e) Aiding, assisting, procuring, or advising any
21 unlicensed person to practice massage contrary to the
22 provisions of this chapter or to a rule of the department or
23 the board.

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

26 (g) Being unable to practice massage with reasonable
27 skill and safety by reason of illness or use of alcohol,
28 drugs, narcotics, chemicals, or any other type of material or
29 as a result of any mental or physical condition. In enforcing
30 this paragraph, the department shall have, upon probable
31 cause, authority to compel a massage therapist to submit to a

1 mental or physical examination by physicians designated by the
2 department. Failure of a massage therapist to submit to such
3 examination when so directed, unless the failure was due to
4 circumstances beyond her or his control, shall constitute an
5 admission of the allegations against her or him, consequent
6 upon which a default and final order may be entered without
7 the taking of testimony or presentation of evidence. A
8 massage therapist affected under this paragraph shall at
9 reasonable intervals be afforded an opportunity to demonstrate
10 that she or he can resume the competent practice of massage
11 with reasonable skill and safety to clients.

12 (h) Gross or repeated malpractice or the failure to
13 practice massage with that level of care, skill, and treatment
14 which is recognized by a reasonably prudent massage therapist
15 as being acceptable under similar conditions and
16 circumstances.

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

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

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

29 (l) Refusing to permit the department to inspect the
30 business premises of the licensee during regular business
31 hours.

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

3 (n) Practicing massage at a site, location, or place
4 which is not duly licensed as a massage establishment, except
5 that a massage therapist, as provided by rules adopted by the
6 board, may provide massage services, excluding colonic
7 irrigation, at the residence of a client, at the office of the
8 client, at a sports event, at a convention, or at a trade
9 show.

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

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

18 Section 31. For the purpose of incorporating the
19 amendment to section 456.072, Florida Statutes, in references
20 thereto, subsections (1) and (2) of section 483.825, Florida
21 Statutes, are reenacted to read:

22 483.825 Grounds for disciplinary action.--

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

26 (a) Attempting to obtain, obtaining, or renewing a
27 license or registration under this part by bribery, by
28 fraudulent misrepresentation, or through an error of the
29 department or the board.

30 (b) Engaging in or attempting to engage in, or
31 representing herself or himself as entitled to perform, any

1 clinical laboratory procedure or category of procedures not
2 authorized pursuant to her or his license.

3 (c) Demonstrating incompetence or making consistent
4 errors in the performance of clinical laboratory examinations
5 or procedures or erroneous reporting.

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

8 (e) Has been convicted or found guilty of, or entered
9 a plea of nolo contendere to, regardless of adjudication, a
10 crime in any jurisdiction which directly relates to the
11 activities of clinical laboratory personnel or involves moral
12 turpitude or fraudulent or dishonest dealing. The record of a
13 conviction certified or authenticated in such form as to be
14 admissible in evidence under the laws of the state shall be
15 admissible as prima facie evidence of such guilt.

16 (f) Having been adjudged mentally or physically
17 incompetent.

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

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

22 (i) Knowingly advertising false services or
23 credentials.

24 (j) Having a license revoked, suspended, or otherwise
25 acted against, including the denial of licensure, by the
26 licensing authority of another jurisdiction. The licensing
27 authority's acceptance of a relinquishment of a license,
28 stipulation, consent order, or other settlement, offered in
29 response to or in anticipation of the filing of administrative
30 charges against the licensee, shall be construed as action
31 against the licensee.

1 (k) Failing to report to the board, in writing, within
2 30 days that an action under paragraph (e), paragraph (f), or
3 paragraph (j) has been taken against the licensee or one's
4 license to practice as clinical laboratory personnel in
5 another state, territory, country, or other jurisdiction.

6 (l) Being unable to perform or report clinical
7 laboratory examinations with reasonable skill and safety to
8 patients by reason of illness or use of alcohol, drugs,
9 narcotics, chemicals, or any other type of material or as a
10 result of any mental or physical condition. In enforcing this
11 paragraph, the department shall have, upon a finding of the
12 secretary or his or her designee that probable cause exists to
13 believe that the licensee is unable to practice because of the
14 reasons stated in this paragraph, the authority to issue an
15 order to compel a licensee to submit to a mental or physical
16 examination by physicians designated by the department. If the
17 licensee refuses to comply with such order, the department's
18 order directing such examination may be enforced by filing a
19 petition for enforcement in the circuit court where the
20 licensee resides or does business. The department shall be
21 entitled to the summary procedure provided in s. 51.011. A
22 licensee affected under this paragraph shall at reasonable
23 intervals be afforded an opportunity to demonstrate that he or
24 she can resume competent practice with reasonable skill and
25 safety to patients.

26 (m) 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
29 qualified by training, experience, or licensure to perform
30 them.

31

1 (n) Violating a previous order of the board entered in
2 a disciplinary proceeding.

3 (o) Failing to report to the department a person or
4 other licensee who the licensee knows is in violation of this
5 chapter or the rules of the department or board adopted
6 hereunder.

7 (p) 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 person
11 to do so, including, but not limited to, impeding an agent of
12 the state from obtaining a report or record for investigative
13 purposes. Such reports or records shall include only those
14 generated in the capacity as a licensed clinical laboratory
15 personnel.

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

26 (r) Exercising influence on a patient or client in
27 such a manner as to exploit the patient or client for the
28 financial gain of the licensee or other third party, which
29 shall include, but not be limited to, the promoting, selling,
30 or withholding of services, goods, appliances, referrals, or
31 drugs.

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

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

9 (u) Improperly interfering with an investigation or
10 any disciplinary proceeding.

11 (v) Engaging in or attempting to engage in sexual
12 misconduct, causing undue embarrassment or using disparaging
13 language or language of a sexual nature towards a patient,
14 exploiting superior/subordinate, professional/patient,
15 instructor/student relationships for personal gain, sexual
16 gratification, or advantage.

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

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

25 Section 32. For the purpose of incorporating the
26 amendment to section 456.072, Florida Statutes, in references
27 thereto, paragraphs (g) and (h) of subsection (6) of section
28 483.901, Florida Statutes, are reenacted to read:

29 483.901 Medical physicists; definitions; licensure.--

30 (6) LICENSE REQUIRED.--An individual may not engage in
31 the practice of medical physics, including the specialties of

1 diagnostic radiological physics, therapeutic radiological
2 physics, medical nuclear radiological physics, or medical
3 health physics, without a license issued by the department for
4 the appropriate specialty.

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

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

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

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

17 4. Willfully failing to file a report or record
18 required for medical physics or willfully impeding or
19 obstructing the filing of a report or record required by this
20 section or inducing another person to do so.

21 5. Making misleading, deceptive, or fraudulent
22 representations in or related to the practice of medical
23 physics.

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

26 7. Failing to perform any statutory or legal
27 obligation placed upon a licensee.

28 8. Aiding, assisting, procuring, employing, or
29 advising any unlicensed person to practice medical physics
30 contrary to this section or any rule adopted thereunder.

31

1 9. Delegating or contracting for the performance of
2 professional responsibilities by a person when the licensee
3 delegating or contracting such responsibilities knows, or has
4 reason to know, such person is not qualified by training,
5 experience, and authorization to perform them.

6 10. Practicing or offering to practice beyond the
7 scope permitted by law or accepting and performing
8 professional responsibilities the licensee knows, or has
9 reason to know, the licensee is not competent to perform.

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

12 12. Judicially determined mental incompetency.

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

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

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

1 c. With respect to any proceeding under this
2 subparagraph, the record of proceedings or the orders entered
3 by the department may not be used against a licensee in any
4 other proceeding.

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

7 (h) 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 33. For the purpose of incorporating the
14 amendment to section 456.072, Florida Statutes, in references
15 thereto, subsections (1) and (2) of section 484.014, Florida
16 Statutes, are reenacted to read:

17 484.014 Disciplinary 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 or attempting to procure a license by
22 misrepresentation, bribery, or fraud or through an error of
23 the department or the board.

24 (b) Procuring or attempting to procure a license for
25 any other person by making or causing to be made any false
26 representation.

27 (c) Making or filing a report or record which the
28 licensee knows to be false, intentionally or negligently
29 failing to file a report or record required by federal or
30 state law, willfully impeding or obstructing such filing, or
31 inducing another person to do so. Such reports or records

1 shall include only those which the person is required to make
2 or file as an optician.

3 (d) Failing to make fee or price information readily
4 available by providing such information upon request or upon
5 the presentation of a prescription.

6 (e) Advertising goods or services in a manner which is
7 fraudulent, false, deceptive, or misleading in form or
8 content.

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

11 (g) Practicing with a revoked, suspended, inactive, or
12 delinquent license.

13 (h) Violation of a lawful order of the board or
14 department previously entered in a disciplinary hearing or
15 failing to comply with a lawfully issued subpoena of the
16 department.

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

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

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

24 (l) Failing to keep written prescription files.

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

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

31 (o) Gross or repeated malpractice.

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

5 (q) Being convicted or found guilty of, or entering a
6 plea of nolo contendere to, regardless of adjudication, in a
7 court of this state or other jurisdiction, a crime which
8 relates to the ability to practice opticianry or to the
9 practice of opticianry.

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

13 (s) Being unable to practice opticianry with
14 reasonable skill and safety by reason of illness or use of
15 drugs, narcotics, chemicals, or any other type of material or
16 as a result of any mental or physical condition. An optician
17 affected under this paragraph shall at reasonable intervals be
18 afforded an opportunity to demonstrate that she or he can
19 resume the competent practice of opticianry with reasonable
20 skill and safety to her or his customers.

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

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

29 Section 34. For the purpose of incorporating the
30 amendment to section 456.072, Florida Statutes, in references
31

1 thereto, subsection (1) and paragraph (a) of subsection (2) of
2 section 484.056, Florida Statutes, are reenacted to read:

3 484.056 Disciplinary proceedings.--

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) Violation of any provision of s. 456.072(1), s.
8 484.0512, or s. 484.053.

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

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

16 (d) 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 dispensing hearing aids or the ability to practice
20 dispensing hearing aids, including violations of any federal
21 laws or regulations regarding hearing aids.

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

30
31

1 (f) Advertising goods or services in a manner which is
2 fraudulent, false, deceptive, or misleading in form or
3 content.

4 (g) Proof that the licensee is guilty of fraud or
5 deceit or of negligence, incompetency, or misconduct in the
6 practice of dispensing hearing aids.

7 (h) Violation of a lawful order of the board or
8 department previously entered in a disciplinary hearing or
9 failure to comply with a lawfully issued subpoena of the board
10 or department.

11 (i) Practicing with a revoked, suspended, inactive, or
12 delinquent license.

13 (j) Using, or causing or promoting the use of, any
14 advertising matter, promotional literature, testimonial,
15 guarantee, warranty, label, brand, insignia, or other
16 representation, however disseminated or published, which is
17 misleading, deceiving, or untruthful.

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

21 (l) Misrepresentation of professional services
22 available in the fitting, sale, adjustment, service, or repair
23 of a hearing aid, or use of the terms "doctor," "clinic,"
24 "clinical," "medical audiologist," "clinical audiologist,"
25 "research audiologist," or "audiologic" or any other term or
26 title which might connote the availability of professional
27 services when such use is not accurate.

28 (m) Representation, advertisement, or implication that
29 a hearing aid or its repair is guaranteed without providing
30 full disclosure of the identity of the guarantor; the nature,
31

1 extent, and duration of the guarantee; and the existence of
2 conditions or limitations imposed upon the guarantee.

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

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

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

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

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

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

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

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

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

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

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

14 Section 35. For the purpose of incorporating the
15 amendment to section 456.072, Florida Statutes, in references
16 thereto, subsections (1) and (2) of section 486.125, Florida
17 Statutes, are reenacted to read:

18 486.125 Refusal, revocation, or suspension of license;
19 administrative fines and other disciplinary measures.--

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

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

28 1. In enforcing this paragraph, upon a finding of the
29 secretary or the secretary's designee that probable cause
30 exists to believe that the licensee is unable to practice
31 physical therapy due to the reasons stated in this paragraph,

1 the department shall have the authority to compel a physical
2 therapist or physical therapist assistant to submit to a
3 mental or physical examination by a physician designated by
4 the department. If the licensee refuses to comply with such
5 order, the department's order directing such examination may
6 be enforced by filing a petition for enforcement in the
7 circuit court where the licensee resides or serves as a
8 physical therapy practitioner. The licensee against whom the
9 petition is filed shall not be named or identified by initials
10 in any public court records or documents, and the proceedings
11 shall be closed to the public. The department shall be
12 entitled to the summary procedure provided in s. 51.011.

13 2. A physical therapist or physical therapist
14 assistant whose license is suspended or revoked pursuant to
15 this subsection shall, at reasonable intervals, be given an
16 opportunity to demonstrate that she or he can resume the
17 competent practice of physical therapy with reasonable skill
18 and safety to patients.

19 3. Neither the record of proceeding nor the orders
20 entered by the board in any proceeding under this subsection
21 may be used against a physical therapist or physical therapist
22 assistant in any other proceeding.

23 (b) Having committed fraud in the practice of physical
24 therapy or deceit in obtaining a license as a physical
25 therapist or as a physical therapist assistant.

26 (c) Being convicted or found guilty regardless of
27 adjudication, of a crime in any jurisdiction which directly
28 relates to the practice of physical therapy or to the ability
29 to practice physical therapy. The entry of any plea of nolo
30 contendere shall be considered a conviction for purpose of
31 this chapter.

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

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

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

19 (g) Having a license revoked or suspended; having had
20 other disciplinary action taken against her or him; or having
21 had her or his application for a license refused, revoked, or
22 suspended by the licensing authority of another state,
23 territory, or country.

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

26 (i) Making or filing a report or record which the
27 licensee knows to be false. Such reports or records shall
28 include only those which are signed in the capacity of a
29 physical therapist.

30 (j) Practicing or offering to practice beyond the
31 scope permitted by law or accepting and performing

1 professional responsibilities which the licensee knows or has
2 reason to know that she or he is not competent to perform,
3 including, but not limited to, specific spinal manipulation.

4 (k) 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 36. For the purpose of incorporating the
13 amendment to section 456.072, Florida Statutes, in references
14 thereto, section 490.009, Florida Statutes, is reenacted to
15 read:

16 490.009 Discipline.--

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

20 (a) Attempting to obtain, obtaining, or renewing a
21 license under this chapter by bribery or fraudulent
22 misrepresentation or through an error of the board or
23 department.

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

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

1 | contendere creates a rebuttable presumption of guilt of the
2 | underlying criminal charges. However, the board shall allow
3 | the person who is the subject of the disciplinary proceeding
4 | to present any evidence relevant to the underlying charges and
5 | circumstances surrounding the plea.

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

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

11 | (f) Maintaining a professional association with any
12 | person who the applicant or licensee knows, or has reason to
13 | believe, is in violation of this chapter or of a rule of the
14 | department or, in the case of psychologists, of the department
15 | or the board.

16 | (g) Knowingly aiding, assisting, procuring, or
17 | advising any nonlicensed person to hold himself or herself out
18 | as licensed under this chapter.

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

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

29 | (j) Paying a kickback, rebate, bonus, or other
30 | remuneration for receiving a patient or client, or receiving a
31 | kickback, rebate, bonus, or other remuneration for referring a

1 patient or client to another provider of mental health care
2 services or to a provider of health care services or goods;
3 referring a patient or client to oneself for services on a
4 fee-paid basis when those services are already being paid for
5 by some other public or private entity; or entering into a
6 reciprocal referral agreement.

7 (k) Committing any act upon a patient or client which
8 would constitute sexual battery or which would constitute
9 sexual misconduct as defined in s. 490.0111.

10 (l) Making misleading, deceptive, untrue, or
11 fraudulent representations in the practice of any profession
12 licensed under this chapter.

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

17 (n) Failing to make available to a patient or client,
18 upon written request, copies of test results, reports, or
19 documents in the possession or under the control of the
20 licensee which have been prepared for and paid for by the
21 patient or client.

22 (o) Failing to respond within 30 days to a written
23 communication from the department concerning any investigation
24 by the department or to make available any relevant records
25 with respect to any investigation about the licensee's conduct
26 or background.

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

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

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

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

30 (s) Delegating professional responsibilities to a
31 person whom the licensee knows or has reason to know is not

1 qualified by training or experience to perform such
2 responsibilities.

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

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

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

12 (w) Violating any provision of this chapter or chapter
13 456, or any rules adopted pursuant thereto.

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

20 Section 37. For the purpose of incorporating the
21 amendment to section 456.072, Florida Statutes, in references
22 thereto, section 491.009, Florida Statutes, is reenacted to
23 read:

24 491.009 Discipline.--

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, registration, or certificate under this chapter by
30 bribery or fraudulent misrepresentation or through an error of
31 the board or the department.

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

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

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

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

19 (f) Maintaining a professional association with any
20 person who the applicant, licensee, registered intern, or
21 certificateholder knows, or has reason to believe, is in
22 violation of this chapter or of a rule of the department or
23 the board.

24 (g) Knowingly aiding, assisting, procuring, or
25 advising any nonlicensed, nonregistered, or noncertified
26 person to hold himself or herself out as licensed, registered,
27 or certified under this chapter.

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

31

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

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

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

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

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

28 (n) Failing to make available to a patient or client,
29 upon written request, copies of tests, reports, or documents
30 in the possession or under the control of the licensee,
31

1 registered intern, or certificateholder which have been
2 prepared for and paid for by the patient or client.

3 (o) Failing to respond within 30 days to a written
4 communication from the department or the board concerning any
5 investigation by the department or the board, or failing to
6 make available any relevant records with respect to any
7 investigation about the licensee's, registered intern's, or
8 certificateholder's conduct or background.

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

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

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

14 (r) Failing to meet the minimum standards of
15 performance in professional activities when measured against
16 generally prevailing peer performance, including the
17 undertaking of activities for which the licensee, registered
18 intern, or certificateholder is not qualified by training or
19 experience.

20 (s) Delegating professional responsibilities to a
21 person whom the licensee, registered intern, or
22 certificateholder knows or has reason to know is not qualified
23 by training or experience to perform such responsibilities.

24 (t) Violating a rule relating to the regulation of the
25 profession or a lawful order of the department or the board
26 previously entered in a disciplinary hearing.

27 (u) Failure of the licensee, registered intern, or
28 certificateholder to maintain in confidence a communication
29 made by a patient or client in the context of such services,
30 except as provided in s. 491.0147.

31

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

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

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

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

14 458.345 Registration of resident physicians, interns,
15 and fellows; list of hospital employees; prescribing of
16 medicinal drugs; penalty.--

17 (1) Any person desiring to practice as a resident
18 physician, assistant resident physician, house physician,
19 intern, or fellow in fellowship training which leads to
20 subspecialty board certification in this state, or any person
21 desiring to practice as a resident physician, assistant
22 resident physician, house physician, intern, or fellow in
23 fellowship training in a teaching hospital in this state as
24 defined in s. 408.07(44) or s. 395.805(2), who does not hold a
25 valid, active license issued under this chapter shall apply to
26 the department to be registered and shall remit a fee not to
27 exceed \$300 as set by the board. The department shall
28 register any applicant the board certifies has met the
29 following requirements:

30 (d) Has completed, upon initial registration, the
31 1-hour educational course in the prescribing of controlled

1 substances as set forth in section 2 of this act. An applicant
2 who has not taken a course at the time of registration shall
3 be allowed up to 6 months within which to complete this
4 requirement.

5 Section 39. Paragraph (dd) is added to subsection (1)
6 of section 461.013, Florida Statutes, to read:

7 461.013 Grounds for disciplinary action; action by the
8 board; investigations by department.--

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

12 (dd) Presigning blank prescription forms.

13 Section 40. Paragraphs (h), (i), (j), (k), and (l) are
14 added to subsection (1) of section 893.04, Florida Statutes,
15 to read:

16 893.04 Pharmacist and practitioner.--

17 (1) A pharmacist, in good faith and in the course of
18 professional practice only, may dispense controlled substances
19 upon a written or oral prescription of a practitioner, under
20 the following conditions:

21 (h) A pharmacist may not dispense a Schedule II
22 controlled substance; codeine, hydrocodone, dihydrocodeine,
23 ethylmorphine, or morphine as scheduled in Schedule II and
24 Schedule III; or a drug of abuse designated by the Secretary
25 of Health by rule under the prescription-monitoring system to
26 any individual not personally known to the pharmacist without
27 first obtaining suitable identification and documenting, in a
28 log book kept by the pharmacist, the identity of the
29 individual obtaining the controlled substance. The log book
30 entry must contain the printed name, address, telephone number
31 if available, driver's license number or other suitable

1 identification number, and signature of the person obtaining
2 the controlled substance or drug. If the individual does not
3 have suitable identification or it is impracticable to obtain
4 such identification, the pharmacist may dispense the
5 controlled substance or drug only when the pharmacist
6 determines, in the exercise of her or his professional
7 judgment, that the order is valid and necessary for treatment.
8 In such a case, the pharmacist or his or her designee must
9 obtain the other information required under this paragraph,
10 and the pharmacist or pharmacist's designee must sign the log
11 to indicate that suitable identification was not available and
12 that the pharmacist's professional judgment was exercised
13 prior to dispensing the controlled substance or drug. The
14 Board of Pharmacy may adopt, by rule, procedures by which a
15 pharmacist must verify the validity of a prescription for a
16 Schedule II controlled substance; other drug designated by the
17 Secretary of Health under this section; or codeine,
18 hydrocodone, dihydrocodeine, ethylmorphine, or morphine as
19 scheduled in Schedule II and Schedule III, for circumstances
20 when it is otherwise impracticable for the pharmacist or
21 dispensing practitioner to obtain suitable identification from
22 the patient or the patient's agent. For purposes of this
23 section, identification is suitable only if it contains the
24 photograph, the printed name, and the signature of the
25 individual obtaining the Schedule II controlled substance or
26 drug of abuse under the prescription-monitoring system.

27 (i) Any pharmacist that dispenses a Schedule II
28 controlled substance or drug subject to the requirements of
29 this section when dispensed by mail shall be exempt from the
30 requirements to obtain suitable identification.

31

1 (j) All prescriptions issued for a Schedule II
2 controlled substance; codeine, hydrocodone, dihydrocodeine,
3 ethylmorphine, or morphine as scheduled in Schedule II and
4 Schedule III; or a drug of abuse under the
5 prescription-monitoring system which has been designated by
6 the Secretary of Health by rule, must include both a written
7 and numerical notation of quantity on the face of the
8 prescription.

9 (k) A pharmacist may not dispense more than a 30-day
10 supply of a controlled substance listed in Schedule III upon
11 an oral prescription.

12 (l) A pharmacist may not knowingly fill a prescription
13 that has been mutilated or forged for a Schedule II controlled
14 substance; codeine, hydrocodone, dihydrocodeine,
15 ethylmorphine, and morphine as scheduled in Schedule II and
16 Schedule III; or a drug of abuse under the
17 prescription-monitoring system which has been designated by
18 the Secretary of Health by rule.

19 Section 41. Each local and regional board of education
20 shall adopt and implement policies prohibiting any school
21 personnel from recommending the use of psychotropic drugs for
22 any child. The provisions of this section shall not prohibit
23 school medical staff from recommending that a child be
24 evaluated by a medical practitioner.

25 Section 42. Paragraph (a) of subsection (2) of section
26 499.007, Florida Statutes, is amended to read:

27 499.007 Misbranded drug or device.--A drug or device
28 is misbranded:

29 (2) Unless, if in package form, it bears a label
30 containing:
31

1 (a) The name and place of business of the manufacturer
2 or distributor; ~~in addition, for a medicinal drug, as defined~~
3 ~~in s. 499.003, the label must contain the name and place of~~
4 ~~business of the manufacturer~~ of the finished dosage form of
5 the drug. For the purpose of this paragraph, the finished
6 dosage form of a medicinal drug is that form of the drug which
7 is, or is intended to be, dispensed or administered to the
8 patient and requires no further manufacturing or processing
9 other than packaging, reconstitution, and labeling; and

10 Section 43. If any law that is amended by this act was
11 also amended by a law enacted at the 2002 Regular Session of
12 the Legislature, such laws shall be construed as if they had
13 been enacted at the same session of the Legislature, and full
14 effect should be given to each if that is possible.

15 Section 44. For Fiscal Year 2002-2003, the lump sum of
16 \$1,050,000 from nonrecurring General Revenue is appropriated
17 to the Department of Health for the purpose of implementing
18 the provisions of this act.

19 Section 45. This act shall take effect July 1, 2002,
20 only if SB 82E or similar legislation is enacted during the
21 same legislative session as this act and becomes law.