

By Senator Peaden

2-1175-03

1 A bill to be entitled
2 An act relating to health care; amending s.
3 393.064, F.S.; providing for the Department of
4 Health rather than the Department of Children
5 and Family Services to manage the Raymond C.
6 Philips Research and Education Unit; amending
7 s. 394.4615, F.S.; revising the standard under
8 which a patient's access to his or her own
9 clinical records may be restricted; amending s.
10 395.3025, F.S.; authorizing the release of
11 patient records to a health care practitioner,
12 the Department of Health, or a researcher or
13 facility personnel under certain circumstances;
14 revising a restriction on the use of patient
15 information for certain purposes; amending s.
16 400.141, F.S.; providing for the release of
17 certain nursing home resident records to the
18 Department of Health pursuant to subpoena;
19 amending s. 400.145, F.S., and creating s.
20 400.455, F.S.; requiring certification of
21 certain records by the nursing home
22 administrator or records custodian; amending s.
23 456.017, F.S.; authorizing the Department of
24 Health to post examination scores
25 electronically in lieu of mailing; amending s.
26 456.0375, F.S.; providing that a community
27 college or university clinic is exempt from
28 certain registration requirements; amending s.
29 456.041, F.S.; revising certain requirements
30 concerning information on paid claims which is
31 included in the practitioner profile; amending

1 s. 456.049, F.S.; revising requirements
2 concerning information on final judgments and
3 settlements which is included on reports filed
4 with the department; amending s. 456.055, F.S.;
5 requiring claims for payment for services
6 submitted under the same payment code to be
7 paid in the same amount; prohibiting the waiver
8 of such requirement by contract; amending s.
9 456.057, F.S.; specifying certain circumstances
10 under which a patient release for the
11 furnishing of records is not required;
12 authorizing the department to obtain records
13 pursuant to subpoena; requiring the
14 certification of certain records; amending s.
15 456.063, F.S.; authorizing the board, or the
16 department if there is no board, to adopt rules
17 for reporting allegations of sexual misconduct;
18 amending s. 456.072, F.S.; revising provisions
19 specifying grounds under which disciplinary
20 actions may be taken; providing for attorney's
21 fees under certain circumstances; requiring
22 that a revocation or suspension of a license be
23 established by clear and convincing evidence;
24 amending s. 456.073, F.S., relating to
25 disciplinary proceedings; revising the period
26 for filing a response to a complaint; revising
27 requirements for the administrative hearing on
28 a complaint; providing for certain charges and
29 filing fees; amending s. 456.077, F.S.;
30 revising provisions governing the issuance of
31 citations; amending s. 456.078, F.S.; providing

1 requirements for mediation; specifying events
2 that constitute an adverse incident and are not
3 subject to mediation; providing requirements
4 for payment of the costs of mediation;
5 requiring each board to adopt rules designating
6 violations that are appropriate for mediation;
7 amending s. 458.311, F.S.; revising licensure
8 requirements; providing requirements for
9 certification by the Board of Medicine;
10 providing education and examination
11 requirements; authorizing the board to adopt
12 rules; amending s. 458.315, F.S.; providing
13 requirements for limited licenses; providing
14 for fees and waiver of fees under certain
15 circumstances; providing certain restrictions
16 on practice; providing for license renewal and
17 for converting an active or inactive license to
18 a limited license; amending s. 458.331, F.S.;
19 revising requirements for determining a case of
20 repeated malpractice and for requiring an
21 investigation by the department; repealing s.
22 458.348(3), F.S., relating to protocols for the
23 practice of electrolysis or electrology;
24 amending s. 459.015, F.S.; revising
25 requirements for the department with respect to
26 investigating a claim against an osteopathic
27 physician; amending s. 460.413, F.S.; revising
28 the period for a chiropractic physician to
29 respond to a complaint; amending s. 461.013,
30 F.S.; revising requirements for determining a
31 case of repeated malpractice and for requiring

1 an investigation by the department; amending s.
2 464.203, F.S.; revising requirements for the
3 screening of certified nursing assistants;
4 revising hours required for inservice training;
5 providing for certification renewal fees;
6 amending s. 464.204, F.S.; revising the
7 standards under which disciplinary sanctions
8 may be imposed; amending s. 467.013, F.S.;
9 providing for the department to adopt rules
10 governing applications for inactive status for
11 midwives; amending s. 467.0135, F.S.; revising
12 the schedule of fees; amending s. 467.017,
13 F.S.; requiring that the emergency care plan be
14 available to the department; amending s.
15 468.352, F.S.; revising and providing
16 definitions applicable to the regulation of
17 respiratory therapy; amending s. 468.355, F.S.;
18 revising provisions relating to respiratory
19 therapy licensure and testing requirements;
20 amending s. 468.368, F.S.; revising exemptions
21 from respiratory therapy licensure
22 requirements; repealing s. 468.356, F.S.,
23 relating to the approval of educational
24 programs; repealing s. 468.357, F.S., relating
25 to licensure by examination; amending s.
26 491.005, F.S.; revising certain licensing
27 requirements for clinical social workers;
28 amending s. 491.0145, F.S.; prohibiting the
29 Department of Health from adopting certain
30 rules governing licensure; creating s.
31 491.0146, F.S.; providing for effect of certain

1 licenses; amending s. 627.912, F.S.; revising
2 requirements for liability reports by insurers;
3 amending s. 766.101, F.S.; providing immunity
4 from liability for a medical review committee
5 established by a university board of trustees
6 and a committee of a college of medicine,
7 college of nursing, or other health care
8 discipline; repealing ss. 456.031, 456.033,
9 456.034, 458.313, 458.316, 458.3165, and
10 458.317, F.S., relating to instruction on
11 domestic violence and on HIV and AIDS,
12 licensure by endorsement, public health
13 certificates and public psychiatry
14 certificates, and limited licenses; providing
15 for certain payments made by the Department of
16 Health to the Division of Administrative
17 Hearings to revert to the department; requiring
18 the Office of Program Policy Analysis and
19 Government Accountability and the Auditor
20 General to study the hearings conducted by the
21 division and the billings for those hearings;
22 requiring a report to the Legislature;
23 providing effective dates.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (5) of section 393.064, Florida
28 Statutes, is amended to read:

29 393.064 Prevention.--

30 (5) The Department of Health ~~Children and Family~~
31 ~~Services~~ shall have the authority, within available resources,

1 to contract for the supervision and management of the Raymond
2 C. Philips Research and Education Unit, and such contract
3 shall include specific program objectives.

4 Section 2. Subsection (10) of section 394.4615,
5 Florida Statutes, is amended to read:

6 394.4615 Clinical records; confidentiality.--

7 (10) Patients shall have reasonable access to their
8 clinical records, unless such access is determined by the
9 patient's physician to be a danger to the patient's life or
10 safety ~~harmful to the patient~~. If the patient's right to
11 inspect his or her clinical record is restricted by the
12 facility, written notice of such restriction shall be given to
13 the patient and the patient's guardian, guardian advocate,
14 attorney, and representative. In addition, the restriction
15 shall be recorded in the clinical record, together with the
16 reasons for it. The restriction of a patient's right to
17 inspect his or her clinical record shall expire after 7 days
18 but may be renewed, after review, for subsequent 7-day
19 periods.

20 Section 3. Paragraphs (a) and (e) of subsection (4) of
21 section 395.3025, Florida Statutes, are amended, paragraph (1)
22 is added to that subsection, and paragraph (b) of subsection
23 (7) of that section is amended, to read:

24 395.3025 Patient and personnel records; copies;
25 examination.--

26 (4) Patient records are confidential and must not be
27 disclosed without the consent of the person to whom they
28 pertain, but appropriate disclosure may be made without such
29 consent to:

30
31

1 (a) Licensed health care practitioners facility
2 ~~personnel and attending physicians~~ for use in connection with
3 the treatment of the patient.

4 (e) The Department of Health ~~agency~~ upon subpoena
5 issued pursuant to s. 456.071, but the records obtained
6 thereby must be used solely for the purpose of the department
7 ~~agency~~ and the appropriate professional board in its
8 investigation, prosecution, and appeal of disciplinary
9 proceedings. The administrator or records custodian in a
10 facility licensed under this chapter shall certify that a true
11 and complete copy of the records requested pursuant to a
12 subpoena or patient release has been provided to the
13 department or otherwise identify those documents that have not
14 been provided. If the department ~~agency~~ requests copies of the
15 records, the facility shall charge no more than its actual
16 copying costs, including reasonable staff time. The records
17 must be sealed and must not be available to the public
18 pursuant to s. 119.07(1) or any other statute providing access
19 to records, nor may they be available to the public as part of
20 the record of investigation for and prosecution in
21 disciplinary proceedings made available to the public by the
22 department ~~agency~~ or the appropriate regulatory board.
23 However, the department ~~agency~~ must make available, upon
24 written request by a practitioner against whom probable cause
25 has been found, any such records that form the basis of the
26 determination of probable cause.

27 (1) Researchers or facility personnel for research
28 purposes if the facility or researchers demonstrate compliance
29 with the requirements of 45 C.F.R. s. 164.512(i).

30 (7)

1 (b) Absent a specific written release or authorization
2 permitting utilization of patient information for ~~solicitation~~
3 ~~or~~ marketing the sale of goods or services, any use of that
4 information for those purposes is prohibited. As used in this
5 paragraph, the term "marketing" has the meaning set forth in
6 45 C.F.R. s. 164.501.

7 Section 4. Subsection (10) of section 400.141, Florida
8 Statutes, is amended to read:

9 400.141 Administration and management of nursing home
10 facilities.--Every licensed facility shall comply with all
11 applicable standards and rules of the agency and shall:

12 (10) Keep full records of resident admissions and
13 discharges; medical and general health status, including
14 medical records, personal and social history, and identity and
15 address of next of kin or other persons who may have
16 responsibility for the affairs of the residents; and
17 individual resident care plans including, but not limited to,
18 prescribed services, service frequency and duration, and
19 service goals. The records shall be open to inspection by the
20 agency. A certified complete copy of the records shall be
21 provided to the Department of Health upon subpoena issued
22 pursuant to ss. 456.057 and 456.071. The provisions of chapter
23 456 apply to records obtained pursuant to this section.

24
25 Facilities that have been awarded a Gold Seal under the
26 program established in s. 400.235 may develop a plan to
27 provide certified nursing assistant training as prescribed by
28 federal regulations and state rules and may apply to the
29 agency for approval of their program.

30 Section 5. Subsection (3) is added to section 400.145,
31 Florida Statutes, to read:

1 400.145 Records of care and treatment of resident;
2 copies to be furnished.--

3 (3) The administrator or records custodian in a
4 facility licensed under this chapter shall certify that a true
5 and complete copy of the records requested pursuant to a
6 subpoena or patient release has been provided to the
7 department or otherwise identify those documents that have not
8 been provided.

9 Section 6. Section 400.455, Florida Statutes, is
10 created to read:

11 400.455 Certified copy of subpoenaed records.--Upon a
12 subpoena issued by the Department of Health pursuant to s.
13 456.057 or s. 456.071, a certified complete copy of the
14 requested records shall be provided. The provisions of chapter
15 456 apply to the records obtained pursuant to this section.

16 Section 7. Subsection (7) is added to section 456.017,
17 Florida Statutes, to read:

18 456.017 Examinations.--

19 (7) The department may post examination scores
20 electronically on the Internet in lieu of mailing the scores
21 to each applicant. Such electronic posting of the examination
22 scores shall meet the requirements of chapter 120 if the
23 department also posts with the examination scores a
24 notification of rights, as set forth in chapter 120. The date
25 of receipt for purposes of the requirements of chapter 120
26 shall be the date the examination scores are posted
27 electronically. The department shall also notify the examinee
28 when scores are posted electronically of the availability of a
29 post-examination review, if applicable.

30 Section 8. Paragraph (b) of subsection (1) of section
31 456.0375, Florida Statutes, is amended to read:

1 456.0375 Registration of certain clinics;
2 requirements; discipline; exemptions.--

3 (1)

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

7 1. Entities licensed or registered by the state
8 pursuant to chapter 390, chapter 394, chapter 395, chapter
9 397, chapter 400, chapter 463, chapter 465, chapter 466,
10 chapter 478, chapter 480, or chapter 484.

11 2. Entities exempt from federal taxation under 26
12 U.S.C. s. 501(c)(3) and community college and university
13 clinics.

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

28 4. Clinical facilities affiliated with an accredited
29 medical school at which training is provided for medical
30 students, residents, or fellows.

31

1 Section 9. Subsection (4) of section 456.041, Florida
2 Statutes, is amended to read:

3 456.041 Practitioner profile; creation.--

4 (4) The Department of Health shall include, with
5 respect to a practitioner licensed under chapter 458 or
6 chapter 459, a statement of how the practitioner has elected
7 to comply with the financial responsibility requirements of s.
8 458.320 or s. 459.0085. The department shall include, with
9 respect to practitioners subject to s. 456.048, a statement of
10 how the practitioner has elected to comply with the financial
11 responsibility requirements of that section. The department
12 shall include, with respect to practitioners licensed under
13 chapter 458, chapter 459, or chapter 461, information relating
14 to liability actions which has been reported under s. 456.049
15 or s. 627.912 within the previous 10 years for any paid claim
16 of \$50,000 or more ~~that exceeds \$5,000~~. Such claims
17 information shall be reported in the context of comparing an
18 individual practitioner's claims to the experience of other
19 practitioners within the same specialty, or profession if the
20 practitioner is not a specialist, to the extent such
21 information is available to the Department of Health. If
22 information relating to a liability action is included in a
23 practitioner's practitioner profile, the profile must also
24 include the following statement: "Settlement of a claim may
25 occur for a variety of reasons that do not necessarily reflect
26 negatively on the professional competence or conduct of the
27 practitioner. A payment in settlement of a medical
28 malpractice action or claim should not be construed as
29 creating a presumption that medical malpractice has occurred."

30 Section 10. Subsection (1) of section 456.049, Florida
31 Statutes, is amended to read:

1 456.049 Health care practitioners; reports on
2 professional liability claims and actions.--

3 (1) Any practitioner of medicine licensed pursuant to
4 the provisions of chapter 458, practitioner of osteopathic
5 medicine licensed pursuant to the provisions of chapter 459,
6 podiatric physician licensed pursuant to the provisions of
7 chapter 461, or dentist licensed pursuant to the provisions of
8 chapter 466 shall report to the department any claim or action
9 for damages for personal injury alleged to have been caused by
10 error, omission, or negligence in the performance of such
11 licensee's professional services or based on a claimed
12 performance of professional services without consent if the
13 claim was not covered by an insurer required to report under
14 s. 627.912 and the claim resulted in:

15 (a) A final judgment of \$50,000 or more or, for a
16 dentist licensed under chapter 466, a final judgment of
17 \$25,000 or more ~~in any amount.~~

18 (b) A settlement of \$50,000 or more or, for a dentist
19 licensed under chapter 466, a settlement of \$25,000 or more ~~in~~
20 ~~any amount.~~

21 (c) A final disposition not resulting in payment on
22 behalf of the licensee.

23
24 Reports shall be filed with the department no later than 60
25 days following the occurrence of any event listed in paragraph
26 (a), paragraph (b), or paragraph (c).

27 Section 11. Section 456.055, Florida Statutes, is
28 amended to read:

29 456.055 ~~Chiropractic and podiatric~~ Health care
30 providers; denial of payment; limitation; payment of claims.--
31

1 (1) A chiropractic physician licensed under chapter
2 460 or a podiatric physician licensed under chapter 461 shall
3 not be denied payment for treatment rendered solely on the
4 basis that the chiropractic physician or podiatric physician
5 is not a member of a particular preferred provider
6 organization or exclusive provider organization which is
7 composed only of physicians licensed under the same chapter.

8 (2) Notwithstanding any other law, a claim for payment
9 for a service performed by a health care provider licensed in
10 this state which is identified on the claim by a current
11 procedural terminology code and is submitted under a health
12 insurance policy or health care services plan, or submitted to
13 a preferred provider organization, an exclusive provider
14 organization, or a health maintenance organization in which
15 the health care provider participates, shall be paid in the
16 same amount to all health care providers submitting a claim
17 for payment of a service identified by the same procedural
18 terminology code, regardless of the chapter under which the
19 health care provider is licensed.

20 (3) The provisions of this section may not be waived,
21 voided, or nullified by contract.

22 Section 12. Paragraph (a) of subsection (7) and
23 subsection (16) of section 456.057, Florida Statutes, are
24 amended to read:

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

27 (7)(a)1. The department may obtain patient records
28 pursuant to a subpoena without written authorization from the
29 patient if the department and the probable cause panel of the
30 appropriate board, if any, find reasonable cause to believe
31 that a health care practitioner has excessively or

1 inappropriately prescribed any controlled substance specified
2 in chapter 893 in violation of this chapter or any
3 professional practice act or that a health care practitioner
4 has practiced his or her profession below that level of care,
5 skill, and treatment required as defined by this chapter or
6 any professional practice act and also find that appropriate,
7 reasonable attempts were made to obtain a patient release.
8 However, if the matter under investigation was reported to the
9 department as a professional liability claim or action
10 pursuant to s. 456.049 or s. 627.912, an attempt to obtain a
11 patient release is not required.

12 2. The department may obtain patient records and
13 insurance information pursuant to a subpoena without written
14 authorization from the patient if the department and the
15 probable cause panel of the appropriate board, if any, find
16 reasonable cause to believe that a health care practitioner
17 has provided inadequate medical care based on termination of
18 insurance and also find that appropriate, reasonable attempts
19 were made to obtain a patient release.

20 3. The department may obtain patient records, billing
21 records, insurance information, provider contracts, and all
22 attachments thereto pursuant to a subpoena without written
23 authorization from the patient if the department and probable
24 cause panel of the appropriate board, if any, find reasonable
25 cause to believe that a health care practitioner has submitted
26 a claim, statement, or bill using a billing code that would
27 result in payment greater in amount than would be paid using a
28 billing code that accurately describes the services performed,
29 requested payment for services that were not performed by that
30 health care practitioner, used information derived from a
31 written report of an automobile accident generated pursuant to

1 chapter 316 to solicit or obtain patients personally or
2 through an agent regardless of whether the information is
3 derived directly from the report or a summary of that report
4 or from another person, solicited patients fraudulently,
5 received a kickback as defined in s. 456.054, violated the
6 patient brokering provisions of s. 817.505, or presented or
7 caused to be presented a false or fraudulent insurance claim
8 within the meaning of s. 817.234(1)(a), and also find that,
9 within the meaning of s. 817.234(1)(a), patient authorization
10 cannot be obtained because the patient cannot be located or is
11 deceased, incapacitated, or suspected of being a participant
12 in the fraud or scheme, and if the subpoena is issued for
13 specific and relevant records.

14 4. For purposes of this subsection, the department may
15 obtain patient records pursuant to a subpoena without written
16 authorization from the patient if the patient refuses to
17 cooperate or if, in the department's discretion, an attempt to
18 obtain a patient release would be detrimental to the
19 investigation.

20 (16) A health care practitioner or records owner
21 furnishing copies of reports or records or making the reports
22 or records available for digital scanning pursuant to this
23 section shall charge no more than the actual cost of copying,
24 including reasonable staff time, or the amount specified in
25 administrative rule by the appropriate board, or the
26 department when there is no board. The health care
27 practitioner or owner of the records shall certify that a true
28 and complete copy of the records requested pursuant to a
29 subpoena or patient release has been provided to the
30 department or otherwise identify those documents that have not
31 been provided.

1 Section 13. Subsection (3) of section 456.063, Florida
2 Statutes, is amended to read:

3 456.063 Sexual misconduct; disqualification for
4 license, certificate, or registration.--

5 (3) Licensed health care practitioners shall report
6 allegations of sexual misconduct to the department, regardless
7 of the practice setting in which the alleged sexual misconduct
8 occurred. Each board, or the department if there is no board,
9 may adopt rules to administer the requirements for reporting
10 allegations of sexual misconduct, including rules to determine
11 the sufficiency of the allegations.

12 Section 14. Paragraph (bb) of subsection (1) of
13 section 456.072, Florida Statutes, is amended, paragraph (dd)
14 is added to that subsection, subsection (4) of that section is
15 amended, and subsection (7) is added to that section, to read:

16 456.072 Grounds for discipline; penalties;
17 enforcement.--

18 (1) The following acts shall constitute grounds for
19 which the disciplinary actions specified in subsection (2) may
20 be taken:

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

31

1 (dd) Prescribing, administering, dispensing, or
2 distributing a legend drug, including a controlled substance,
3 if the practitioner knows or reasonably should know that the
4 receiving patient has not established a valid professional
5 relationship with the prescribing practitioner. A medical
6 questionnaire completed via Internet, telephone, electronic
7 transfer, or mail does not establish a valid professional
8 relationship.

9 (4) In ~~any addition to any other discipline imposed~~
10 ~~through final order, or citation, entered on or after July 1,~~
11 ~~2001, which imposes a penalty or other form of discipline~~
12 ~~pursuant to this section or discipline imposed through final~~
13 ~~order, or citation, entered on or after July 1, 2001, for a~~
14 violation of any practice act, the board, or the department
15 when there is no board, shall assess costs related to the
16 investigation and prosecution of the case, including
17 attorney's fees. The amount of costs to be assessed shall be
18 determined by the board, or the department when there is no
19 board, following its consideration of an affidavit of itemized
20 costs and any written objections to those costs.In any case
21 where ~~the board or the department imposes~~ a fine or assessment
22 of costs imposed by the board or the department and the fine
23 ~~or assessment~~ is not paid within a reasonable time, such
24 reasonable time to be prescribed in the rules of the board, or
25 the department when there is no board, or in the order
26 assessing such fines or costs, the department or the
27 Department of Legal Affairs may contract for the collection
28 of, or bring a civil action to recover, the fine or
29 assessment.

30 (7) In any formal administrative hearing conducted
31 under s. 120.57(1), the department shall establish grounds for

1 revocation or suspension of a license by clear and convincing
2 evidence. Any other form of discipline must be established by
3 the greater weight of the evidence.

4 Section 15. Subsections (1) and (5) of section
5 456.073, Florida Statutes, are amended to read:

6 456.073 Disciplinary proceedings.--Disciplinary
7 proceedings for each board shall be within the jurisdiction of
8 the department.

9 (1) The department, for the boards under its
10 jurisdiction, shall cause to be investigated any complaint
11 that is filed before it if the complaint is in writing, signed
12 by the complainant, and legally sufficient. A complaint is
13 legally sufficient if it contains ultimate facts that show
14 that a violation of this chapter, of any of the practice acts
15 relating to the professions regulated by the department, or of
16 any rule adopted by the department or a regulatory board in
17 the department has occurred. In order to determine legal
18 sufficiency, the department may require supporting information
19 or documentation. The department may investigate, and the
20 department or the appropriate board may take appropriate final
21 action on, a complaint even though the original complainant
22 withdraws it or otherwise indicates a desire not to cause the
23 complaint to be investigated or prosecuted to completion. The
24 department may investigate an anonymous complaint if the
25 complaint is in writing and is legally sufficient, if the
26 alleged violation of law or rules is substantial, and if the
27 department has reason to believe, after preliminary inquiry,
28 that the violations alleged in the complaint are true. The
29 department may investigate a complaint made by a confidential
30 informant if the complaint is legally sufficient, if the
31 alleged violation of law or rule is substantial, and if the

1 department has reason to believe, after preliminary inquiry,
2 that the allegations of the complainant are true. The
3 department may initiate an investigation if it has reasonable
4 cause to believe that a licensee or a group of licensees has
5 violated a Florida statute, a rule of the department, or a
6 rule of a board. ~~Except as provided in ss. 458.331(9),~~
7 ~~459.015(9), 460.413(5), and 461.013(6),~~When an investigation
8 of any subject is undertaken, the department shall promptly
9 furnish to the subject or the subject's attorney a copy of the
10 complaint or document that resulted in the initiation of the
11 investigation. The subject may submit a written response to
12 the information contained in such complaint or document within
13 30 ~~20~~ days after service to the subject of the complaint or
14 document. The subject's written response shall be considered
15 by the probable cause panel. The right to respond does not
16 prohibit the issuance of a summary emergency order if
17 necessary to protect the public. However, if the secretary, or
18 the secretary's designee, and the chair of the respective
19 board or the chair of its probable cause panel agree in
20 writing that such notification would be detrimental to the
21 investigation, the department may withhold notification. The
22 department may conduct an investigation without notification
23 to any subject if the act under investigation is a criminal
24 offense.

25 (5)(a) A formal hearing before an administrative law
26 judge from the Division of Administrative Hearings shall be
27 requested ~~held~~ pursuant to chapter 120 if there are any
28 disputed issues of material fact raised within 45 days after
29 service of the administrative complaint. ~~The administrative~~
30 ~~law judge shall issue a recommended order pursuant to chapter~~
31 ~~120. If any party raises an issue of disputed fact during an~~

1 ~~informal hearing, the hearing shall be terminated and a formal~~
2 ~~hearing pursuant to chapter 120 shall be held.~~

3 (b) Notwithstanding s. 120.569(2), the department
4 shall notify the division within 45 days after receipt of a
5 petition or request for a hearing which the department has
6 determined requires a formal hearing before an administrative
7 law judge.

8 (c) The division shall maintain time records for each
9 case it receives. The division shall charge its expenses to
10 the Medical Quality Assurance Trust Fund based on an hourly
11 rate set forth in this paragraph. The costs charged shall
12 include actual travel and copying expenses, plus a \$100 hourly
13 fee for the actual time spent on the case by the
14 administrative law judge or hearing officer. There shall be a
15 one-time filing fee per case of \$50. There shall be no charge
16 if the hearing is canceled more than 21 days in advance. If
17 the hearing is canceled between 3 and 21 days in advance, the
18 charge shall be for actual expenses incurred. If a formal
19 hearing is canceled less than 72 hours before the start of the
20 hearing, the charge shall be for the actual expenses incurred
21 and a cancellation fee of \$250.

22 Section 16. Section 456.077, Florida Statutes, is
23 amended to read:

24 456.077 Authority to issue citations.--

25 (1) Notwithstanding s. 456.073, the board, or the
26 department if there is no board, shall adopt rules to permit
27 the issuance of citations. The citation shall be issued to the
28 subject and shall contain the subject's name and address, the
29 subject's license number if applicable, a brief factual
30 statement, the sections of the law allegedly violated, and the
31 penalty imposed. The citation must clearly state that the

1 subject may choose, in lieu of accepting the citation, to
2 follow the procedure under s. 456.073. If the subject disputes
3 the matter in the citation, the procedures set forth in s.
4 456.073 must be followed. However, if the subject does not
5 dispute the matter in the citation with the department within
6 30 days after the citation is served, the citation becomes a
7 public final order and does not constitute ~~constitutes~~
8 discipline for a first offense. The penalty shall be a fine or
9 other conditions as established by rule.

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

26 (3) The department shall be entitled to recover the
27 costs of investigation, in addition to any penalty provided
28 according to board or department rule, as part of the penalty
29 levied pursuant to the citation.

30
31

1 ~~(4)~~ A citation must be issued within 6 months after
2 the filing of the complaint that is the basis for the
3 citation.

4 (4)~~(5)~~ Service of a citation may be made by personal
5 service or certified mail, restricted delivery, to the subject
6 at the subject's last known address.

7 (5)~~(6)~~ A board has 6 months in which to enact rules
8 designating violations and penalties appropriate for citation
9 offenses. Failure to enact such rules gives the department
10 exclusive authority to adopt rules as required for
11 implementing this section. A board has continuous authority to
12 amend its rules adopted pursuant to this section.

13 Section 17. Section 456.078, Florida Statutes, is
14 amended to read:

15 456.078 Mediation.--

16 (1) Notwithstanding the provisions of s. 456.073, the
17 board, or the department when there is no board, shall adopt
18 rules to designate which violations of the applicable
19 professional practice act are appropriate for mediation. The
20 board, or the department when there is no board, shall ~~may~~
21 designate as mediation offenses those complaints where harm
22 caused by the licensee is economic in nature, except
23 complaints involving fraud, or can be remedied by the licensee
24 or does not result in an adverse incident. For purposes of
25 this section, the term "adverse incident" means an event that
26 results in:

27 (a) The death of a patient;

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

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

31

1 (d) The performance of a wrong-site surgical
2 procedure;

3 (e) The performance of a wrong surgical procedure;

4 (f) The performance of a surgical procedure that is
5 medically unnecessary or otherwise unrelated to the patient's
6 diagnosis or medical condition;

7 (g) The surgical repair of damage resulting to a
8 patient from a planned surgical procedure, where the damage is
9 not a recognized specific risk, as disclosed to the patient
10 and documented through the informed-consent process; or

11 (h) The performance of procedures to remove unplanned
12 foreign objects remaining from a surgical procedure.

13 (2) After the department determines a complaint is
14 legally sufficient and the alleged violations are defined as
15 mediation offenses, the department or any agent of the
16 department may conduct informal mediation to resolve the
17 complaint. If the complainant and the subject of the complaint
18 agree to a resolution of a complaint within 14 days after
19 contact by the mediator, the mediator shall notify the
20 department of the terms of the resolution. The department or
21 board shall take no further action unless the complainant and
22 the subject each fail to record with the department an
23 acknowledgment of satisfaction of the terms of mediation
24 within 60 days of the mediator's notification to the
25 department. A successful mediation shall include a statement
26 of whether or not the resolution constitutes discipline.
27 However, if ~~in the event~~ the complainant and subject fail to
28 reach settlement terms or to record the required
29 acknowledgment, the department shall process the complaint
30 according to the provisions of s. 456.073.

31

1 (3) Conduct or statements made during mediation are
2 inadmissible in any proceeding pursuant to s. 456.073.
3 Further, any information relating to the mediation of a case
4 shall be subject to the confidentiality provisions of s.
5 456.073.

6 (4) A licensee who completes a successful mediation
7 shall pay the department's administrative cost for the
8 mediation. A licensee may not go through the mediation process
9 more than once if the allegation relates to the breach of the
10 standard of care for that health care professional. In any
11 event, a ~~No~~ licensee may not ~~shall~~ go through the mediation
12 process more than three times without approval of the
13 department. The department may consider the subject and dates
14 of the earlier complaints in rendering its decision. Such
15 decision shall not be considered a final agency action for
16 purposes of chapter 120.

17 (5) Any board created on or after January 1, 1995,
18 shall have 6 months to adopt rules designating which
19 violations are appropriate for mediation, after which time the
20 department shall have exclusive authority to adopt rules
21 pursuant to this section. Each board shall adopt rules
22 designating violations appropriate for mediation by January 1,
23 2004. Failure to adopt such rules gives the department
24 exclusive authority to adopt rules as required for
25 administering this section.A board shall have continuing
26 authority to amend its rules adopted pursuant to this section.

27 Section 18. Sections 458.311, Florida Statutes is
28 amended to read:

29 (Substantial rewording of section. See
30 s. 458.311, F.S., for present text.)
31 458.311 Licensure requirements; fee.--

1 (1) Any person desiring to be licensed as a physician
2 shall apply to the department on forms furnished by the
3 department. The department shall license each applicant who
4 the board certifies:

5 (a) Has completed the application form and remitted a
6 nonrefundable application fee, not to exceed \$500.

7 (b) Is at least 21 years of age.

8 (c) Is of good moral character.

9 (d) Has not committed any act or offense in this or
10 any other jurisdiction which would constitute the basis for
11 disciplining a physician pursuant to s. 458.331.

12 (e) Has submitted to the department a set of
13 fingerprints on a form and under procedures specified by the
14 department, along with a payment in an amount equal to the
15 costs incurred by the Department of Health for the criminal
16 background check of the applicant.

17 (f) Has caused to be submitted verification of core
18 credentials by the Federation Credentials Verification
19 Services of the Federation of State Medical Boards.

20 (g) For applicants holding a valid active license in
21 another state, has submitted evidence of the active licensed
22 practice of medicine in another jurisdiction for at least 2 of
23 the immediately preceding 4 years, or evidence of successful
24 completion of a board-approved postgraduate training program
25 within 2 years preceding filing of an application or a
26 board-approved clinical competency examination within the year
27 preceding the filing of an application for licensure. As used
28 in this paragraph, the term "active licensed practice of
29 medicine" means the practice of medicine by a physician,
30 including a physician employed by any governmental entity in
31 community or public health as defined by this chapter, a

1 medical director under s. 641.495(11) who is practicing
2 medicine, or an active member of the teaching faculty of an
3 accredited medical school. If the applicant fails to meet the
4 requirements of this subsection, the board may impose
5 conditions on the license, including, but not limited to,
6 supervision of practice.

7 (2) Each applicant must demonstrate that he or she:

8 (a) Meets one of the following medical education
9 requirements:

10 1. Is a graduate of an allopathic medical school or
11 allopathic college recognized and approved by an accrediting
12 agency recognized by the United States Department of Education
13 or is a graduate of an allopathic medical school or allopathic
14 college within a territorial jurisdiction of the United States
15 recognized by the accrediting agency of the governmental body
16 of that jurisdiction; or

17 2. Is a graduate of an allopathic international
18 medical school registered with the World Health Organization
19 and has had his or her medical credentials evaluated by the
20 Educational Commission for Foreign Medical Graduates, holds an
21 active, valid certificate issued by that commission, and has
22 passed the examination used by that commission.

23 (b) If the language of instruction of the medical
24 school is other than English, has demonstrated competency in
25 English through presentation of a satisfactory grade on the
26 Test of Spoken English of the Educational Testing Service or a
27 similar test approved by rule of the board.

28 (c) Has completed an approved residency, as defined by
29 board rule, of at least 2 years, or a fellowship of at least 2
30 years, in one specialty area which is counted toward regular
31

1 or subspecialty certification by a board recognized and
2 certified by the American Board of Medical Specialties.

3 1. Applicants who meet the requirements of paragraph
4 (a)1., and who completed their training prior to October 1,
5 2003, must demonstrate completion of an approved residency of
6 at least 1 year.

7 2. Applicants who meet the requirements of paragraph
8 (a)2., and who completed their training prior to October 1,
9 1992, must demonstrate completion of an approved residency of
10 at least 1 year.

11 (3) A graduate of a foreign medical school need not
12 present the certificate issued by the Educational Commission
13 for Foreign Medical Graduates or pass the examination used by
14 that commission if the graduate has:

15 (a) Received a bachelor's degree from an accredited
16 United States college or university.

17 (b) Studied at a medical school that is recognized by
18 the World Health Organization.

19 (c) Completed all of the formal requirements of the
20 foreign medical school, except the internship or social
21 service requirements, and has passed part I of the National
22 Board of Medical Examiners examination or the Educational
23 Commission for Foreign Medical Graduates examination
24 equivalent.

25 (d) Completed an academic year of supervised clinical
26 training in a hospital affiliated with a medical school
27 approved by the Council on Medical Education of the American
28 Medical Association and upon completion has passed part II of
29 the National Board of Medical Examiners examination or the
30 Educational Commission for Foreign Medical Graduates
31 examination equivalent.

1 (4)(a) Prior to January 1, 2000, each applicant must
2 have obtained a passing score, as established by rule of the
3 board, on the licensure examination of the National Board of
4 Medical Examiners, on the examination of the Federation of
5 State Medical Boards of the United States, Inc., or on the
6 United States Medical Licensing Examination, or on a
7 combination thereof, and on or after January 1, 2000, must
8 have obtained a passing score on the United States Medical
9 Licensing Examination.

10 (b) As prescribed by board rule, the board may require
11 an applicant who does not pass any step of the national
12 licensing examination after five attempts to complete
13 additional remedial education or training.

14 (c) As prescribed by board rule, the board may require
15 an applicant who does not pass all steps of the United States
16 Medical Licensing Examination within 7 years to complete
17 additional remedial education or training or to retake the
18 step of the exam which the applicant passed first.

19 (d) An applicant must have obtained a passing score on
20 a state board examination or the LLMCC if the applicant has a
21 current active license in at least one other jurisdiction of
22 the United States or Canada, and has practiced pursuant to
23 such licensure continuously for the immediately preceding 10
24 years without encumbrance on the license.

25 (5) The department and the board shall assure that
26 applicants for licensure meet the criteria in subsection (1)
27 through an investigative process.

28 (6) The board may not certify to the department for
29 licensure any applicant who is under investigation in another
30 jurisdiction for an offense that would constitute a violation
31 of this chapter until such investigation is completed. Upon

1 completion of the investigation, the provisions of s. 458.331
2 shall apply. Furthermore, the department may not issue an
3 unrestricted license to any applicant who has committed any
4 act or offense in any jurisdiction which would constitute the
5 basis for disciplining a physician under s. 458.331. If the
6 board finds that an individual has committed an act or offense
7 in any jurisdiction which would constitute the basis for
8 disciplining a physician under s. 458.331, the board may enter
9 an order imposing one or more of the terms set forth in s.
10 456.072(2).

11 (7) The board may adopt rules, to be applied on a
12 uniform and consistent basis, as necessary to carry out the
13 provisions of this section.

14 (8) If the board determines that any applicant for
15 licensure has failed to meet, to the board's satisfaction,
16 each of the appropriate requirements set forth in this
17 section, it may enter an order:

18 (a) Refusing to certify to the department an
19 application for licensure, certification, or registration;

20 (b) Certifying to the department an application for
21 licensure, certification, or registration, with restrictions
22 on the scope of practice of the licensee; or

23 (c) Certifying to the department an application for
24 licensure, certification, or registration, with placement of
25 the physician on probation for a period of time and subject to
26 such conditions as the board specifies, including, but not
27 limited to, requiring the physician to submit to treatment,
28 attend continuing education courses, submit to reexamination,
29 or work under the supervision of another physician.

30 Section 19. Section 458.315, Florida Statutes, is
31 amended to read:

1 (Substantial rewording of section. See
2 s. 458.315, F.S., for present text.)
3 458.315 Limited licenses.--
4 (1)(a) Any person desiring to obtain a limited license
5 shall:
6 1. Submit to the department, along with an application
7 and fee not to exceed \$300, a statement stating that he or she
8 has been licensed to practice medicine in any jurisdiction in
9 the United States, any territory of the United States, or
10 Canada for at least 2 years and intends to practice only
11 pursuant to the restrictions of a limited license granted
12 under this section. However, if the physician will use the
13 limited license only for noncompensated practice and submits a
14 statement from the employing agency or institution stating
15 that he or she will not receive compensation for any service
16 involving the practice of medicine, the application fee and
17 all licensure fees shall be waived.
18 2. Submit evidence of the active licensed practice of
19 medicine in any jurisdiction in the United States, any
20 territory of the United States, or Canada for at least 2 of
21 the immediately preceding 4 years. As used in this paragraph,
22 the term "active licensed practice of medicine" means the
23 practice of medicine by a physician, including a physician
24 employed by any government entity in community or public
25 health as defined by this chapter, a medical director under s.
26 641.495(11) who is practicing medicine, or an active member of
27 the teaching faculty of an accredited medical school. If the
28 applicant has not been in active licensed practice of medicine
29 within the prior 3 years, a licensed physician, approved by
30 the board, shall supervise the applicant for 6 months after he
31 or she is granted a limited license for practice, unless the

1 board determines that a shorter period of supervision will be
2 sufficient to ensure that the applicant is qualified for
3 licensure. Procedures for such supervision shall be
4 established by the board.

5 (b) The board may issue a limited license if the
6 applicant:

7 1. Has not committed any act or offense in this or any
8 other jurisdiction which would constitute the basis for
9 disciplining a physician pursuant to s. 458.331.

10 2. Has submitted to the department a set of
11 fingerprints on a form and under procedures by the Department
12 of Health for the criminal background check of the applicant
13 and a search of the federation databank.

14
15 After approval of an application under this section, the
16 license may not be issued until the applicant provides to the
17 board an affidavit that there have been no substantial changes
18 in status since initial application.

19 (2) The recipient of a limited license used for
20 noncompensated practice shall practice only in the employ of a
21 program or facility that provides uncompensated health care
22 services by volunteer licensed health care professionals to
23 low-income persons whose income does not exceed 150 percent of
24 the federal poverty level or to uninsured persons. These
25 facilities include, but are not limited to, community and
26 migrant health centers of the Department of Health funded
27 under s. 330 of the United States Public Health Service Act
28 and volunteer health care provider programs under contract
29 with the Department of Health to provide uncompensated care
30 pursuant to s. 766.1115. The recipient of a limited license
31 used for compensated practice may practice only in the employ

1 of programs and facilities that provide health care services.
2 These programs and facilities include, but are not limited to,
3 the Department of Corrections, county or municipal
4 correctional facilities, the Department of Juvenile Justice,
5 the Department of Children and Family Services, the Department
6 of Health, and programs and facilities funded under s. 330 of
7 the United States Public Health Service Act. Programs and
8 facilities must be located within a federally designated
9 primary care health professional shortage area, unless
10 otherwise approved by the Secretary of Health.

11 (3)(a) The recipient of a limited license shall,
12 within 30 days after accepting employment, notify the board of
13 all approved institutions in which the licensee practices and
14 of all approved institutions where practice privileges have
15 been denied. Evidence of noncompensated employment shall be
16 required for the fee waiver.

17 (b) The licensee must renew the limited license
18 biennially and verify compliance with the restrictions
19 prescribed in this section and other applicable provisions of
20 this chapter.

21 (c) Any person who holds an active or inactive license
22 to practice medicine in the state may convert that license to
23 a limited license for the purpose of providing volunteer,
24 uncompensated care for low-income persons. The applicant must
25 submit a statement from the employing agency or institution
26 stating that he or she will not receive compensation for any
27 service involving the practice of medicine. The application
28 and all licensure fees, including neurological injury
29 compensation assessments, shall be waived.

30 (4) This section does not limit any policy by the
31 board, otherwise authorized by law, to grant licenses to

1 physicians duly licensed in other states under conditions less
2 restrictive than the requirements of this section.

3 Notwithstanding any other provision of this section, the board
4 may refuse to authorize a physician otherwise qualified to
5 practice in the employ of any agency or institution if the
6 agency or institution has caused or permitted violations of
7 the provisions of this chapter which it knew or should have
8 known were occurring.

9 Section 20. Paragraph (t) of subsection (1) and
10 subsections (6) and (9) of section 458.331, Florida Statutes,
11 are amended to read:

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

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 (t) Gross or repeated malpractice or the failure to
18 practice medicine with that level of care, skill, and
19 treatment which is recognized by a reasonably prudent similar
20 physician as being acceptable under similar conditions and
21 circumstances. The board shall give great weight to the
22 provisions of s. 766.102 when enforcing this paragraph. As
23 used in this paragraph, "repeated malpractice" includes, but
24 is not limited to, three or more claims for medical
25 malpractice within the previous 5-year period resulting in
26 indemnities being paid in excess of ~~\$25,000~~ \$50,000 each to
27 the claimant in a judgment or settlement and which incidents
28 involved negligent conduct by the physician. As used in this
29 paragraph, "gross malpractice" or "the failure to practice
30 medicine with that level of care, skill, and treatment which
31 is recognized by a reasonably prudent similar physician as

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

7 (6) Upon the department's receipt from an insurer or
8 self-insurer of a report of a closed claim against a physician
9 pursuant to s. 627.912 or from a health care practitioner of a
10 report pursuant to s. 456.049, or upon the receipt from a
11 claimant of a presuit notice against a physician pursuant to
12 s. 766.106, the department shall review each report and
13 determine whether it potentially involved conduct by a
14 licensee that is subject to disciplinary action, in which case
15 the provisions of s. 456.073 shall apply. However, if it is
16 reported that a physician has had three or more claims with
17 indemnities exceeding \$50,000~~\$25,000~~ each within the previous
18 5-year period, the department shall investigate the
19 occurrences upon which the claims were based and determine if
20 action by the department against the physician is warranted.

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

1 | investigations, proceedings, and records relating to such peer
2 | review disciplinary action shall continue to retain their
3 | privileged status even as to the licensee who is the subject
4 | of the investigation, as provided by ss. 395.0193(8) and
5 | 458.337(3); a report of a closed claim submitted pursuant to
6 | s. 627.912; a presuit notice submitted pursuant to s.
7 | 766.106(2); and a petition brought under the Florida
8 | Birth-Related Neurological Injury Compensation Plan, pursuant
9 | to s. 766.305(2). The physician may submit a written response
10 | to the information contained in the complaint or document
11 | which resulted in the initiation of the investigation within
12 | 30 ~~45~~ days after service to the physician of the complaint or
13 | document. The physician's written response shall be considered
14 | by the probable cause panel.

15 | Section 21. Subsection (3) of section 458.348, Florida
16 | Statutes, is repealed.

17 | Section 22. Subsections (6) and (9) of section
18 | 459.015, Florida Statutes, are amended to read:

19 | 459.015 Grounds for disciplinary action; action by the
20 | board and department.--

21 | (6) Upon the department's receipt from an insurer or
22 | self-insurer of a report of a closed claim against an
23 | osteopathic physician pursuant to s. 627.912 or from a health
24 | care practitioner of a report pursuant to s. 456.049, or upon
25 | the receipt from a claimant of a presuit notice against an
26 | osteopathic physician pursuant to s. 766.106, the department
27 | shall review each report and determine whether it potentially
28 | involved conduct by a licensee that is subject to disciplinary
29 | action, in which case the provisions of s. 456.073 shall
30 | apply. However, if it is reported that an osteopathic
31 | physician has had three or more claims with indemnities

1 exceeding \$50,000 ~~\$25,000~~ each within the previous 5-year
2 period, the department shall investigate the occurrences upon
3 which the claims were based and determine if action by the
4 department against the osteopathic physician is warranted.

5 (9) When an investigation of an osteopathic physician
6 is undertaken, the department shall promptly furnish to the
7 osteopathic physician or his or her attorney a copy of the
8 complaint or document which resulted in the initiation of the
9 investigation. For purposes of this subsection, such documents
10 include, but are not limited to: the pertinent portions of an
11 annual report submitted to the department pursuant to s.
12 395.0197(6); a report of an adverse incident which is provided
13 to the department pursuant to s. 395.0197; a report of peer
14 review disciplinary action submitted to the department
15 pursuant to s. 395.0193(4) or s. 459.016, provided that the
16 investigations, proceedings, and records relating to such peer
17 review disciplinary action shall continue to retain their
18 privileged status even as to the licensee who is the subject
19 of the investigation, as provided by ss. 395.0193(8) and
20 459.016(3); a report of a closed claim submitted pursuant to
21 s. 627.912; a presuit notice submitted pursuant to s.
22 766.106(2); and a petition brought under the Florida
23 Birth-Related Neurological Injury Compensation Plan, pursuant
24 to s. 766.305(2). The osteopathic physician may submit a
25 written response to the information contained in the complaint
26 or document which resulted in the initiation of the
27 investigation within 30 ~~45~~ days after service to the
28 osteopathic physician of the complaint or document. The
29 osteopathic physician's written response shall be considered
30 by the probable cause panel.

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1 Section 23. Subsection (5) of section 460.413, Florida
2 Statutes, is amended to read:

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

5 (5) When an investigation of a chiropractic physician
6 is undertaken, the department shall promptly furnish to the
7 chiropractic physician or her or his attorney a copy of the
8 complaint or document which resulted in the initiation of the
9 investigation. The chiropractic physician may submit a written
10 response to the information contained in such complaint or
11 document within 30 ~~45~~ days after service to the chiropractic
12 physician of the complaint or document. The chiropractic
13 physician's written response shall be considered by the
14 probable cause panel.

15 Section 24. Paragraph (s) of subsection (1) of section
16 461.013, Florida Statutes, is amended to read:

17 461.013 Grounds for disciplinary action; action by the
18 board; investigations by department.--

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

22 (s) Gross or repeated malpractice or the failure to
23 practice podiatric medicine at a level of care, skill, and
24 treatment which is recognized by a reasonably prudent
25 podiatric physician as being acceptable under similar
26 conditions and circumstances. The board shall give great
27 weight to the standards for malpractice in s. 766.102 in
28 interpreting this section. As used in this paragraph,
29 "repeated malpractice" includes, but is not limited to, three
30 or more claims for medical malpractice within the previous
31 5-year period resulting in indemnities being paid in excess of

1 ~~\$50,000~~~~\$10,000~~ each to the claimant in a judgment or
2 settlement and which incidents involved negligent conduct by
3 the podiatric physicians. As used in this paragraph, "gross
4 malpractice" or "the failure to practice podiatric medicine
5 with the level of care, skill, and treatment which is
6 recognized by a reasonably prudent similar podiatric physician
7 as being acceptable under similar conditions and
8 circumstances" shall not be construed so as to require more
9 than one instance, event, or act.

10 Section 25. Section 464.203, Florida Statutes, is
11 amended to read:

12 464.203 Certified nursing assistants; certification
13 requirement.--

14 (1) The board shall issue a certificate to practice as
15 a certified nursing assistant to any person who demonstrates a
16 minimum competency to read and write and successfully passes
17 the required ~~level I or level II~~ screening required under
18 paragraph (e) and pursuant to s. 400.215 and meets one of the
19 following requirements:

20 (a) Has successfully completed an approved training
21 program and achieved a minimum score, established by rule of
22 the board, on the nursing assistant competency examination,
23 which consists of a written portion and skills-demonstration
24 portion approved by the board and administered at a site and
25 by personnel approved by the department.

26 (b) Has achieved a minimum score, established by rule
27 of the board, on the nursing assistant competency examination,
28 which consists of a written portion and skills-demonstration
29 portion, approved by the board and administered at a site and
30 by personnel approved by the department and:

31 1. Has a high school diploma, or its equivalent; or

1 2. Is at least 18 years of age.

2 (c) Is currently certified in another state; is listed
3 on that state's certified nursing assistant registry; and has
4 not been found to have committed abuse, neglect, or
5 exploitation in that state.

6 (d) Has completed the curriculum developed under the
7 Enterprise Florida Jobs and Education Partnership Grant and
8 achieved a minimum score, established by rule of the board, on
9 the nursing assistant competency examination, which consists
10 of a written portion and skills-demonstration portion,
11 approved by the board and administered at a site and by
12 personnel approved by the department.

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

29 (2) If an applicant fails to pass the nursing
30 assistant competency examination in three attempts, the
31

1 applicant is not eligible for reexamination unless the
2 applicant completes an approved training program.

3 (3) An oral examination shall be administered as a
4 substitute for the written portion of the examination upon
5 request. The oral examination shall be administered at a site
6 and by personnel approved by the department.

7 (4) The board shall adopt rules to provide for the
8 initial certification of certified nursing assistants.

9 (5) Certification as a nursing assistant, in
10 accordance with this part, may be renewed ~~continues in effect~~
11 until such time as the nursing assistant allows a period of 24
12 consecutive months to pass during which period the nursing
13 assistant fails to perform any nursing-related services for
14 monetary compensation. When a nursing assistant fails to
15 perform any nursing-related services for monetary compensation
16 for a period of 24 consecutive months, the nursing assistant
17 must complete a new training and competency evaluation program
18 or a new competency evaluation program.

19 (6) A certified nursing assistant shall maintain a
20 current address with the board in accordance with s. 456.035.

21 (7) A certified nursing assistant shall complete 12 ~~18~~
22 hours of inservice training during each calendar year. The
23 certified nursing assistant shall be responsible for
24 maintaining documentation demonstrating compliance with these
25 provisions. The Council on Certified Nursing Assistants, in
26 accordance with s. 464.2085(2)(b), shall propose rules to
27 implement this subsection.

28 (8) The department shall renew a certificate upon
29 receipt of the renewal application and a fee, which may not
30 exceed \$50 biennially. The department shall adopt rules

31

1 establishing a procedure for the biennial renewal of
2 certificates.

3 Section 26. Subsection (1) of section 464.204, Florida
4 Statutes, is amended to read:

5 464.204 Denial, suspension, or revocation of
6 certification; disciplinary actions.--

7 (1) The following acts constitute grounds for which
8 the board may impose disciplinary sanctions as specified in
9 subsection (2):

10 (a) Obtaining or attempting to obtain certification or
11 an exemption, or possessing or attempting to possess
12 certification or a letter of exemption, by bribery,
13 misrepresentation, deceit, or through an error of the board.

14 (b) ~~Intentionally~~ Violating any provision of part I or
15 part II of this chapter, chapter 456, or the rules adopted by
16 the board.

17 Section 27. Section 467.013, Florida Statutes, is
18 amended to read:

19 467.013 Inactive status.--A licensee may request that
20 his or her license be placed in an inactive status by making
21 application to the department pursuant to department rule and
22 paying a fee.

23 ~~(1) An inactive license may be renewed for one~~
24 ~~additional biennium upon application to the department and~~
25 ~~payment of the applicable biennium renewal fee. The department~~
26 ~~shall establish by rule procedures and fees for applying to~~
27 ~~place a license on inactive status, renewing an inactive~~
28 ~~license, and reactivating an inactive license. The fee for any~~
29 ~~of these procedures may not exceed the biennial renewal fee~~
30 ~~established by the department.~~

31

1 ~~(2) Any license that is not renewed by the end of the~~
2 ~~biennium established by the department automatically reverts~~
3 ~~to involuntary inactive status unless the licensee has applied~~
4 ~~for voluntary inactive status. Such license may be reactivated~~
5 ~~only if the licensee meets the requirements for reactivating~~
6 ~~the license established by department rule.~~

7 ~~(3) A midwife who desires to reactivate an inactive~~
8 ~~license shall apply to the department, complete the~~
9 ~~reactivation application, remit the applicable fees, and~~
10 ~~submit proof of compliance with the requirements for~~
11 ~~continuing education established by department rule.~~

12 ~~(4) Each licensed midwife whose license has been~~
13 ~~placed on inactive status for more than 1 year must complete~~
14 ~~continuing education hours as a condition of reactivating the~~
15 ~~inactive license.~~

16 ~~(5) The licensee shall submit to the department~~
17 ~~evidence of participation in 10 hours of continuing education,~~
18 ~~approved by the department and clinically related to the~~
19 ~~practice of midwifery, for each year of the biennium in which~~
20 ~~the license was inactive. This requirement is in addition to~~
21 ~~submitting evidence of completing the continuing education~~
22 ~~required for the most recent biennium in which the licensee~~
23 ~~held an active license.~~

24 Section 28. Section 467.0135, Florida Statutes, is
25 amended to read:

26 467.0135 Fees.--The department shall establish fees
27 for application, ~~examination~~, initial licensure, renewal of
28 licensure, licensure by endorsement, inactive status,
29 delinquent status, and reactivation of an inactive license.
30 The appropriate fee must be paid at the time of application
31 and is payable to the Department of Health, in accordance with

1 rules adopted by the department. A fee is nonrefundable,
2 unless otherwise provided by rule. A fee may not exceed:
3 ~~(1) Five hundred dollars for examination.~~
4 (1)(2) Five hundred dollars for initial licensure.
5 (2)(3) Five hundred dollars for renewal of an active
6 license licensure.
7 (3)(4) Two hundred dollars for application, ~~which fee~~
8 ~~is nonrefundable~~.
9 (4)(5) Five hundred dollars for renewal ~~reactivation~~
10 of an inactive license.
11 (5)(6) Five hundred dollars for licensure by
12 endorsement.
13
14 A fee for inactive status, reactivation of an inactive
15 license, or delinquency may not exceed the fee established by
16 the department for biennial renewal of an active license. All
17 fees collected under this section shall be deposited in the
18 Medical Quality Assurance Trust Fund.
19 Section 29. Subsection (1) of section 467.017, Florida
20 Statutes, is amended to read:
21 467.017 Emergency care plan; immunity.--
22 (1) Every licensed midwife shall develop a written
23 plan for the appropriate delivery of emergency care. A copy
24 of the plan shall accompany any application for license
25 issuance and must be made available upon the request of the
26 department ~~or renewal~~. The plan shall address the following:
27 (a) Consultation with other health care providers.
28 (b) Emergency transfer.
29 (c) Access to neonatal intensive care units and
30 obstetrical units or other patient care areas.
31

1 Section 30. Section 468.352, Florida Statutes, is
2 amended to read:

3 (Substantial rewording of section. See
4 s. 468.352, F.S., for present text.)

5 468.352 Definitions.--As used in this part, the term:

6 (1) "Board" means the Board of Respiratory Care.

7 (2) "Certified respiratory therapist" means any person
8 licensed pursuant to this part who is certified by the
9 National Board for Respiratory Care or its successor; who is
10 employed to deliver respiratory care services, under the order
11 of a physician licensed pursuant to chapter 458 or chapter
12 459, in accordance with protocols established by a hospital or
13 other health care provider or the board; and who functions in
14 situations of unsupervised patient contact requiring
15 individual judgment.

16 (3) "Critical care" means care given to a patient in
17 any setting involving a life-threatening emergency.

18 (4) "Department" means the Department of Health.

19 (5) "Direct supervision" means practicing under the
20 direction of a licensed, registered, or certified respiratory
21 therapist who is physically on the premises and readily
22 available, as defined by the board.

23 (6) "Physician supervision" means supervision and
24 control by a physician licensed under chapter 458 or chapter
25 459 who assumes the legal liability for the services rendered
26 by the personnel employed in his or her office. Except in the
27 case of an emergency, physician supervision requires the easy
28 availability of the physician within the office or the
29 physical presence of the physician for consultation and
30 direction of the actions of the persons who deliver
31 respiratory care services.

1 (7) "Practice of respiratory care" or "respiratory
2 therapy" means the allied health specialty associated with the
3 cardiopulmonary system that is practiced under the orders of a
4 physician licensed under chapter 458 or chapter 459 and in
5 accordance with protocols, policies, and procedures
6 established by a hospital or other health care provider or the
7 board, including the assessment, diagnostic evaluation,
8 treatment, management, control, rehabilitation, education, and
9 care of patients in all care settings.

10 (8) "Registered respiratory therapist" means any
11 person licensed under this part who is registered by the
12 National Board for Respiratory Care or its successor, and who
13 is employed to deliver respiratory care services under the
14 order of a physician licensed under chapter 458 or chapter
15 459, in accordance with protocols established by a hospital or
16 other health care provider or the board, and who functions in
17 situations of unsupervised patient contact requiring
18 individual judgment.

19 (9) "Respiratory care practitioner" means any person
20 licensed under this part who is employed to deliver
21 respiratory care services, under direct supervision, pursuant
22 to the order of a physician licensed under chapter 458 or
23 chapter 459.

24 (10) "Respiratory care services" includes:

25 (a) Evaluation and disease management.

26 (b) Diagnostic and therapeutic use of respiratory
27 equipment, devices, or medical gas.

28 (c) Administration of drugs, as duly ordered or
29 prescribed by a physician licensed under chapter 458 or
30 chapter 459 and in accordance with protocols, policies, and
31

1 procedures established by a hospital or other health care
2 provider or the board.

3 (d) Initiation, management, and maintenance of
4 equipment to assist and support ventilation and respiration.

5 (e) Diagnostic procedures, research, and therapeutic
6 treatment and procedures, including measurement of ventilatory
7 volumes, pressures, and flows; specimen collection and
8 analysis of blood for gas transport and acid/base
9 determinations; pulmonary-function testing; and other related
10 physiological monitoring of cardiopulmonary systems.

11 (f) Cardiopulmonary rehabilitation.

12 (g) Cardiopulmonary resuscitation, advanced cardiac
13 life support, neonatal resuscitation, and pediatric advanced
14 life support, or equivalent functions.

15 (h) Insertion and maintenance of artificial airways
16 and intravascular catheters.

17 (i) Performing sleep-disorder studies.

18 (j) Education of patients, families, the public, or
19 other health care providers, including disease process and
20 management programs and smoking prevention and cessation
21 programs.

22 (k) Initiation and management of hyperbaric oxygen.

23 Section 31. Section 468.355, Florida Statutes, is
24 amended to read:

25 (Substantial rewording of section. See
26 s. 468.355, F.S., for present text.)

27 468.355 Licensure requirements.--To be eligible for
28 licensure by the board, an applicant must be an active
29 "Certified Respiratory Therapist" or be an active "Registered
30 Respiratory Therapist" by the National Board for Respiratory
31 Care, or its successor.

1 Section 32. Section 468.368, Florida Statutes, is
2 amended to read:

3 (Substantial rewording of section. See
4 s. 468.368, F.S., for present text.)

5 468.368 Exemptions.--This part may not be construed to
6 prevent or restrict the practice, service, or activities of:

7 (1) Any person licensed in this state by any other law
8 from engaging in the profession or occupation for which he or
9 she is licensed.

10 (2) Any legally qualified person in the state or
11 another state or territory who is employed by the United
12 States Government or any agency thereof while such person is
13 discharging his or her official duties.

14 (3) A friend or family member who is providing
15 respiratory care services to an ill person and who does not
16 represent himself or herself to be a respiratory care
17 practitioner or respiratory therapist.

18 (4) An individual providing respiratory care services
19 in an emergency who does not represent himself or herself as a
20 respiratory care practitioner or respiratory therapist.

21 (5) Any individual employed to deliver, assemble, set
22 up, or test equipment for use in a home, upon the order of a
23 physician licensed pursuant to chapter 458 or chapter 459.
24 This subsection does not, however, authorize the practice of
25 respiratory care without a license.

26 (6) Any individual credentialed by the Board of
27 Registered Polysomnographic Technologists as a registered
28 polysomnographic technologist, as related to the diagnosis and
29 evaluation of treatment for sleep disorders.

30 (7) Any individual certified or registered as a
31 pulmonary function technologist who is credentialed by the

1 National Board for Respiratory Care for performing
2 cardiopulmonary diagnostic studies.

3 (8) Any student who is enrolled in an accredited
4 respiratory care program approved by the board, while
5 performing respiratory care as an integral part of a required
6 course.

7 (9) The delivery of incidental respiratory care to
8 noninstitutionalized persons by surrogate family members who
9 do not represent themselves as registered or certified
10 respiratory care therapists.

11 (10) Any individual credentialed by the Underseas
12 Hyperbaric Society in hyperbaric medicine or its equivalent as
13 determined by the board, while performing related duties. This
14 subsection does not, however, authorize the practice of
15 respiratory care without a license.

16 Section 33. Sections 468.356 and 468.357, Florida
17 Statutes, are repealed, effective January 1, 2004.

18 Section 34. Subsection (1) of section 491.005, Florida
19 Statutes, is amended to read:

20 491.005 Licensure by examination.--

21 (1) CLINICAL SOCIAL WORK.--Upon verification of
22 documentation and payment of a fee not to exceed \$200, as set
23 by board rule, plus the actual per applicant cost to the
24 department for purchase of the examination from the American
25 Association of State Social Worker's Boards or a similar
26 national organization, the department shall issue a license as
27 a clinical social worker to an applicant who the board
28 certifies:

29 (a) Has made application therefor and paid the
30 appropriate fee.

31

1 (b)1. Has received a doctoral degree in social work
2 from a graduate school of social work which at the time the
3 applicant graduated was accredited by an accrediting agency
4 recognized by the United States Department of Education or has
5 received a master's degree in social work from a graduate
6 school of social work which at the time the applicant
7 graduated:

8 a. Was accredited by the Council on Social Work
9 Education;

10 b. Was accredited by the Canadian Association of
11 Schools of Social Work; or

12 c. Has been determined to have been a program
13 equivalent to programs approved by the Council on Social Work
14 Education by the Foreign Equivalency Determination Service of
15 the Council on Social Work Education. An applicant who
16 graduated from a program at a university or college outside of
17 the United States or Canada must present documentation of the
18 equivalency determination from the council in order to
19 qualify.

20 2. The applicant's graduate program must have
21 emphasized direct clinical patient or client health care
22 services, including, but not limited to, coursework in
23 clinical social work, psychiatric social work, medical social
24 work, social casework, psychotherapy, or group therapy. The
25 applicant's graduate program must have included all of the
26 following coursework:

27 a. A supervised field placement which was part of the
28 applicant's advanced concentration in direct practice, during
29 which the applicant provided clinical services directly to
30 clients.

31

1 b. Completion of 24 semester hours or 32 quarter hours
2 in theory of human behavior and practice methods as courses in
3 clinically oriented services, including a minimum of one
4 course in psychopathology, and no more than one course in
5 research, taken in a school of social work accredited or
6 approved pursuant to subparagraph 1.

7 3. If the course title which appears on the
8 applicant's transcript does not clearly identify the content
9 of the coursework, the applicant shall be required to provide
10 additional documentation, including, but not limited to, a
11 syllabus or catalog description published for the course.

12 (c) Has had not less than 2 years of clinical social
13 work experience, which took place subsequent to completion of
14 a graduate degree in social work at an institution meeting the
15 accreditation requirements of this section, under the
16 supervision of a licensed clinical social worker or the
17 equivalent who is a qualified supervisor as determined by the
18 board. An individual who intends to practice in Florida to
19 satisfy clinical experience requirements must register
20 pursuant to s. 491.0045 prior to commencing practice. If the
21 applicant's graduate program was not a program which
22 emphasized direct clinical patient or client health care
23 services as described in subparagraph (b)2., the supervised
24 experience requirement must take place after the applicant has
25 completed a minimum of 15 semester hours or 22 quarter hours
26 of the coursework required. A doctoral internship may be
27 applied toward the clinical social work experience
28 requirement. The experience requirement may be met by work
29 performed on or off the premises of the supervising clinical
30 social worker or the equivalent, provided the off-premises
31 work is not the independent private practice rendering of

1 clinical social work that does not have a licensed mental
2 health professional, as determined by the board, on the
3 premises at the same time the intern is providing services.

4 (d) Has passed a theory and practice examination
5 approved ~~provided~~ by the board ~~department~~ for this purpose,
6 which may be taken only following completion of the clinical
7 experience requirement.

8 (e) Has demonstrated, in a manner designated by rule
9 of the board, knowledge of the laws and rules governing the
10 practice of clinical social work, marriage and family therapy,
11 and mental health counseling.

12

13 All coursework requirements in this section shall be satisfied
14 by successfully completing the required course as a student or
15 by teaching the required graduate course as an instructor or
16 professor in an accredited institution.

17 Section 35. Section 491.0145, Florida Statutes, is
18 amended to read:

19 491.0145 Certified master social worker.--The
20 department may not adopt any rules that would allow a person
21 who was not licensed as a certified master social worker in
22 accordance with this chapter on January 1, 1990, to become
23 licensed.The department may certify an applicant for a
24 designation as a certified master social worker upon the
25 following conditions:

26 (1) The applicant completes an application to be
27 provided by the department and pays a nonrefundable fee not to
28 exceed \$250 to be established by rule of the department. The
29 completed application must be received by the department at
30 least 60 days before the date of the examination in order for
31 the applicant to qualify to take the scheduled exam.

1 (2) The applicant submits proof satisfactory to the
2 department that the applicant has received a doctoral degree
3 in social work, or a master's degree with a major emphasis or
4 specialty in clinical practice or administration, including,
5 but not limited to, agency administration and supervision,
6 program planning and evaluation, staff development, research,
7 community organization, community services, social planning,
8 and human service advocacy. Doctoral degrees must have been
9 received from a graduate school of social work which at the
10 time the applicant was enrolled and graduated was accredited
11 by an accrediting agency approved by the United States
12 Department of Education. Master's degrees must have been
13 received from a graduate school of social work which at the
14 time the applicant was enrolled and graduated was accredited
15 by the Council on Social Work Education or the Canadian
16 Association of Schools of Social Work or by one that meets
17 comparable standards.

18 (3) The applicant has had at least 3 years'
19 experience, as defined by rule, including, but not limited to,
20 clinical services or administrative activities as defined in
21 subsection (2), 2 years of which must be at the post-master's
22 level under the supervision of a person who meets the
23 education and experience requirements for certification as a
24 certified master social worker, as defined by rule, or
25 licensure as a clinical social worker under this chapter. A
26 doctoral internship may be applied toward the supervision
27 requirement.

28 (4) Any person who holds a master's degree in social
29 work from institutions outside the United States may apply to
30 the department for certification if the academic training in
31 social work has been evaluated as equivalent to a degree from

1 a school accredited by the Council on Social Work Education.
2 Any such person shall submit a copy of the academic training
3 from the Foreign Equivalency Determination Service of the
4 Council on Social Work Education.

5 (5) The applicant has passed an examination required
6 by the department for this purpose. The nonrefundable fee for
7 such examination may not exceed \$250 as set by department
8 rule.

9 (6) Nothing in this chapter shall be construed to
10 authorize a certified master social worker to provide clinical
11 social work services.

12 Section 36. Section 491.0146, Florida Statutes, is
13 created to read:

14 491.0146 Savings clause.--All licenses to practice as
15 a certified master social worker issued pursuant to this
16 chapter and valid on October 1, 2002, shall remain in full
17 force and effect.

18 Section 37. Subsection (1) of section 627.912, Florida
19 Statutes, is amended to read:

20 627.912 Professional liability claims and actions;
21 reports by insurers.--

22 (1) Each self-insurer authorized under s. 627.357 and
23 each insurer or joint underwriting association providing
24 professional liability insurance to a practitioner of medicine
25 licensed under chapter 458, to a practitioner of osteopathic
26 medicine licensed under chapter 459, to a podiatric physician
27 licensed under chapter 461, to a dentist licensed under
28 chapter 466, to a hospital licensed under chapter 395, to a
29 crisis stabilization unit licensed under part IV of chapter
30 394, to a health maintenance organization certificated under
31 part I of chapter 641, to clinics included in chapter 390, to

1 an ambulatory surgical center as defined in s. 395.002, or to
2 a member of The Florida Bar shall report in duplicate to the
3 Department of Insurance any claim or action for damages for
4 personal injuries claimed to have been caused by error,
5 omission, or negligence in the performance of such insured's
6 professional services or based on a claimed performance of
7 professional services without consent, if the claim resulted
8 in:

9 (a) A final judgment in any amount.

10 (b) A settlement in any amount.

11

12 Reports shall be filed with the department and, if the insured
13 party is licensed under chapter 458, chapter 459, or chapter
14 461, and the final judgment or settlement amount was \$50,000
15 or more, if the insured party is licensed under chapter 466
16 and the final judgment or settlement amount was \$25,000 or
17 more ~~or chapter 466~~, with the Department of Health, no later
18 than 30 days following the occurrence of any event listed in
19 paragraph (a) or paragraph (b). The Department of Health shall
20 review each report and determine whether any of the incidents
21 that resulted in the claim potentially involved conduct by the
22 licensee that is subject to disciplinary action, in which case
23 the provisions of s. 456.073 shall apply. The Department of
24 Health, as part of the annual report required by s. 456.026,
25 shall publish annual statistics, without identifying
26 licensees, on the reports it receives, including final action
27 taken on such reports by the Department of Health or the
28 appropriate regulatory board.

29 Section 38. Paragraph (a) of subsection (1) of section
30 766.101, Florida Statutes, is amended to read:

31

1 766.101 Medical review committee, immunity from
2 liability.--

3 (1) As used in this section:

4 (a) The term "medical review committee" or "committee"
5 means:

6 1.a. A committee of a hospital or ambulatory surgical
7 center licensed under chapter 395 or a health maintenance
8 organization certificated under part I of chapter 641,

9 b. A committee of a physician-hospital organization, a
10 provider-sponsored organization, or an integrated delivery
11 system,

12 c. A committee of a state or local professional
13 society of health care providers,

14 d. A committee of a medical staff of a licensed
15 hospital or nursing home, provided the medical staff operates
16 pursuant to written bylaws that have been approved by the
17 governing board of the hospital or nursing home,

18 e. A committee of the Department of Corrections or the
19 Correctional Medical Authority as created under s. 945.602, or
20 employees, agents, or consultants of either the department or
21 the authority or both,

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

28 g. A committee of a mental health treatment facility
29 licensed under chapter 394 or a community mental health center
30 as defined in s. 394.907, provided the quality assurance
31

1 program operates pursuant to the guidelines which have been
2 approved by the governing board of the agency,

3 h. A committee of a substance abuse treatment and
4 education prevention program licensed under chapter 397
5 provided the quality assurance program operates pursuant to
6 the guidelines which have been approved by the governing board
7 of the agency,

8 i. A peer review or utilization review committee
9 organized under chapter 440,

10 j. A committee of the Department of Health, a county
11 health department, healthy start coalition, or certified rural
12 health network, when reviewing quality of care, or employees
13 of these entities when reviewing mortality records, ~~or~~

14 k. A continuous quality improvement committee of a
15 pharmacy licensed pursuant to chapter 465,

16 l. A committee established by a university board of
17 trustees, or

18 m. A committee comprised of faculty, residents,
19 students, and administrators of an accredited college of
20 medicine, college of nursing, or other health care discipline.

21
22 which committee is formed to evaluate and improve the quality
23 of health care rendered by providers of health service or to
24 determine that health services rendered were professionally
25 indicated or were performed in compliance with the applicable
26 standard of care or that the cost of health care rendered was
27 considered reasonable by the providers of professional health
28 services in the area; or

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

1 Section 39. Sections 456.031, 456.033, 456.034,
2 458.313, 458.316, 458.3165, and 458.317, Florida Statutes, are
3 repealed.

4 Section 40. (1) All payments made after July 1, 2003,
5 by the Department of Health to the Division of Administrative
6 Hearings which are based on a formula in effect prior to that
7 date shall revert to the Department of Health. Effective July
8 1, 2004, the Division of Administrative Hearings shall bill
9 the Department of Health in accordance with section
10 456.073(5), Florida Statutes.

11 (2) The Office of Program Policy Analysis and
12 Government Accountability and the Auditor General shall
13 conduct a joint audit of all hearings and billings therefore
14 conducted by the Division of Administrative Hearings for all
15 state agencies and nonstate agencies and shall present a
16 report to the President of the Senate and the Speaker of the
17 House of Representatives by January 1, 2004, which contains
18 findings and recommendations regarding the manner in which the
19 division charges for its services. The report shall provide
20 recommendations for alternative billing formulas.

21 Section 41. Except as otherwise expressly provided in
22 this act, this act shall take effect July 1, 2003.

23
24 *****

25 SENATE SUMMARY

26 Revises various provisions governing the regulation of
27 health care providers by the Department of Health.
28 Revises certain requirements for the department with
29 respect to investigating claims against practitioners.
30 Requires the practice boards to establish requirements
31 for mediation. Revises licensure requirements for
physicians under ch. 458, F.S., and provides requirements
for a limited license. Revises provisions governing the
licensure of respiratory therapists. Provides that
medical review committees established by a university
board of trustees or a college of medicine or nursing are
immune from liability. (See bill for details.)