

By the Committee on Health, Aging, and Long-Term Care; and
Senator Peadar

317-2391-03

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; providing a
2 short title; requiring the Agency for Workforce
3 Innovation to establish a pilot program for
4 delivery of certified geriatric specialty
5 nursing education; specifying eligibility
6 requirements for certified nursing assistants
7 to obtain certified geriatric specialty nursing
8 education; specifying requirements for the
9 education of certified nursing assistants to
10 prepare for certification as a certified
11 geriatric specialist; creating a Certified
12 Geriatric Specialty Nursing Initiative Steering
13 Committee; providing for the composition of and
14 manner of appointment to the Certified
15 Geriatric Specialty Nursing Initiative Steering
16 Committee; providing responsibilities of the
17 steering committee; providing for reimbursement
18 for per diem and travel expenses; requiring the
19 Agency for Workforce Innovation to conduct or
20 contract for an evaluation of the pilot program
21 for delivery of certified geriatric specialty
22 nursing education; requiring the evaluation to
23 include recommendations regarding the expansion
24 of the delivery of certified geriatric
25 specialty nursing education in nursing homes;
26 requiring the Agency for Workforce Innovation
27 to report to the Governor and Legislature
28 regarding the status and evaluation of the
29 pilot program; creating s. 464.0125, F.S.;
30 providing definitions; providing requirements
31 for persons to become certified geriatric

1 specialists; specifying fees; providing for
2 articulation of geriatric specialty nursing
3 coursework and practical nursing coursework;
4 providing practice standards and grounds for
5 which certified geriatric specialists may be
6 subject to discipline by the Board of Nursing;
7 creating restrictions on the use of
8 professional nursing titles; prohibiting the
9 use of certain professional titles; providing
10 penalties; authorizing approved nursing
11 programs to provide education for the
12 preparation of certified geriatric specialists
13 without further board approval; authorizing
14 certified geriatric specialists to supervise
15 the activities of others in nursing home
16 facilities according to rules by the Board of
17 Nursing; revising terminology relating to
18 nursing to conform to the certification of
19 geriatric specialists; amending s. 381.00315,
20 F.S.; revising requirements for the
21 reactivation of the licenses of specified
22 health care practitioners in the event of
23 public health emergency to include certified
24 geriatric specialists; amending s. 400.021,
25 F.S.; including services provided by a
26 certified geriatric specialist within the
27 definition of nursing service; amending s.
28 400.211, F.S.; revising requirements for
29 persons employed as nursing assistants to
30 conform to the certification of certified
31 geriatric specialists; amending s. 400.23,

1 F.S.; specifying that certified geriatric
2 specialists shall be considered licensed
3 nursing staff; authorizing licensed practical
4 nurses to supervise the activities of certified
5 geriatric specialists in nursing home
6 facilities according to rules adopted by the
7 Board of Nursing; amending s. 409.908, F.S.;
8 revising the methodology for reimbursement of
9 Medicaid program providers to include services
10 of certified geriatric specialists; amending s.
11 458.303, F.S.; revising exceptions to the
12 practice of medicine to include services
13 delegated to a certified geriatric specialist
14 under specified circumstances; amending s.
15 1009.65, F.S.; revising eligibility for the
16 Medical Education Reimbursement and Loan
17 Repayment Program to include certified
18 geriatric specialists; amending s. 1009.66,
19 F.S.; revising eligibility requirements for the
20 Nursing Student Loan Forgiveness Program to
21 include certified geriatric specialists;
22 providing an appropriation; amending s.
23 464.201, F.S.; defining terms; amending s.
24 464.202, F.S.; authorizing the Board of Nursing
25 to adopt rules regarding the practice and
26 supervision of certified nursing assistants;
27 amending s. 464.203, F.S.; revising
28 requirements for the screening of certified
29 nursing assistants; revising hours required for
30 inservice training; providing for certification
31 renewal fees; amending s. 464.204, F.S.;

1 revising the standards under which disciplinary
2 sanctions may be imposed; amending s. 467.013,
3 F.S.; providing for the department to adopt
4 rules governing applications for inactive
5 status for midwives; amending s. 467.0135,
6 F.S.; revising the schedule of fees; amending
7 s. 467.017, F.S.; requiring that the emergency
8 care plan be available to the department;
9 amending s. 468.352, F.S.; revising and
10 providing definitions applicable to the
11 regulation of respiratory therapy; amending s.
12 468.355, F.S.; revising provisions relating to
13 respiratory therapy licensure and testing
14 requirements; amending s. 468.368, F.S.;
15 revising exemptions from respiratory therapy
16 licensure requirements; repealing s. 468.356,
17 F.S., relating to the approval of educational
18 programs; repealing s. 468.357, F.S., relating
19 to licensure by examination; amending s.
20 491.005, F.S.; revising certain licensing
21 requirements for clinical social workers;
22 amending s. 491.0145, F.S.; prohibiting the
23 Department of Health from adopting certain
24 rules governing licensure; creating s.
25 491.0146, F.S.; providing for effect of certain
26 licenses; amending s. 627.912, F.S.; revising
27 requirements for liability reports by insurers;
28 amending s. 766.101, F.S.; providing immunity
29 from liability for a medical review committee
30 established by a university board of trustees
31 and a committee of a college of medicine,

1 college of nursing, or other health care
2 discipline; repealing ss. 456.031, 456.033,
3 456.034, 458.313, 458.316, 458.3165, and
4 458.317, F.S., relating to instruction on
5 domestic violence and on HIV and AIDS,
6 licensure by endorsement, public health
7 certificates and public psychiatry
8 certificates, and limited licenses; providing
9 for certain payments made by the Department of
10 Health to the Division of Administrative
11 Hearings to revert to the department; requiring
12 the Office of Program Policy Analysis and
13 Government Accountability and the Auditor
14 General to study the hearings conducted by the
15 division and the billings for those hearings;
16 requiring a report to the Legislature; amending
17 ss. 400.4785, 400.5571, 400.6045, F.S.;
18 prescribing training standards for employees of
19 home health agencies, adult day care centers,
20 and hospices, respectively, that provide care
21 for persons who have Alzheimer's disease or
22 related disorders; prescribing duties of the
23 Department of Elderly Affairs; providing for
24 compliance with guidelines within a certain
25 time period; providing for approval of
26 Alzheimer's training and trainers; providing
27 for application of training to meet specified
28 requirements; providing authority to adopt
29 rules; providing legislative findings and
30 intent; providing effective dates.

31

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

2

3 Section 1. Subsection (5) of section 393.064, Florida
4 Statutes, is amended to read:

5 393.064 Prevention.--

6 (5) The Department of Health ~~Children and Family~~
7 ~~Services~~ shall have the authority, within available resources,
8 to contract for the supervision and management of the Raymond
9 C. Philips Research and Education Unit, and such contract
10 shall include specific program objectives.

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

13 394.4615 Clinical records; confidentiality.--

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

27 Section 3. Paragraphs (a) and (e) of subsection (4) of
28 section 395.3025, Florida Statutes, are amended, paragraph (1)
29 is added to that subsection, and paragraph (b) of subsection
30 (7) of that section is amended, to read:

31

1 395.3025 Patient and personnel records; copies;
2 examination.--

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

7 (a) Licensed health care practitioners facility
8 ~~personnel and attending physicians~~ for use in connection with
9 the treatment of the patient.

10 (e) The Department of Health ~~agency~~ upon subpoena
11 issued pursuant to s. 456.071, but the records obtained
12 thereby must be used solely for the purpose of the department
13 ~~agency~~ and the appropriate professional board in its
14 investigation, prosecution, and appeal of disciplinary
15 proceedings. The administrator or records custodian in a
16 facility licensed under this chapter shall certify that a true
17 and complete copy of the records requested pursuant to a
18 subpoena or patient release has been provided to the
19 department or otherwise identify those documents that have not
20 been provided. If the department ~~agency~~ requests copies of the
21 records, the facility shall charge no more than its actual
22 copying costs, including reasonable staff time. The records
23 must be sealed and must not be available to the public
24 pursuant to s. 119.07(1) or any other statute providing access
25 to records, nor may they be available to the public as part of
26 the record of investigation for and prosecution in
27 disciplinary proceedings made available to the public by the
28 department ~~agency~~ or the appropriate regulatory board.
29 However, the department ~~agency~~ must make available, upon
30 written request by a practitioner against whom probable cause
31

1 has been found, any such records that form the basis of the
2 determination of probable cause.

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

6 (7)

7 (b) Absent a specific written release or authorization
8 permitting utilization of patient information for ~~solicitation~~
9 ~~or~~ marketing the sale of goods or services, any use of that
10 information for those purposes is prohibited. As used in this
11 paragraph, the term "marketing" has the meaning set forth in
12 45 C.F.R. s. 164.501.

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

15 400.141 Administration and management of nursing home
16 facilities.--Every licensed facility shall comply with all
17 applicable standards and rules of the agency and shall:

18 (10) Keep full records of resident admissions and
19 discharges; medical and general health status, including
20 medical records, personal and social history, and identity and
21 address of next of kin or other persons who may have
22 responsibility for the affairs of the residents; and
23 individual resident care plans including, but not limited to,
24 prescribed services, service frequency and duration, and
25 service goals. The records shall be open to inspection by the
26 agency. A certified complete copy of the records shall be
27 provided to the Department of Health upon subpoena issued
28 pursuant to ss. 456.057 and 456.071. The provisions of chapter
29 456 apply to records obtained pursuant to this section.

1 Facilities that have been awarded a Gold Seal under the
2 program established in s. 400.235 may develop a plan to
3 provide certified nursing assistant training as prescribed by
4 federal regulations and state rules and may apply to the
5 agency for approval of their program.

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

8 400.145 Records of care and treatment of resident;
9 copies to be furnished.--

10 (3) The administrator or records custodian in a
11 facility licensed under this part shall certify that a true
12 and complete copy of the records requested pursuant to a
13 subpoena or patient release has been provided to the
14 department or otherwise identify those documents that have not
15 been provided.

16 Section 6. Section 400.455, Florida Statutes, is
17 created to read:

18 400.455 Certified copy of subpoenaed records.--Upon a
19 subpoena issued by the Department of Health pursuant to s.
20 456.057 or s. 456.071, a certified complete copy of the
21 requested records shall be provided. The provisions of chapter
22 456 apply to the records obtained pursuant to this section.

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

25 456.017 Examinations.--

26 (7) The department may post examination scores
27 electronically on the Internet in lieu of mailing the scores
28 to each applicant. Such electronic posting of the examination
29 scores shall meet the requirements of chapter 120 if the
30 department also posts with the examination scores a
31 notification of rights, as set forth in chapter 120. The date

1 of receipt for purposes of the requirements of chapter 120
2 shall be the date the examination scores are posted
3 electronically. The department shall also notify the examinee
4 when scores are posted electronically of the availability of a
5 post-examination review, if applicable.

6 Section 8. Paragraph (b) of subsection (1) of section
7 456.0375, Florida Statutes, is amended to read:

8 456.0375 Registration of certain clinics;
9 requirements; discipline; exemptions.--

10 (1)

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

14 1. Entities licensed or registered by the state
15 pursuant to chapter 390, chapter 394, chapter 395, chapter
16 397, chapter 400, chapter 463, chapter 465, chapter 466,
17 chapter 478, chapter 480, or chapter 484.

18 2. Entities exempt from federal taxation under 26
19 U.S.C. s. 501(c)(3) and community college and university
20 clinics.

21 3. Sole proprietorships, group practices,
22 partnerships, or corporations that provide health care
23 services by licensed health care practitioners pursuant to
24 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484,
25 486, 490, 491, or part I, part III, part X, part XIII, or part
26 XIV of chapter 468, or s. 464.012, which are wholly owned by
27 licensed health care practitioners or the licensed health care
28 practitioner and the spouse, parent, or child of a licensed
29 health care practitioner, so long as one of the owners who is
30 a licensed health care practitioner is supervising the
31 services performed therein and is legally responsible for the

1 entity's compliance with all federal and state laws. However,
2 no health care practitioner may supervise services beyond the
3 scope of the practitioner's license.

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

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

9 456.041 Practitioner profile; creation.--

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

1 negatively on the professional competence or conduct of the
2 practitioner. A payment in settlement of a medical
3 malpractice action or claim should not be construed as
4 creating a presumption that medical malpractice has occurred."

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

7 456.049 Health care practitioners; reports on
8 professional liability claims and actions.--

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

21 (a) A final judgment of \$50,000 or more or, for a
22 dentist licensed under chapter 466, a final judgment of
23 \$25,000 or more ~~in any amount.~~

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

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

29
30
31

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

4 Section 11. Section 456.055, Florida Statutes, is
5 amended to read:

6 456.055 ~~Chiropractic and podiatric~~ Health care
7 providers; denial of payment; limitation; payment of claims.--

8 (1) A chiropractic physician licensed under chapter
9 460 or a podiatric physician licensed under chapter 461 shall
10 not be denied payment for treatment rendered solely on the
11 basis that the chiropractic physician or podiatric physician
12 is not a member of a particular preferred provider
13 organization or exclusive provider organization which is
14 composed only of physicians licensed under the same chapter.

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

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

29 Section 12. Paragraph (a) of subsection (7) and
30 subsection (16) of section 456.057, Florida Statutes, are
31 amended to read:

1 456.057 Ownership and control of patient records;
2 report or copies of records to be furnished.--

3 (7)(a)1. The department may obtain patient records
4 pursuant to a subpoena without written authorization from the
5 patient if the department and the probable cause panel of the
6 appropriate board, if any, find reasonable cause to believe
7 that a health care practitioner has excessively or
8 inappropriately prescribed any controlled substance specified
9 in chapter 893 in violation of this chapter or any
10 professional practice act or that a health care practitioner
11 has practiced his or her profession below that level of care,
12 skill, and treatment required as defined by this chapter or
13 any professional practice act and also find that appropriate,
14 reasonable attempts were made to obtain a patient release.

15 However, if the matter under investigation was reported to the
16 department as a professional liability claim or action
17 pursuant to s. 456.049 or s. 627.912, an attempt to obtain a
18 patient release is not required.

19 2. The department may obtain patient records and
20 insurance information pursuant to a subpoena without written
21 authorization from the patient if the department and the
22 probable cause panel of the appropriate board, if any, find
23 reasonable cause to believe that a health care practitioner
24 has provided inadequate medical care based on termination of
25 insurance and also find that appropriate, reasonable attempts
26 were made to obtain a patient release.

27 3. The department may obtain patient records, billing
28 records, insurance information, provider contracts, and all
29 attachments thereto pursuant to a subpoena without written
30 authorization from the patient if the department and probable
31 cause panel of the appropriate board, if any, find reasonable

1 cause to believe that a health care practitioner has submitted
2 a claim, statement, or bill using a billing code that would
3 result in payment greater in amount than would be paid using a
4 billing code that accurately describes the services performed,
5 requested payment for services that were not performed by that
6 health care practitioner, used information derived from a
7 written report of an automobile accident generated pursuant to
8 chapter 316 to solicit or obtain patients personally or
9 through an agent regardless of whether the information is
10 derived directly from the report or a summary of that report
11 or from another person, solicited patients fraudulently,
12 received a kickback as defined in s. 456.054, violated the
13 patient brokering provisions of s. 817.505, or presented or
14 caused to be presented a false or fraudulent insurance claim
15 within the meaning of s. 817.234(1)(a), and also find that,
16 within the meaning of s. 817.234(1)(a), patient authorization
17 cannot be obtained because the patient cannot be located or is
18 deceased, incapacitated, or suspected of being a participant
19 in the fraud or scheme, and if the subpoena is issued for
20 specific and relevant records.

21 4. For purposes of this subsection, the department may
22 obtain patient records pursuant to a subpoena without written
23 authorization from the patient if the patient refuses to
24 cooperate or if, in the department's discretion, an attempt to
25 obtain a patient release would be detrimental to the
26 investigation.

27 (16) A health care practitioner or records owner
28 furnishing copies of reports or records or making the reports
29 or records available for digital scanning pursuant to this
30 section shall charge no more than the actual cost of copying,
31 including reasonable staff time, or the amount specified in

1 administrative rule by the appropriate board, or the
2 department when there is no board. The health care
3 practitioner or owner of the records shall certify that a true
4 and complete copy of the records requested pursuant to a
5 subpoena or patient release has been provided to the
6 department or otherwise identify those documents that have not
7 been provided.

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

10 456.063 Sexual misconduct; disqualification for
11 license, certificate, or registration.--

12 (3) Licensed health care practitioners shall report
13 allegations of sexual misconduct to the department, regardless
14 of the practice setting in which the alleged sexual misconduct
15 occurred. Each board, or the department if there is no board,
16 may adopt rules to administer the requirements for reporting
17 allegations of sexual misconduct, including rules to determine
18 the sufficiency of the allegations.

19 Section 14. Paragraph (bb) of subsection (1) of
20 section 456.072, Florida Statutes, is amended, paragraph (dd)
21 is added to that subsection, subsection (4) of that section is
22 amended, and subsection (7) is added to that section, to read:

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

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

28 (bb) Leaving a foreign body in a patient, such as a
29 sponge, clamp, forceps, surgical needle, or other
30 paraphernalia commonly used in surgical, examination, or other
31 diagnostic procedures, unless leaving the foreign body is

1 medically indicated and documented in the patient record. For
2 the purposes of this paragraph, it shall be legally presumed
3 that retention of a foreign body is not in the best interest
4 of the patient and is not within the standard of care of the
5 profession, unless medically indicated and documented in the
6 patient record ~~regardless of the intent of the professional.~~

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

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

1 assessing such fines or costs, the department or the
2 Department of Legal Affairs may contract for the collection
3 of, or bring a civil action to recover, the fine or
4 assessment.

5 (7) In any formal administrative hearing conducted
6 under s. 120.57(1), the department shall establish grounds for
7 revocation or suspension of a license by clear and convincing
8 evidence. Any other form of discipline must be established by
9 the greater weight of the evidence.

10 Section 15. Subsections (1) and (5) of section
11 456.073, Florida Statutes, are amended to read:

12 456.073 Disciplinary proceedings.--Disciplinary
13 proceedings for each board shall be within the jurisdiction of
14 the department.

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

1 | alleged violation of law or rules is substantial, and if the
2 | department has reason to believe, after preliminary inquiry,
3 | that the violations alleged in the complaint are true. The
4 | department may investigate a complaint made by a confidential
5 | informant if the complaint is legally sufficient, if the
6 | alleged violation of law or rule is substantial, and if the
7 | department has reason to believe, after preliminary inquiry,
8 | that the allegations of the complainant are true. The
9 | department may initiate an investigation if it has reasonable
10 | cause to believe that a licensee or a group of licensees has
11 | violated a Florida statute, a rule of the department, or a
12 | rule of a board. ~~Except as provided in ss. 458.331(9),~~
13 | ~~459.015(9), 460.413(5), and 461.013(6),~~When an investigation
14 | of any subject is undertaken, the department shall promptly
15 | furnish to the subject or the subject's attorney a copy of the
16 | complaint or document that resulted in the initiation of the
17 | investigation. The subject may submit a written response to
18 | the information contained in such complaint or document within
19 | 30 ~~20~~ days after service to the subject of the complaint or
20 | document. The subject's written response shall be considered
21 | by the probable cause panel. The right to respond does not
22 | prohibit the issuance of a summary emergency order if
23 | necessary to protect the public. However, if the secretary, or
24 | the secretary's designee, and the chair of the respective
25 | board or the chair of its probable cause panel agree in
26 | writing that such notification would be detrimental to the
27 | investigation, the department may withhold notification. The
28 | department may conduct an investigation without notification
29 | to any subject if the act under investigation is a criminal
30 | offense.
31 |

1 (5)(a) A formal hearing before an administrative law
2 judge from the Division of Administrative Hearings shall be
3 requested held pursuant to chapter 120 if there are any
4 disputed issues of material fact raised within 45 days after
5 service of the administrative complaint. ~~The administrative~~
6 ~~law judge shall issue a recommended order pursuant to chapter~~
7 ~~120. If any party raises an issue of disputed fact during an~~
8 ~~informal hearing, the hearing shall be terminated and a formal~~
9 ~~hearing pursuant to chapter 120 shall be held.~~

10 (b) Notwithstanding s. 120.569(2), the department
11 shall notify the division within 45 days after receipt of a
12 petition or request for a hearing which the department has
13 determined requires a formal hearing before an administrative
14 law judge.

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

29 Section 16. Section 456.077, Florida Statutes, is
30 amended to read:

31 456.077 Authority to issue citations.--

1 (1) Notwithstanding s. 456.073, the board, or the
2 department if there is no board, shall adopt rules to permit
3 the issuance of citations. The citation shall be issued to the
4 subject and shall contain the subject's name and address, the
5 subject's license number if applicable, a brief factual
6 statement, the sections of the law allegedly violated, and the
7 penalty imposed. The citation must clearly state that the
8 subject may choose, in lieu of accepting the citation, to
9 follow the procedure under s. 456.073. If the subject disputes
10 the matter in the citation, the procedures set forth in s.
11 456.073 must be followed. However, if the subject does not
12 dispute the matter in the citation with the department within
13 30 days after the citation is served, the citation becomes a
14 public final order and does not constitute ~~constitutes~~
15 discipline for a first offense. The penalty shall be a fine or
16 other conditions as established by rule.

17 (2) The board, or the department if there is no board,
18 shall adopt rules designating violations for which a citation
19 may be issued. Such rules shall designate as citation
20 violations those violations for which there is no substantial
21 threat to the public health, safety, and welfare. Violations
22 for which a citation may be issued shall include violations of
23 continuing education requirements; failure to timely pay
24 required fees and fines; failure to comply with the
25 requirements of ss. 381.026 and 381.0261 regarding the
26 dissemination of information regarding patient rights; failure
27 to comply with advertising requirements; failure to timely
28 update practitioner profile and credentialing files; failure
29 to display signs, licenses, and permits; failure to have
30 required reference books available; and all other violations

31

1 that do not pose a direct and serious threat to the health and
2 safety of the patient.

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

7 ~~(4) A citation must be issued within 6 months after~~
8 ~~the filing of the complaint that is the basis for the~~
9 ~~citation.~~

10 (4)~~(5)~~ Service of a citation may be made by personal
11 service or certified mail, restricted delivery, to the subject
12 at the subject's last known address.

13 (5)~~(6)~~ A board has 6 months in which to enact rules
14 designating violations and penalties appropriate for citation
15 offenses. Failure to enact such rules gives the department
16 exclusive authority to adopt rules as required for
17 implementing this section. A board has continuous authority to
18 amend its rules adopted pursuant to this section.

19 Section 17. Section 456.078, Florida Statutes, is
20 amended to read:

21 456.078 Mediation.--

22 (1) Notwithstanding the provisions of s. 456.073, the
23 board, or the department when there is no board, shall adopt
24 rules to designate which violations of the applicable
25 professional practice act are appropriate for mediation. The
26 board, or the department when there is no board, shall ~~may~~
27 designate as mediation offenses those complaints where harm
28 caused by the licensee is economic in nature, except
29 complaints involving fraud, ~~or~~ can be remedied by the licensee
30 or does not result in an adverse incident. For purposes of
31

1 this section, the term "adverse incident" means an event that
2 results in:
3 (a) The death of a patient;
4 (b) Brain or spinal damage to a patient;
5 (c) The performance of a surgical procedure on the
6 wrong patient;
7 (d) The performance of a wrong-site surgical
8 procedure;
9 (e) The performance of a wrong surgical procedure;
10 (f) The performance of a surgical procedure that is
11 medically unnecessary or otherwise unrelated to the patient's
12 diagnosis or medical condition;
13 (g) The surgical repair of damage resulting to a
14 patient from a planned surgical procedure, where the damage is
15 not a recognized specific risk, as disclosed to the patient
16 and documented through the informed-consent process; or
17 (h) The performance of procedures to remove unplanned
18 foreign objects remaining from a surgical procedure.
19 (2) After the department determines a complaint is
20 legally sufficient and the alleged violations are defined as
21 mediation offenses, the department or any agent of the
22 department may conduct informal mediation to resolve the
23 complaint. If the complainant and the subject of the complaint
24 agree to a resolution of a complaint within 14 days after
25 contact by the mediator, the mediator shall notify the
26 department of the terms of the resolution. The department or
27 board shall take no further action unless the complainant and
28 the subject each fail to record with the department an
29 acknowledgment of satisfaction of the terms of mediation
30 within 60 days of the mediator's notification to the
31 department. A successful mediation shall include a statement

1 of whether or not the resolution constitutes discipline.

2 However, if in the event the complainant and subject fail to
3 reach settlement terms or to record the required
4 acknowledgment, the department shall process the complaint
5 according to the provisions of s. 456.073.

6 (3) Conduct or statements made during mediation are
7 inadmissible in any proceeding pursuant to s. 456.073.
8 Further, any information relating to the mediation of a case
9 shall be subject to the confidentiality provisions of s.
10 456.073.

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

22 (5) Any board created on or after January 1, 1995,
23 shall have 6 months to adopt rules designating which
24 violations are appropriate for mediation, after which time the
25 department shall have exclusive authority to adopt rules
26 pursuant to this section. Each board shall adopt rules
27 designating violations appropriate for mediation by January 1,
28 2004. Failure to adopt such rules gives the department
29 exclusive authority to adopt rules as required for
30 administering this section.A board shall have continuing
31 authority to amend its rules adopted pursuant to this section.

1 Section 18. Sections 458.311, Florida Statutes is
2 amended to read:

3 (Substantial rewording of section. See
4 s. 458.311, F.S., for present text.)

5 458.311 Licensure requirements; fee.--

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

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

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

13 (c) Is of good moral character.

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

17 (e) Has submitted to the department a set of
18 fingerprints on a form and under procedures specified by the
19 department, along with a payment in an amount equal to the
20 costs incurred by the Department of Health for the criminal
21 background check of the applicant.

22 (f) Has caused to be submitted verification of core
23 credentials by the Federation Credentials Verification
24 Services of the Federation of State Medical Boards.

25 (g) For applicants holding a valid active license in
26 another state, has submitted evidence of the active licensed
27 practice of medicine in another jurisdiction for at least 2 of
28 the immediately preceding 4 years, or evidence of successful
29 completion of a board-approved postgraduate training program
30 within 2 years preceding filing of an application or a
31 board-approved clinical competency examination within the year

1 preceding the filing of an application for licensure. As used
2 in this paragraph, the term "active licensed practice of
3 medicine" means the practice of medicine by a physician,
4 including a physician employed by any governmental entity in
5 community or public health as defined by this chapter, a
6 medical director under s. 641.495(11) who is practicing
7 medicine, or an active member of the teaching faculty of an
8 accredited medical school. If the applicant fails to meet the
9 requirements of this subsection, the board may impose
10 conditions on the license, including, but not limited to,
11 supervision of practice.

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

13 (a) Meets one of the following medical education
14 requirements:

15 1. Is a graduate of an allopathic medical school or
16 allopathic college recognized and approved by an accrediting
17 agency recognized by the United States Department of Education
18 or is a graduate of an allopathic medical school or allopathic
19 college within a territorial jurisdiction of the United States
20 recognized by the accrediting agency of the governmental body
21 of that jurisdiction; or

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

28 (b) If the language of instruction of the medical
29 school is other than English, has demonstrated competency in
30 English through presentation of a satisfactory grade on the
31

1 Test of Spoken English of the Educational Testing Service or a
2 similar test approved by rule of the board.

3 (c) Has completed an approved residency, as defined by
4 board rule, of at least 2 years, or a fellowship of at least 2
5 years, in one specialty area which is counted toward regular
6 or subspecialty certification by a board recognized and
7 certified by the American Board of Medical Specialties.

8 1. Applicants who meet the requirements of paragraph
9 (a)1., and who completed their training prior to October 1,
10 2003, must demonstrate completion of an approved residency of
11 at least 1 year.

12 2. Applicants who meet the requirements of paragraph
13 (a)2., and who completed their training prior to October 1,
14 1992, must demonstrate completion of an approved residency of
15 at least 1 year.

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

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

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

24 (c) Completed all of the formal requirements of the
25 foreign medical school, except the internship or social
26 service requirements, and has passed part I of the National
27 Board of Medical Examiners examination or the Educational
28 Commission for Foreign Medical Graduates examination
29 equivalent.

30 (d) Completed an academic year of supervised clinical
31 training in a hospital affiliated with a medical school

1 approved by the Council on Medical Education of the American
2 Medical Association and upon completion has passed part II of
3 the National Board of Medical Examiners examination or the
4 Educational Commission for Foreign Medical Graduates
5 examination equivalent.

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

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

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

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

30
31

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

4 (6) The board may not certify to the department for
5 licensure any applicant who is under investigation in another
6 jurisdiction for an offense that would constitute a violation
7 of this chapter until such investigation is completed. Upon
8 completion of the investigation, the provisions of s. 458.331
9 shall apply. Furthermore, the department may not issue an
10 unrestricted license to any applicant who has committed any
11 act or offense in any jurisdiction which would constitute the
12 basis for disciplining a physician under s. 458.331. If the
13 board finds that an individual has committed an act or offense
14 in any jurisdiction which would constitute the basis for
15 disciplining a physician under s. 458.331, the board may enter
16 an order imposing one or more of the terms set forth in s.
17 456.072(2).

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

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

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

27 (b) Certifying to the department an application for
28 licensure, certification, or registration, with restrictions
29 on the scope of practice of the licensee; or

30 (c) Certifying to the department an application for
31 licensure, certification, or registration, with placement of

1 the physician on probation for a period of time and subject to
2 such conditions as the board specifies, including, but not
3 limited to, requiring the physician to submit to treatment,
4 attend continuing education courses, submit to reexamination,
5 or work under the supervision of another physician.

6 Section 19. Section 458.315, Florida Statutes, is
7 amended to read:

8 (Substantial rewording of section. See
9 s. 458.315, F.S., for present text.)

10 458.315 Limited licenses.--

11 (1)(a) Any person desiring to obtain a limited license
12 shall:

13 1. Submit to the department, along with an application
14 and fee not to exceed \$300, a statement stating that he or she
15 has been licensed to practice medicine in any jurisdiction in
16 the United States, any territory of the United States, or
17 Canada for at least 2 years and intends to practice only
18 pursuant to the restrictions of a limited license granted
19 under this section. However, if the physician will use the
20 limited license only for noncompensated practice and submits a
21 statement from the employing agency or institution stating
22 that he or she will not receive compensation for any service
23 involving the practice of medicine, the application fee and
24 all licensure fees shall be waived.

25 2. Submit evidence of the active licensed practice of
26 medicine in any jurisdiction in the United States, any
27 territory of the United States, or Canada for at least 2 of
28 the immediately preceding 4 years. As used in this paragraph,
29 the term "active licensed practice of medicine" means the
30 practice of medicine by a physician, including a physician
31 employed by any government entity in community or public

1 health as defined by this chapter, a medical director under s.
2 641.495(11) who is practicing medicine, or an active member of
3 the teaching faculty of an accredited medical school. If the
4 applicant has not been in active licensed practice of medicine
5 within the prior 3 years, a licensed physician, approved by
6 the board, shall supervise the applicant for 6 months after he
7 or she is granted a limited license for practice, unless the
8 board determines that a shorter period of supervision will be
9 sufficient to ensure that the applicant is qualified for
10 licensure. Procedures for such supervision shall be
11 established by the board.

12 (b) The board may issue a limited license if the
13 applicant:

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

17 2. Has submitted to the department a set of
18 fingerprints on a form and under procedures by the Department
19 of Health for the criminal background check of the applicant
20 and a search of the Federation of State Medical Boards of the
21 United States databank.

22
23 After approval of an application under this section, the
24 license may not be issued until the applicant provides to the
25 board an affidavit that there have been no substantial changes
26 in status since initial application.

27 (2) The recipient of a limited license used for
28 noncompensated practice shall practice only in the employ of a
29 program or facility that provides uncompensated health care
30 services by volunteer licensed health care professionals to
31 low-income persons whose income does not exceed 150 percent of

1 the federal poverty level or to uninsured persons. These
2 facilities include, but are not limited to, community and
3 migrant health centers of the Department of Health funded
4 under s. 330 of the United States Public Health Service Act
5 and volunteer health care provider programs under contract
6 with the Department of Health to provide uncompensated care
7 pursuant to s. 766.1115. The recipient of a limited license
8 used for compensated practice may practice only in the employ
9 of programs and facilities that provide health care services.
10 These programs and facilities include, but are not limited to,
11 the Department of Corrections, county or municipal
12 correctional facilities, the Department of Juvenile Justice,
13 the Department of Children and Family Services, the Department
14 of Health, and programs and facilities funded under s. 330 of
15 the United States Public Health Service Act. Programs and
16 facilities must be located within a federally designated
17 primary care health professional shortage area, unless
18 otherwise approved by the Secretary of Health.

19 (3)(a) The recipient of a limited license shall,
20 within 30 days after accepting employment, notify the board of
21 all approved institutions in which the licensee practices and
22 of all approved institutions where practice privileges have
23 been denied. Evidence of noncompensated employment shall be
24 required for the fee waiver.

25 (b) The licensee must renew the limited license
26 biennially and verify compliance with the restrictions
27 prescribed in this section and other applicable provisions of
28 this chapter.

29 (c) Any person who holds an active or inactive license
30 to practice medicine in the state may convert that license to
31 a limited license for the purpose of providing volunteer,

1 uncompensated care for low-income persons. The applicant must
2 submit a statement from the employing agency or institution
3 stating that he or she will not receive compensation for any
4 service involving the practice of medicine. The application
5 and all licensure fees, including neurological injury
6 compensation assessments, shall be waived.

7 (4) This section does not limit any policy by the
8 board, otherwise authorized by law, to grant licenses to
9 physicians duly licensed in other states under conditions less
10 restrictive than the requirements of this section.

11 Notwithstanding any other provision of this section, the board
12 may refuse to authorize a physician otherwise qualified to
13 practice in the employ of any agency or institution if the
14 agency or institution has caused or permitted violations of
15 the provisions of this chapter which it knew or should have
16 known were occurring.

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

20 458.331 Grounds for disciplinary action; action by the
21 board and department.--

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

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

1 is not limited to, three or more claims for medical
2 malpractice within the previous 5-year period resulting in
3 indemnities being paid in excess of \$50,000~~\$25,000~~ each to
4 the claimant in a judgment or settlement and which incidents
5 involved negligent conduct by the physician. As used in this
6 paragraph, "gross malpractice" or "the failure to practice
7 medicine with that level of care, skill, and treatment which
8 is recognized by a reasonably prudent similar physician as
9 being acceptable under similar conditions and circumstances,"
10 shall not be construed so as to require more than one
11 instance, event, or act. Nothing in this paragraph shall be
12 construed to require that a physician be incompetent to
13 practice medicine in order to be disciplined pursuant to this
14 paragraph.

15 (6) Upon the department's receipt from an insurer or
16 self-insurer of a report of a closed claim against a physician
17 pursuant to s. 627.912 or from a health care practitioner of a
18 report pursuant to s. 456.049, or upon the receipt from a
19 claimant of a presuit notice against a physician pursuant to
20 s. 766.106, the department shall review each report and
21 determine whether it potentially involved conduct by a
22 licensee that is subject to disciplinary action, in which case
23 the provisions of s. 456.073 shall apply. However, if it is
24 reported that a physician has had three or more claims with
25 indemnities exceeding \$50,000~~\$25,000~~ each within the previous
26 5-year period, the department shall investigate the
27 occurrences upon which the claims were based and determine if
28 action by the department against the physician is warranted.

29 (9) When an investigation of a physician is
30 undertaken, the department shall promptly furnish to the
31 physician or the physician's attorney a copy of the complaint

1 or document which resulted in the initiation of the
2 investigation. For purposes of this subsection, such documents
3 include, but are not limited to: the pertinent portions of an
4 annual report submitted to the department pursuant to s.
5 395.0197(6); a report of an adverse incident which is provided
6 to the department pursuant to s. 395.0197; a report of peer
7 review disciplinary action submitted to the department
8 pursuant to s. 395.0193(4) or s. 458.337, providing that the
9 investigations, proceedings, and records relating to such peer
10 review disciplinary action shall continue to retain their
11 privileged status even as to the licensee who is the subject
12 of the investigation, as provided by ss. 395.0193(8) and
13 458.337(3); a report of a closed claim submitted pursuant to
14 s. 627.912; a presuit notice submitted pursuant to s.
15 766.106(2); and a petition brought under the Florida
16 Birth-Related Neurological Injury Compensation Plan, pursuant
17 to s. 766.305(2). The physician may submit a written response
18 to the information contained in the complaint or document
19 which resulted in the initiation of the investigation within
20 30 ~~45~~ days after service to the physician of the complaint or
21 document. The physician's written response shall be considered
22 by the probable cause panel.

23 Section 21. Subsection (3) of section 458.348, Florida
24 Statutes, is repealed.

25 Section 22. Subsections (6) and (9) of section
26 459.015, Florida Statutes, are amended to read:

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

29 (6) Upon the department's receipt from an insurer or
30 self-insurer of a report of a closed claim against an
31 osteopathic physician pursuant to s. 627.912 or from a health

1 care practitioner of a report pursuant to s. 456.049, or upon
2 the receipt from a claimant of a presuit notice against an
3 osteopathic physician pursuant to s. 766.106, the department
4 shall review each report and determine whether it potentially
5 involved conduct by a licensee that is subject to disciplinary
6 action, in which case the provisions of s. 456.073 shall
7 apply. However, if it is reported that an osteopathic
8 physician has had three or more claims with indemnities
9 exceeding \$50,000~~\$25,000~~ each within the previous 5-year
10 period, the department shall investigate the occurrences upon
11 which the claims were based and determine if action by the
12 department against the osteopathic physician is warranted.

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

1 to s. 766.305(2). The osteopathic physician may submit a
2 written response to the information contained in the complaint
3 or document which resulted in the initiation of the
4 investigation within 30 ~~45~~ days after service to the
5 osteopathic physician of the complaint or document. The
6 osteopathic physician's written response shall be considered
7 by the probable cause panel.

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

10 460.413 Grounds for disciplinary action; action by
11 board or department.--

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

22 Section 24. Paragraph (s) of subsection (1) of section
23 461.013, Florida Statutes, is amended to read:

24 461.013 Grounds for disciplinary action; action by the
25 board; investigations by department.--

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

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

1 | podiatric physician as being acceptable under similar
2 | conditions and circumstances. The board shall give great
3 | weight to the standards for malpractice in s. 766.102 in
4 | interpreting this section. As used in this paragraph,
5 | "repeated malpractice" includes, but is not limited to, three
6 | or more claims for medical malpractice within the previous
7 | 5-year period resulting in indemnities being paid in excess of
8 | ~~\$50,000~~~~\$10,000~~ each to the claimant in a judgment or
9 | settlement and which incidents involved negligent conduct by
10 | the podiatric physicians. As used in this paragraph, "gross
11 | malpractice" or "the failure to practice podiatric medicine
12 | with the level of care, skill, and treatment which is
13 | recognized by a reasonably prudent similar podiatric physician
14 | as being acceptable under similar conditions and
15 | circumstances" shall not be construed so as to require more
16 | than one instance, event, or act.

17 | Section 25. Sections 25-41 of this act may be cited as
18 | the "Clara Ramsey Care of the Elderly Act."

19 | Section 26. Certified Geriatric Specialist Preparation
20 | Pilot Program.--

21 | (1) The Agency for Workforce Innovation shall
22 | establish a pilot program for delivery of geriatric nursing
23 | education to certified nursing assistants who wish to become
24 | certified geriatric specialists. The agency shall select two
25 | pilot sites in nursing homes that have received the Gold Seal
26 | designation under section 400.235, Florida Statutes; have been
27 | designated as a teaching nursing home under section 430.80,
28 | Florida Statutes; or have not received a class I or class II
29 | deficiency within the 30 months preceding application for this
30 | program.

31 |

1 (2) To be eligible to receive geriatric nursing
2 education, a certified nursing assistant must have been
3 employed by a participating nursing home for at least 1 year
4 and have received a high school diploma or its equivalent.

5 (3) The education shall be provided at the worksite
6 and in coordination with the certified nursing assistant's
7 work schedule.

8 (4) Faculty shall provide the instruction under an
9 approved nursing program pursuant to section 464.019, Florida
10 Statutes.

11 (5) The education shall prepare the certified nursing
12 assistant to meet the requirements for certification as a
13 geriatric specialist. The didactic and clinical education
14 shall include all portions of the practical nursing curriculum
15 pursuant to section 464.019, Florida Statutes, except for
16 pediatric and obstetric/maternal-child education, and shall
17 include additional education in the care of ill, injured, or
18 infirm geriatric patients and the maintenance of health, the
19 prevention of injury, and the provision of palliative care for
20 geriatric patients.

21 Section 27. Certified Geriatric Specialty Nursing
22 Initiative Steering Committee.--

23 (1) In order to guide the implementation of the
24 Certified Geriatric Specialist Preparation Pilot Program,
25 there is created a Certified Geriatric Specialty Nursing
26 Initiative Steering Committee. The steering committee shall be
27 composed of the following members:

28 (a) The chair of the Board of Nursing or his or her
29 designee;

30 (b) A representative of the Agency for Workforce
31 Innovation, appointed by the Director of Workforce Innovation;

1 (c) A representative of Workforce Florida, Inc.,
2 appointed by the chair of the Board of Directors of Workforce
3 Florida, Inc.;

4 (d) A representative of the Department of Education,
5 appointed by the Secretary of Education;

6 (e) A representative of the Agency for Health Care
7 Administration, appointed by the Secretary of Health Care
8 Administration;

9 (f) The Director of the Florida Center for Nursing;
10 and

11 (g) A representative of a Gold Seal nursing home that
12 is not one of the pilot program sites, appointed by the
13 Secretary of Health Care Administration.

14 (2) The steering committee shall:

15 (a) Provide consultation and guidance to the Agency
16 for Workforce Innovation on matters of policy during the
17 implementation of the pilot program; and

18 (b) Provide oversight to the evaluation of the pilot
19 program.

20 (3) Members of the steering committee are entitled to
21 reimbursement for per diem and travel expenses under section
22 112.061, Florida Statutes.

23 (4) The steering committee shall complete its
24 activities by June 30, 2006, and the authorization for the
25 steering committee ends on that date.

26 Section 28. Evaluation of the Certified Geriatric
27 Specialist Preparation Pilot Program.--The Agency for
28 Workforce Innovation, in consultation with the Certified
29 Geriatric Specialty Nursing Initiative Steering Committee,
30 shall conduct, or contract for an evaluation of the pilot
31 program. The agency shall ensure that an evaluation report is

1 submitted to the Governor, the President of the Senate, and
2 the Speaker of the House of Representatives by January 1,
3 2006. The evaluation must address the experience and success
4 of the certified nursing assistants in the pilot program and
5 must contain recommendations regarding the expansion of the
6 delivery of geriatric nursing education in nursing homes.

7 Section 29. Reports.--The Agency for Workforce
8 Innovation shall submit status reports and recommendations
9 regarding legislation necessary to further the implementation
10 of the pilot program to the Governor, the President of the
11 Senate, and the Speaker of the House of Representatives on
12 January 1, 2004, January 1, 2005, and January 1, 2006.

13 Section 30. Section 464.0125, Florida Statutes, is
14 created to read:

15 464.0125 Certified geriatric specialists;
16 certification requirements.--

17 (1) DEFINITIONS; RESPONSIBILITIES.--

18 (a) As used in this section, the term:

19 1. "Certified geriatric specialist" means a person who
20 meets the qualifications specified in this section and who is
21 certified by the board to practice as a certified geriatric
22 specialist.

23 2. "Geriatric patient" means any patient who is 60
24 years of age or older.

25 3. "Practice of certified geriatric specialty nursing"
26 means the performance of selected acts in facilities licensed
27 under part II or part III of chapter 400, including the
28 administration of treatments and medications, in the care of
29 ill, injured, or infirm geriatric patients and the promotion
30 of wellness, maintenance of health, and prevention of illness
31 of geriatric patients under the direction of a registered

1 nurse, a licensed physician, a licensed osteopathic physician,
2 a licensed podiatric physician, or a licensed dentist. The
3 scope of practice of a certified geriatric specialist includes
4 the practice of practical nursing as defined in s. 464.003 for
5 geriatric patients only, except for any act in which
6 instruction and clinical knowledge of pediatric nursing or
7 obstetric/maternal-child nursing is required. A certified
8 geriatric specialist, while providing nursing services in
9 facilities licensed under part II or part III of chapter 400,
10 may supervise the activities of certified nursing assistants
11 and other unlicensed personnel providing services in such
12 facilities in accordance with rules adopted by the board.

13 (b) The certified geriatric specialist shall be
14 responsible and accountable for making decisions that are
15 based upon the individual's educational preparation and
16 experience in performing certified geriatric specialty
17 nursing.

18 (2) CERTIFICATION.--

19 (a) Any certified nursing assistant desiring to be
20 certified as a certified geriatric specialist shall apply to
21 the department and submit proof that he or she holds a current
22 certificate as a certified nursing assistant under this part
23 and has satisfactorily completed the following requirements:

24 1. Is in good mental and physical health, is a
25 recipient of a high school diploma or its equivalent and has
26 completed the requirements for graduation from an approved
27 program for nursing or its equivalent, as determined by the
28 board, for the preparation of licensed practical nurses,
29 except for instruction and clinical knowledge of pediatric
30 nursing or obstetric/maternal-child nursing. Any program that
31 is approved on July 1, 2003, by the board for the preparation

1 of registered nurses or licensed practical nurses may provide
2 education for the preparation of certified geriatric
3 specialists without further board approval.

4 2. Has the ability to communicate in the English
5 language, which may be determined by an examination given by
6 the department.

7 3. Has provided sufficient information, which must be
8 submitted by the department for a statewide criminal records
9 correspondence check through the Department of Law
10 Enforcement.

11 (b) Each applicant who meets the requirements of this
12 subsection shall, unless denied pursuant to s. 464.018, be
13 entitled to certification as a certified geriatric specialist.
14 The board shall certify, and the department shall issue a
15 certificate to practice as a certified geriatric specialist
16 to, any certified nursing assistant meeting the qualifications
17 in this section. The board shall establish an application fee
18 not to exceed \$100 and a biennial renewal fee not to exceed
19 \$50. The board may adopt rules to administer this section.

20 (c) A person receiving certification under this
21 section shall:

22 1. Work only within the confines of a facility
23 licensed under part II or part III of chapter 400.

24 2. Care for geriatric patients only.

25 3. Comply with the minimum standards of practice for
26 nurses and be subject to disciplinary action for violations of
27 s. 464.018.

28 (3) ARTICULATION.--Any certified geriatric specialist
29 who completes the additional instruction and coursework in an
30 approved nursing program pursuant to s. 464.019 for the
31 preparation of practical nursing in the areas of pediatric

1 nursing and obstetric/maternal-child nursing shall, unless
2 denied pursuant to s. 464.018, be entitled to licensure as a
3 licensed practical nurse if the applicant otherwise meets the
4 requirements of s. 464.008.

5 (4) TITLES AND ABBREVIATIONS; RESTRICTIONS;

6 PENALTIES.--

7 (a) Only persons who hold certificates to practice as
8 certified geriatric specialists in this state or who are
9 performing services within the practice of certified geriatric
10 specialty nursing pursuant to the exception set forth in s.
11 464.022(8) shall have the right to use the title "Certified
12 Geriatric Specialist" and the abbreviation "C.G.S."

13 (b) No person shall practice or advertise as, or
14 assume the title of, certified geriatric specialist or use the
15 abbreviation "C.G.S." or take any other action that would lead
16 the public to believe that person was certified as such or is
17 performing services within the practice of certified geriatric
18 specialty nursing pursuant to the exception set forth in s.
19 464.022(8), unless that person is certified to practice as
20 such.

21 (c) A violation of this subsection is a misdemeanor of
22 the first degree, punishable as provided in s. 775.082 or s.
23 775.083.

24 (5) VIOLATIONS AND PENALTIES.--Practicing certified
25 geriatric specialty nursing, as defined in this section,
26 without holding an active certificate to do so constitutes a
27 felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084.

29 Section 31. Paragraph (b) of subsection (1) of section
30 381.00315, Florida Statutes, is amended to read:

31

1 381.00315 Public health advisories; public health
2 emergencies.--The State Health Officer is responsible for
3 declaring public health emergencies and issuing public health
4 advisories.

5 (1) As used in this section, the term:

6 (b) "Public health emergency" means any occurrence, or
7 threat thereof, whether natural or man made, which results or
8 may result in substantial injury or harm to the public health
9 from infectious disease, chemical agents, nuclear agents,
10 biological toxins, or situations involving mass casualties or
11 natural disasters. Prior to declaring a public health
12 emergency, the State Health Officer shall, to the extent
13 possible, consult with the Governor and shall notify the Chief
14 of Domestic Security Initiatives as created in s. 943.03. The
15 declaration of a public health emergency shall continue until
16 the State Health Officer finds that the threat or danger has
17 been dealt with to the extent that the emergency conditions no
18 longer exist and he or she terminates the declaration.

19 However, a declaration of a public health emergency may not
20 continue for longer than 60 days unless the Governor concurs
21 in the renewal of the declaration. The State Health Officer,
22 upon declaration of a public health emergency, may take
23 actions that are necessary to protect the public health. Such
24 actions include, but are not limited to:

25 1. Directing manufacturers of prescription drugs or
26 over-the-counter drugs who are permitted under chapter 499 and
27 wholesalers of prescription drugs located in this state who
28 are permitted under chapter 499 to give priority to the
29 shipping of specified drugs to pharmacies and health care
30 providers within geographic areas that have been identified by
31 the State Health Officer. The State Health Officer must

1 identify the drugs to be shipped. Manufacturers and
2 wholesalers located in the state must respond to the State
3 Health Officer's priority shipping directive before shipping
4 the specified drugs.

5 2. Notwithstanding chapters 465 and 499 and rules
6 adopted thereunder, directing pharmacists employed by the
7 department to compound bulk prescription drugs and provide
8 these bulk prescription drugs to physicians and nurses of
9 county health departments or any qualified person authorized
10 by the State Health Officer for administration to persons as
11 part of a prophylactic or treatment regimen.

12 3. Notwithstanding s. 456.036, temporarily
13 reactivating the inactive license of the following health care
14 practitioners, when such practitioners are needed to respond
15 to the public health emergency: physicians licensed under
16 chapter 458 or chapter 459; physician assistants licensed
17 under chapter 458 or chapter 459; certified geriatric
18 specialists certified under part I of chapter 464; licensed
19 practical nurses, registered nurses, and advanced registered
20 nurse practitioners licensed under part I of chapter 464;
21 respiratory therapists licensed under part V of chapter 468;
22 and emergency medical technicians and paramedics certified
23 under part III of chapter 401. Only those health care
24 practitioners specified in this paragraph who possess an
25 unencumbered inactive license and who request that such
26 license be reactivated are eligible for reactivation. An
27 inactive license that is reactivated under this paragraph
28 shall return to inactive status when the public health
29 emergency ends or prior to the end of the public health
30 emergency if the State Health Officer determines that the
31 health care practitioner is no longer needed to provide

1 services during the public health emergency. Such licenses may
2 only be reactivated for a period not to exceed 90 days without
3 meeting the requirements of s. 456.036 or chapter 401, as
4 applicable.

5 4. Ordering an individual to be examined, tested,
6 vaccinated, treated, or quarantined for communicable diseases
7 that have significant morbidity or mortality and present a
8 severe danger to public health. Individuals who are unable or
9 unwilling to be examined, tested, vaccinated, or treated for
10 reasons of health, religion, or conscience may be subjected to
11 quarantine.

12 a. Examination, testing, vaccination, or treatment may
13 be performed by any qualified person authorized by the State
14 Health Officer.

15 b. If the individual poses a danger to the public
16 health, the State Health Officer may subject the individual to
17 quarantine. If there is no practical method to quarantine the
18 individual, the State Health Officer may use any means
19 necessary to vaccinate or treat the individual.

20
21 Any order of the State Health Officer given to effectuate this
22 paragraph shall be immediately enforceable by a law
23 enforcement officer under s. 381.0012.

24 Section 32. Subsection (14) of section 400.021,
25 Florida Statutes, is amended to read:

26 400.021 Definitions.--When used in this part, unless
27 the context otherwise requires, the term:

28 (14) "Nursing service" means such services or acts as
29 may be rendered, directly or indirectly, to and in behalf of a
30 person by individuals as defined in ~~ss.s-~~464.003 and
31 464.0125.

1 Section 33. Subsection (1) of section 400.211, Florida
2 Statutes, is amended to read:

3 400.211 Persons employed as nursing assistants;
4 certification requirement.--

5 (1) To serve as a nursing assistant in any nursing
6 home, a person must be certified as a nursing assistant under
7 part II of chapter 464, unless the person is a registered
8 nurse, a or practical nurse, or a certified geriatric
9 specialist certified or licensed in accordance with part I of
10 chapter 464 or an applicant for such licensure who is
11 permitted to practice nursing in accordance with rules adopted
12 by the Board of Nursing pursuant to part I of chapter 464.

13 Section 34. Paragraphs (a) and (c) of subsection (3)
14 of section 400.23, Florida Statutes, are amended to read:

15 400.23 Rules; evaluation and deficiencies; licensure
16 status.--

17 (3)(a) The agency shall adopt rules providing for the
18 minimum staffing requirements for nursing homes. These
19 requirements shall include, for each nursing home facility, a
20 minimum certified nursing assistant staffing of 2.3 hours of
21 direct care per resident per day beginning January 1, 2002,
22 increasing to 2.6 hours of direct care per resident per day
23 beginning January 1, 2003, and increasing to 2.9 hours of
24 direct care per resident per day beginning January 1, 2004.
25 Beginning January 1, 2002, no facility shall staff below one
26 certified nursing assistant per 20 residents, and a minimum
27 licensed nursing staffing of 1.0 hour of direct resident care
28 per resident per day but never below one licensed nurse per 40
29 residents. For purposes of computing nursing staffing minimums
30 and ratios, certified geriatric specialists shall be
31 considered licensed nursing staff.Nursing assistants employed

1 under s. 400.211(2) may be included in computing the staffing
2 ratio for certified nursing assistants only if they provide
3 nursing assistance services to residents on a full-time basis.
4 Each nursing home must document compliance with staffing
5 standards as required under this paragraph and post daily the
6 names of staff on duty for the benefit of facility residents
7 and the public. The agency shall recognize the use of licensed
8 nurses for compliance with minimum staffing requirements for
9 certified nursing assistants, provided that the facility
10 otherwise meets the minimum staffing requirements for licensed
11 nurses and that the licensed nurses so recognized are
12 performing the duties of a certified nursing assistant. Unless
13 otherwise approved by the agency, licensed nurses counted
14 towards the minimum staffing requirements for certified
15 nursing assistants must exclusively perform the duties of a
16 certified nursing assistant for the entire shift and shall not
17 also be counted towards the minimum staffing requirements for
18 licensed nurses. If the agency approved a facility's request
19 to use a licensed nurse to perform both licensed nursing and
20 certified nursing assistant duties, the facility must allocate
21 the amount of staff time specifically spent on certified
22 nursing assistant duties for the purpose of documenting
23 compliance with minimum staffing requirements for certified
24 and licensed nursing staff. In no event may the hours of a
25 licensed nurse with dual job responsibilities be counted
26 twice.

27 (c) Licensed practical nurses licensed under chapter
28 464 who are providing nursing services in nursing home
29 facilities under this part may supervise the activities of
30 other licensed practical nurses, certified geriatric
31 specialists, ~~certified nursing assistants~~, and other

1 unlicensed personnel providing services in such facilities in
2 accordance with rules adopted by the Board of Nursing.

3 Section 35. Paragraph (b) of subsection (2) of section
4 409.908, Florida Statutes, is amended to read:

5 409.908 Reimbursement of Medicaid providers.--Subject
6 to specific appropriations, the agency shall reimburse
7 Medicaid providers, in accordance with state and federal law,
8 according to methodologies set forth in the rules of the
9 agency and in policy manuals and handbooks incorporated by
10 reference therein. These methodologies may include fee
11 schedules, reimbursement methods based on cost reporting,
12 negotiated fees, competitive bidding pursuant to s. 287.057,
13 and other mechanisms the agency considers efficient and
14 effective for purchasing services or goods on behalf of
15 recipients. If a provider is reimbursed based on cost
16 reporting and submits a cost report late and that cost report
17 would have been used to set a lower reimbursement rate for a
18 rate semester, then the provider's rate for that semester
19 shall be retroactively calculated using the new cost report,
20 and full payment at the recalculated rate shall be affected
21 retroactively. Medicare-granted extensions for filing cost
22 reports, if applicable, shall also apply to Medicaid cost
23 reports. Payment for Medicaid compensable services made on
24 behalf of Medicaid eligible persons is subject to the
25 availability of moneys and any limitations or directions
26 provided for in the General Appropriations Act or chapter 216.
27 Further, nothing in this section shall be construed to prevent
28 or limit the agency from adjusting fees, reimbursement rates,
29 lengths of stay, number of visits, or number of services, or
30 making any other adjustments necessary to comply with the
31 availability of moneys and any limitations or directions

1 provided for in the General Appropriations Act, provided the
2 adjustment is consistent with legislative intent.

3 (2)

4 (b) Subject to any limitations or directions provided
5 for in the General Appropriations Act, the agency shall
6 establish and implement a Florida Title XIX Long-Term Care
7 Reimbursement Plan (Medicaid) for nursing home care in order
8 to provide care and services in conformance with the
9 applicable state and federal laws, rules, regulations, and
10 quality and safety standards and to ensure that individuals
11 eligible for medical assistance have reasonable geographic
12 access to such care.

13 1. Changes of ownership or of licensed operator do not
14 qualify for increases in reimbursement rates associated with
15 the change of ownership or of licensed operator. The agency
16 shall amend the Title XIX Long Term Care Reimbursement Plan to
17 provide that the initial nursing home reimbursement rates, for
18 the operating, patient care, and MAR components, associated
19 with related and unrelated party changes of ownership or
20 licensed operator filed on or after September 1, 2001, are
21 equivalent to the previous owner's reimbursement rate.

22 2. The agency shall amend the long-term care
23 reimbursement plan and cost reporting system to create direct
24 care and indirect care subcomponents of the patient care
25 component of the per diem rate. These two subcomponents
26 together shall equal the patient care component of the per
27 diem rate. Separate cost-based ceilings shall be calculated
28 for each patient care subcomponent. The direct care
29 subcomponent of the per diem rate shall be limited by the
30 cost-based class ceiling, and the indirect care subcomponent
31 shall be limited by the lower of the cost-based class ceiling,

1 by the target rate class ceiling, or by the individual
2 provider target. The agency shall adjust the patient care
3 component effective January 1, 2002. The cost to adjust the
4 direct care subcomponent shall be net of the total funds
5 previously allocated for the case mix add-on. The agency shall
6 make the required changes to the nursing home cost reporting
7 forms to implement this requirement effective January 1, 2002.

8 3. The direct care subcomponent shall include salaries
9 and benefits of direct care staff providing nursing services
10 including registered nurses, licensed practical nurses,
11 certified geriatric specialists, certified under part I of
12 chapter 464,and certified nursing assistants who deliver care
13 directly to residents in the nursing home facility. This
14 excludes nursing administration, MDS, and care plan
15 coordinators, staff development, and staffing coordinator.

16 4. All other patient care costs shall be included in
17 the indirect care cost subcomponent of the patient care per
18 diem rate. There shall be no costs directly or indirectly
19 allocated to the direct care subcomponent from a home office
20 or management company.

21 5. On July 1 of each year, the agency shall report to
22 the Legislature direct and indirect care costs, including
23 average direct and indirect care costs per resident per
24 facility and direct care and indirect care salaries and
25 benefits per category of staff member per facility.

26 6. In order to offset the cost of general and
27 professional liability insurance, the agency shall amend the
28 plan to allow for interim rate adjustments to reflect
29 increases in the cost of general or professional liability
30 insurance for nursing homes. This provision shall be
31

1 implemented to the extent existing appropriations are
2 available.

3
4 It is the intent of the Legislature that the reimbursement
5 plan achieve the goal of providing access to health care for
6 nursing home residents who require large amounts of care while
7 encouraging diversion services as an alternative to nursing
8 home care for residents who can be served within the
9 community. The agency shall base the establishment of any
10 maximum rate of payment, whether overall or component, on the
11 available moneys as provided for in the General Appropriations
12 Act. The agency may base the maximum rate of payment on the
13 results of scientifically valid analysis and conclusions
14 derived from objective statistical data pertinent to the
15 particular maximum rate of payment.

16 Section 36. Subsection (2) of section 458.303, Florida
17 Statutes, is amended to read:

18 458.303 Provisions not applicable to other
19 practitioners; exceptions, etc.--

20 (2) Nothing in s. 458.301, s. 458.303, s. 458.305, s.
21 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s.
22 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s.
23 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347
24 shall be construed to prohibit any service rendered by a
25 registered nurse, ~~or~~ or a licensed practical nurse, or a
26 certified geriatric specialist certified under part I of
27 chapter 464, if such service is rendered under the direct
28 supervision and control of a licensed physician who provides
29 specific direction for any service to be performed and gives
30 final approval to all services performed. Further, nothing in
31 this or any other chapter shall be construed to prohibit any

1 service rendered by a medical assistant in accordance with the
2 provisions of s. 458.3485.

3 Section 37. Subsection (1) and paragraph (a) of
4 subsection (2) of section 1009.65, Florida Statutes, are
5 amended to read:

6 1009.65 Medical Education Reimbursement and Loan
7 Repayment Program.--

8 (1) To encourage qualified medical professionals to
9 practice in underserved locations where there are shortages of
10 such personnel, there is established the Medical Education
11 Reimbursement and Loan Repayment Program. The function of the
12 program is to make payments that offset loans and educational
13 expenses incurred by students for studies leading to a medical
14 or nursing degree, medical or nursing licensure, or advanced
15 registered nurse practitioner certification or physician
16 assistant licensure. The following licensed or certified
17 health care professionals are eligible to participate in this
18 program: medical doctors with primary care specialties,
19 doctors of osteopathic medicine with primary care specialties,
20 physician's assistants, certified geriatric specialists
21 certified under part I of chapter 464, licensed practical
22 nurses and registered nurses, and advanced registered nurse
23 practitioners with primary care specialties such as certified
24 nurse midwives. Primary care medical specialties for
25 physicians include obstetrics, gynecology, general and family
26 practice, internal medicine, pediatrics, and other specialties
27 which may be identified by the Department of Health.

28 (2) From the funds available, the Department of Health
29 shall make payments to selected medical professionals as
30 follows:

31

1 (a) Up to \$4,000 per year for certified geriatric
2 specialists certified under part I of chapter 464, licensed
3 practical nurses, and registered nurses, up to \$10,000 per
4 year for advanced registered nurse practitioners and
5 physician's assistants, and up to \$20,000 per year for
6 physicians. Penalties for noncompliance shall be the same as
7 those in the National Health Services Corps Loan Repayment
8 Program. Educational expenses include costs for tuition,
9 matriculation, registration, books, laboratory and other fees,
10 other educational costs, and reasonable living expenses as
11 determined by the Department of Health.

12 Section 38. Subsection (2) of section 1009.66, Florida
13 Statutes, is amended to read:

14 1009.66 Nursing Student Loan Forgiveness Program.--

15 (2) To be eligible, a candidate must have graduated
16 from an accredited or approved nursing program and have
17 received a Florida license as a licensed practical nurse, a
18 certified geriatric specialist certified under part I of
19 chapter 464, or a registered nurse or a Florida certificate as
20 an advanced registered nurse practitioner.

21 Section 39. The sum of \$157,017 is appropriated from
22 the General Revenue Fund to the Agency for Workforce
23 Innovation to support the work of the Certified Geriatric
24 Specialty Nursing Initiative Steering Committee, to administer
25 the pilot sites, contract for an evaluation, and to provide,
26 if necessary, nursing faculty, substitute certified nursing
27 assistants for those who are in clinical education, and
28 technical support to the pilot sites during the 2003-2004
29 fiscal year.

30 Section 40. Subsection (6) is added to section
31 464.201, Florida Statutes, to read:

1 464.201 Definitions.--As used in this part, the term:
2 (6) "Practice of a certified nursing assistant" means
3 providing care and assisting persons with tasks relating to
4 the activities of daily living. Such tasks are those
5 associated with personal care, maintaining mobility, nutrition
6 and hydration, toileting and elimination, assistive devices,
7 safety and cleanliness, data gathering, reporting abnormal
8 signs and symptoms, post mortem care, patient socialization
9 and reality orientation, end-of-life care, CPR and emergency
10 care, residents' or patients' rights, documentation of nursing
11 assistant services, and other tasks that a certified nurse
12 assistant may perform after training beyond that required for
13 initial certification and upon validation of competence in
14 that skill by a registered nurse. This section does not
15 restrict the ability of any person who is otherwise trained
16 and educated from performing such tasks.

17 Section 41. Section 464.202, Florida Statutes, is
18 amended to read:

19 464.202 Duties and powers of the board.--The board
20 shall maintain, or contract with or approve another entity to
21 maintain, a state registry of certified nursing assistants.
22 The registry must consist of the name of each certified
23 nursing assistant in this state; other identifying information
24 defined by board rule; certification status; the effective
25 date of certification; other information required by state or
26 federal law; information regarding any crime or any abuse,
27 neglect, or exploitation as provided under chapter 435; and
28 any disciplinary action taken against the certified nursing
29 assistant. The registry shall be accessible to the public, the
30 certificateholder, employers, and other state agencies. The
31 board shall adopt by rule testing procedures for use in

1 certifying nursing assistants and shall adopt rules regulating
2 the practice of certified nursing assistants which specify the
3 scope of practice authorized and level of supervision required
4 for the practice of certified nursing assistants ~~to enforce~~
5 ~~this part~~. The board may contract with or approve another
6 entity or organization to provide the examination services,
7 including the development and administration of examinations.
8 The board shall require that the contract provider offer
9 certified nursing assistant applications via the Internet, and
10 may require the contract provider to accept certified nursing
11 assistant applications for processing via the Internet. The
12 board shall require the contract provider to provide the
13 preliminary results of the certified nursing examination on
14 the date the test is administered. The provider shall pay all
15 reasonable costs and expenses incurred by the board in
16 evaluating the provider's application and performance during
17 the delivery of services, including examination services and
18 procedures for maintaining the certified nursing assistant
19 registry.

20 Section 42. Section 464.203, Florida Statutes, is
21 amended to read:

22 464.203 Certified nursing assistants; certification
23 requirement.--

24 (1) The board shall issue a certificate to practice as
25 a certified nursing assistant to any person who demonstrates a
26 minimum competency to read and write and successfully passes
27 the required ~~Level I or Level II~~ screening required under
28 paragraph (e) and pursuant to s. 400.215 and meets one of the
29 following requirements:

30 (a) Has successfully completed an approved training
31 program and achieved a minimum score, established by rule of

1 the board, on the nursing assistant competency examination,
2 which consists of a written portion and skills-demonstration
3 portion approved by the board and administered at a site and
4 by personnel approved by the department.

5 (b) Has achieved a minimum score, established by rule
6 of the board, on the nursing assistant competency examination,
7 which consists of a written portion and skills-demonstration
8 portion, approved by the board and administered at a site and
9 by personnel approved by the department and:

- 10 1. Has a high school diploma, or its equivalent; or
- 11 2. Is at least 18 years of age.

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

16 (d) Has completed the curriculum developed under the
17 Enterprise Florida Jobs and Education Partnership Grant and
18 achieved a minimum score, established by rule of the board, on
19 the nursing assistant competency examination, which consists
20 of a written portion and skills-demonstration portion,
21 approved by the board and administered at a site and by
22 personnel approved by the department.

23 (e) Has submitted to the department a set of
24 fingerprints on a form and under procedures specified by the
25 department, along with a payment in an amount equal to the
26 costs incurred by the Department of Health for the criminal
27 background check of the applicant. The Department of Health
28 shall submit the fingerprints provided by the applicant to the
29 Department of Law Enforcement for a statewide criminal history
30 check, and the Department of Law Enforcement shall forward the
31 fingerprints to the Federal Bureau of Investigation for a

1 national criminal history check of the applicant. The
2 Department of Health shall review the results of the criminal
3 history check, issue a license to an applicant who has met all
4 of the other requirements for licensure and has no criminal
5 history, and shall refer all applicants with criminal
6 histories back to the board for determination as to whether a
7 license should be issued and under what conditions.

8 (2) If an applicant fails to pass the nursing
9 assistant competency examination in three attempts, the
10 applicant is not eligible for reexamination unless the
11 applicant completes an approved training program.

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

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

18 (5) Certification as a nursing assistant, in
19 accordance with this part, may be renewed ~~continues in effect~~
20 until such time as the nursing assistant allows a period of 24
21 consecutive months to pass during which period the nursing
22 assistant fails to perform any nursing-related services for
23 monetary compensation. When a nursing assistant fails to
24 perform any nursing-related services for monetary compensation
25 for a period of 24 consecutive months, the nursing assistant
26 must complete a new training and competency evaluation program
27 or a new competency evaluation program.

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

30 (7) A certified nursing assistant shall complete 12 ~~18~~
31 hours of inservice training during each calendar year. The

1 certified nursing assistant shall be responsible for
2 maintaining documentation demonstrating compliance with these
3 provisions. The Council on Certified Nursing Assistants, in
4 accordance with s. 464.2085(2)(b), shall propose rules to
5 implement this subsection.

6 (8) The department shall renew a certificate upon
7 receipt of the renewal application and a fee, which may not
8 exceed \$50 biennially. The department shall adopt rules
9 establishing a procedure for the biennial renewal of
10 certificates.

11 Section 43. Subsection (1) of section 464.204, Florida
12 Statutes, is amended to read:

13 464.204 Denial, suspension, or revocation of
14 certification; disciplinary actions.--

15 (1) The following acts constitute grounds for which
16 the board may impose disciplinary sanctions as specified in
17 subsection (2):

18 (a) Obtaining or attempting to obtain certification or
19 an exemption, or possessing or attempting to possess
20 certification or a letter of exemption, by bribery,
21 misrepresentation, deceit, or through an error of the board.

22 (b) ~~Intentionally~~ Violating any provision of part I or
23 part II of this chapter, chapter 456, or the rules adopted by
24 the board.

25 Section 44. Section 467.013, Florida Statutes, is
26 amended to read:

27 467.013 Inactive status.--A licensee may request that
28 his or her license be placed in an inactive status by making
29 application to the department pursuant to department rule and
30 paying a fee.

31

1 ~~(1) An inactive license may be renewed for one~~
2 ~~additional biennium upon application to the department and~~
3 ~~payment of the applicable biennium renewal fee. The department~~
4 ~~shall establish by rule procedures and fees for applying to~~
5 ~~place a license on inactive status, renewing an inactive~~
6 ~~license, and reactivating an inactive license. The fee for any~~
7 ~~of these procedures may not exceed the biennial renewal fee~~
8 ~~established by the department.~~

9 ~~(2) Any license that is not renewed by the end of the~~
10 ~~biennium established by the department automatically reverts~~
11 ~~to involuntary inactive status unless the licensee has applied~~
12 ~~for voluntary inactive status. Such license may be reactivated~~
13 ~~only if the licensee meets the requirements for reactivating~~
14 ~~the license established by department rule.~~

15 ~~(3) A midwife who desires to reactivate an inactive~~
16 ~~license shall apply to the department, complete the~~
17 ~~reactivation application, remit the applicable fees, and~~
18 ~~submit proof of compliance with the requirements for~~
19 ~~continuing education established by department rule.~~

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

24 ~~(5) The licensee shall submit to the department~~
25 ~~evidence of participation in 10 hours of continuing education,~~
26 ~~approved by the department and clinically related to the~~
27 ~~practice of midwifery, for each year of the biennium in which~~
28 ~~the license was inactive. This requirement is in addition to~~
29 ~~submitting evidence of completing the continuing education~~
30 ~~required for the most recent biennium in which the licensee~~
31 ~~held an active license.~~

1 Section 45. Section 467.0135, Florida Statutes, is
2 amended to read:

3 467.0135 Fees.--The department shall establish fees
4 for application, ~~examination~~, initial licensure, renewal of
5 licensure, licensure by endorsement, inactive status,
6 delinquent status, and reactivation of an inactive license.
7 The appropriate fee must be paid at the time of application
8 and is payable to the Department of Health, in accordance with
9 rules adopted by the department. A fee is nonrefundable,
10 unless otherwise provided by rule. A fee may not exceed:

11 ~~(1) Five hundred dollars for examination.~~

12 (1)~~(2)~~ Five hundred dollars for initial licensure.

13 (2)~~(3)~~ Five hundred dollars for renewal of an active
14 license licensure.

15 (3)~~(4)~~ Two hundred dollars for application, ~~which fee~~
16 ~~is nonrefundable~~.

17 (4)~~(5)~~ Five hundred dollars for renewal ~~reactivation~~
18 of an inactive license.

19 (5)~~(6)~~ Five hundred dollars for licensure by
20 endorsement.

21
22 A fee for inactive status, reactivation of an inactive
23 license, or delinquency may not exceed the fee established by
24 the department for biennial renewal of an active license. All
25 fees collected under this section shall be deposited in the
26 Medical Quality Assurance Trust Fund.

27 Section 46. Subsection (1) of section 467.017, Florida
28 Statutes, is amended to read:

29 467.017 Emergency care plan; immunity.--

30 (1) Every licensed midwife shall develop a written
31 plan for the appropriate delivery of emergency care. A copy

1 of the plan shall accompany any application for license
2 issuance and must be made available upon the request of the
3 department ~~or renewal~~. The plan shall address the following:

4 (a) Consultation with other health care providers.

5 (b) Emergency transfer.

6 (c) Access to neonatal intensive care units and
7 obstetrical units or other patient care areas.

8 Section 47. Section 468.352, Florida Statutes, is
9 amended to read:

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

12 468.352 Definitions.--As used in this part, the term:

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

14 (2) "Certified respiratory therapist" means any person
15 licensed pursuant to this part who is certified by the
16 National Board for Respiratory Care or its successor; who is
17 employed to deliver respiratory care services, under the order
18 of a physician licensed pursuant to chapter 458 or chapter
19 459, in accordance with protocols established by a hospital or
20 other health care provider or the board; and who functions in
21 situations of unsupervised patient contact requiring
22 individual judgment.

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

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

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

30 (6) "Physician supervision" means supervision and
31 control by a physician licensed under chapter 458 or chapter

1 459 who assumes the legal liability for the services rendered
2 by the personnel employed in his or her office. Except in the
3 case of an emergency, physician supervision requires the easy
4 availability of the physician within the office or the
5 physical presence of the physician for consultation and
6 direction of the actions of the persons who deliver
7 respiratory care services.

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

17 (8) "Registered respiratory therapist" means any
18 person licensed under this part who is registered by the
19 National Board for Respiratory Care or its successor, and who
20 is employed to deliver respiratory care services under the
21 order of a physician licensed under chapter 458 or chapter
22 459, in accordance with protocols established by a hospital or
23 other health care provider or the board, and who functions in
24 situations of unsupervised patient contact requiring
25 individual judgment.

26 (9) "Respiratory care practitioner" means any person
27 licensed under this part who is employed to deliver
28 respiratory care services, under direct supervision, pursuant
29 to the order of a physician licensed under chapter 458 or
30 chapter 459.

31 (10) "Respiratory care services" includes:

- 1 (a) Evaluation and disease management.
2 (b) Diagnostic and therapeutic use of respiratory
3 equipment, devices, or medical gas.
4 (c) Administration of drugs, as duly ordered or
5 prescribed by a physician licensed under chapter 458 or
6 chapter 459 and in accordance with protocols, policies, and
7 procedures established by a hospital or other health care
8 provider or the board.
9 (d) Initiation, management, and maintenance of
10 equipment to assist and support ventilation and respiration.
11 (e) Diagnostic procedures, research, and therapeutic
12 treatment and procedures, including measurement of ventilatory
13 volumes, pressures, and flows; specimen collection and
14 analysis of blood for gas transport and acid/base
15 determinations; pulmonary-function testing; and other related
16 physiological monitoring of cardiopulmonary systems.
17 (f) Cardiopulmonary rehabilitation.
18 (g) Cardiopulmonary resuscitation, advanced cardiac
19 life support, neonatal resuscitation, and pediatric advanced
20 life support, or equivalent functions.
21 (h) Insertion and maintenance of artificial airways
22 and intravascular catheters.
23 (i) Performing sleep-disorder studies.
24 (j) Education of patients, families, the public, or
25 other health care providers, including disease process and
26 management programs and smoking prevention and cessation
27 programs.
28 (k) Initiation and management of hyperbaric oxygen.
29 Section 48. Section 468.355, Florida Statutes, is
30 amended to read:
31 (Substantial rewording of section. See

1 s. 468.355, F.S., for present text.)
2 468.355 Licensure requirements.--To be eligible for
3 licensure by the board, an applicant must be an active
4 "Certified Respiratory Therapist" or be an active "Registered
5 Respiratory Therapist" by the National Board for Respiratory
6 Care, or its successor.
7 Section 49. Section 468.368, Florida Statutes, is
8 amended to read:
9 (Substantial rewording of section. See
10 s. 468.368, F.S., for present text.)
11 468.368 Exemptions.--This part may not be construed to
12 prevent or restrict the practice, service, or activities of:
13 (1) Any person licensed in this state by any other law
14 from engaging in the profession or occupation for which he or
15 she is licensed.
16 (2) Any legally qualified person in the state or
17 another state or territory who is employed by the United
18 States Government or any agency thereof while such person is
19 discharging his or her official duties.
20 (3) A friend or family member who is providing
21 respiratory care services to an ill person and who does not
22 represent himself or herself to be a respiratory care
23 practitioner or respiratory therapist.
24 (4) An individual providing respiratory care services
25 in an emergency who does not represent himself or herself as a
26 respiratory care practitioner or respiratory therapist.
27 (5) Any individual employed to deliver, assemble, set
28 up, or test equipment for use in a home, upon the order of a
29 physician licensed pursuant to chapter 458 or chapter 459.
30 This subsection does not, however, authorize the practice of
31 respiratory care without a license.

1 (6) Any individual performing polysomnography under
2 medical direction as related to the diagnosis and evaluation
3 of treatment for sleep disorders.

4 (7) Any individual certified or registered as a
5 pulmonary function technologist who is credentialed by the
6 National Board for Respiratory Care for performing
7 cardiopulmonary diagnostic studies.

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

12 (9) The delivery of incidental respiratory care to
13 noninstitutionalized persons by surrogate family members who
14 do not represent themselves as registered or certified
15 respiratory care therapists.

16 (10) Any individual credentialed by the Underseas
17 Hyperbaric Society in hyperbaric medicine or its equivalent as
18 determined by the board, while performing related duties. This
19 subsection does not, however, authorize the practice of
20 respiratory care without a license.

21 Section 50. Sections 468.356 and 468.357, Florida
22 Statutes, are repealed, effective January 1, 2004.

23 Section 51. Subsection (1) of section 491.005, Florida
24 Statutes, is amended to read:

25 491.005 Licensure by examination.--

26 (1) CLINICAL SOCIAL WORK.--Upon verification of
27 documentation and payment of a fee not to exceed \$200, as set
28 by board rule, plus the actual per applicant cost to the
29 department for purchase of the examination from the American
30 Association of State Social Worker's Boards or a similar
31 national organization, the department shall issue a license as

1 a clinical social worker to an applicant who the board
2 certifies:

3 (a) Has made application therefor and paid the
4 appropriate fee.

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

12 a. Was accredited by the Council on Social Work
13 Education;

14 b. Was accredited by the Canadian Association of
15 Schools of Social Work; or

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

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

31

1 a. A supervised field placement which was part of the
2 applicant's advanced concentration in direct practice, during
3 which the applicant provided clinical services directly to
4 clients.

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

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

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

1 requirement. The experience requirement may be met by work
2 performed on or off the premises of the supervising clinical
3 social worker or the equivalent, provided the off-premises
4 work is not the independent private practice rendering of
5 clinical social work that does not have a licensed mental
6 health professional, as determined by the board, on the
7 premises at the same time the intern is providing services.

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

12 (e) Has demonstrated, in a manner designated by rule
13 of the board, knowledge of the laws and rules governing the
14 practice of clinical social work, marriage and family therapy,
15 and mental health counseling.

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

21 Section 52. Section 491.0145, Florida Statutes, is
22 amended to read:

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

30 (1) The applicant completes an application to be
31 provided by the department and pays a nonrefundable fee not to

1 exceed \$250 to be established by rule of the department. The
2 completed application must be received by the department at
3 least 60 days before the date of the examination in order for
4 the applicant to qualify to take the scheduled exam.

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

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

1 (4) Any person who holds a master's degree in social
2 work from institutions outside the United States may apply to
3 the department for certification if the academic training in
4 social work has been evaluated as equivalent to a degree from
5 a school accredited by the Council on Social Work Education.
6 Any such person shall submit a copy of the academic training
7 from the Foreign Equivalency Determination Service of the
8 Council on Social Work Education.

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

13 (6) Nothing in this chapter shall be construed to
14 authorize a certified master social worker to provide clinical
15 social work services.

16 Section 53. Section 491.0146, Florida Statutes, is
17 created to read:

18 491.0146 Savings clause.--All licenses to practice as
19 a certified master social worker issued pursuant to this
20 chapter and valid on October 1, 2002, shall remain in full
21 force and effect.

22 Section 54. Subsection (1) of section 627.912, Florida
23 Statutes, is amended to read:

24 627.912 Professional liability claims and actions;
25 reports by insurers.--

26 (1) Each self-insurer authorized under s. 627.357 and
27 each insurer or joint underwriting association providing
28 professional liability insurance to a practitioner of medicine
29 licensed under chapter 458, to a practitioner of osteopathic
30 medicine licensed under chapter 459, to a podiatric physician
31 licensed under chapter 461, to a dentist licensed under

1 chapter 466, to a hospital licensed under chapter 395, to a
2 crisis stabilization unit licensed under part IV of chapter
3 394, to a health maintenance organization certificated under
4 part I of chapter 641, to clinics included in chapter 390, to
5 an ambulatory surgical center as defined in s. 395.002, or to
6 a member of The Florida Bar shall report in duplicate to the
7 Department of Insurance any claim or action for damages for
8 personal injuries claimed to have been caused by error,
9 omission, or negligence in the performance of such insured's
10 professional services or based on a claimed performance of
11 professional services without consent, if the claim resulted
12 in:

13 (a) A final judgment in any amount.

14 (b) A settlement in any amount.

15

16 Reports shall be filed with the department and, if the insured
17 party is licensed under chapter 458, chapter 459, or chapter
18 461, and the final judgment or settlement amount was \$50,000
19 or more, if the insured party is licensed under chapter 466
20 and the final judgment or settlement amount was \$25,000 or
21 more ~~or chapter 466~~, with the Department of Health, no later
22 than 30 days following the occurrence of any event listed in
23 paragraph (a) or paragraph (b). The Department of Health shall
24 review each report and determine whether any of the incidents
25 that resulted in the claim potentially involved conduct by the
26 licensee that is subject to disciplinary action, in which case
27 the provisions of s. 456.073 shall apply. The Department of
28 Health, as part of the annual report required by s. 456.026,
29 shall publish annual statistics, without identifying
30 licensees, on the reports it receives, including final action
31

1 taken on such reports by the Department of Health or the
2 appropriate regulatory board.

3 Section 55. Paragraph (a) of subsection (1) of section
4 766.101, Florida Statutes, is amended to read:

5 766.101 Medical review committee, immunity from
6 liability.--

7 (1) As used in this section:

8 (a) The term "medical review committee" or "committee"
9 means:

10 1.a. A committee of a hospital or ambulatory surgical
11 center licensed under chapter 395 or a health maintenance
12 organization certificated under part I of chapter 641,

13 b. A committee of a physician-hospital organization, a
14 provider-sponsored organization, or an integrated delivery
15 system,

16 c. A committee of a state or local professional
17 society of health care providers,

18 d. A committee of a medical staff of a licensed
19 hospital or nursing home, provided the medical staff operates
20 pursuant to written bylaws that have been approved by the
21 governing board of the hospital or nursing home,

22 e. A committee of the Department of Corrections or the
23 Correctional Medical Authority as created under s. 945.602, or
24 employees, agents, or consultants of either the department or
25 the authority or both,

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

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

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

11 i. A peer review or utilization review committee
12 organized under chapter 440,

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

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

19 l. A committee established by a university board of
20 trustees, or

21 m. A committee comprised of faculty, residents,
22 students, and administrators of an accredited college of
23 medicine, college of nursing, or other health care discipline.

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

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

4 Section 56. Sections 456.031, 456.033, 456.034,
5 458.313, 458.316, 458.3165, and 458.317, Florida Statutes, are
6 repealed.

7 Section 57. (1) All payments made after July 1, 2003,
8 by the Department of Health to the Division of Administrative
9 Hearings which are based on a formula in effect prior to that
10 date shall revert to the Department of Health. Effective July
11 1, 2004, the Division of Administrative Hearings shall bill
12 the Department of Health in accordance with section
13 456.073(5), Florida Statutes.

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

24 Section 58. Sections 58-61 of this act may be cited as
25 the "Florida Alzheimer's Training Act."

26 Section 59. Section 400.4785, Florida Statutes, is
27 amended to read:

28 400.4785 Patients with Alzheimer's disease or other
29 related disorders; staff training requirements; certain
30 disclosures.--

31

1 (1) A home health agency must provide the following
2 staff training:

3 (a) Upon beginning employment with the agency, each
4 employee must receive basic written information about
5 interacting with participants who have Alzheimer's disease or
6 dementia-related disorders.

7 (b) In addition to the information provided under
8 paragraph (a), newly hired home health agency personnel who
9 will be providing direct care to patients must complete 2
10 hours of training in Alzheimer's disease and dementia-related
11 disorders within 9 months after beginning employment with the
12 agency. This training must include, but is not limited to, an
13 overview of dementia, a demonstration of basic skills in
14 communicating with persons who have dementia, the management
15 of problem behaviors, information about promoting the client's
16 independence in activities of daily living, and instruction in
17 skills for working with families and caregivers.

18 (c) For certified nursing assistants, the required 2
19 hours of training shall be part of the total hours of training
20 required annually.

21 (d) For a health care practitioner as defined in s.
22 456.001, continuing education hours taken as required by that
23 practitioner's licensing board shall be counted toward this
24 total of 2 hours.

25 (e) For an employee who is a licensed health care
26 practitioner as defined in s. 456.001, training that is
27 sanctioned by that practitioner's licensing board shall be
28 considered to be approved by the Department of Elderly
29 Affairs.

30 (f) The Department of Elderly Affairs, or its
31 designee, must approve the required training. The department

1 must consider for approval training offered in a variety of
2 formats. The department shall keep a list of current providers
3 who are approved to provide the 2-hour training. The
4 department shall adopt rules to establish standards for
5 employees who are subject to this training and for the
6 trainers and the training required in this section.

7 (g) Upon completing the training listed in this
8 section, the employee shall be issued a certificate that
9 states that the training mandated under this section has been
10 received. The certificate shall be dated and signed by the
11 training provider. The certificate is evidence of completion
12 of this training, and the employee is not required to repeat
13 this training if the employee changes employment to a
14 different home health agency.

15 (h) An employee who is hired on or after July 1, 2004,
16 must complete the required training by July 1, 2005, or by the
17 deadline specified in this section, whichever is later.

18 (2) An agency licensed under this part which claims
19 that it provides special care for persons who have Alzheimer's
20 disease or other related disorders must disclose in its
21 advertisements or in a separate document those services that
22 distinguish the care as being especially applicable to, or
23 suitable for, such persons. The agency must give a copy of all
24 such advertisements or a copy of the document to each person
25 who requests information about the agency and must maintain a
26 copy of all such advertisements and documents in its records.
27 The Agency for Health Care Administration shall examine all
28 such advertisements and documents in the agency's records as
29 part of the license renewal procedure.

30 Section 60. Section 400.5571, Florida Statutes, is
31 amended to read:

1 400.5571 Patients with Alzheimer's disease or other
2 related disorders; staff training requirements; certain
3 disclosures.--

4 (1) An adult day care center licensed under this part
5 must provide the following staff training:

6 (a) Upon beginning employment with the facility, each
7 employee must receive basic written information about
8 interacting with participants who have Alzheimer's disease or
9 dementia-related disorders.

10 (b) In addition to the information provided under
11 paragraph (a), newly hired adult-day-care-center personnel who
12 are expected to, or whose responsibilities require them to,
13 have direct contact with participants who have Alzheimer's
14 disease or dementia-related disorders must complete initial
15 training of at least 1 hour within the first 3 months after
16 beginning employment. The training must include an overview of
17 dementias and must provide instruction in basic skills for
18 communicating with persons who have dementia.

19 (c) In addition to the requirements of paragraphs (a)
20 and (b), an employee who will be providing direct care to a
21 participant who has Alzheimer's disease or dementia-related
22 disorders must complete an additional 3 hours of training
23 within 9 months after beginning employment. This training must
24 include, but is not limited to, the management of problem
25 behaviors, information about promoting the participant's
26 independence in activities of daily living, and instruction in
27 skills for working with families and caregivers.

28 (d) For certified nursing assistants, the required 4
29 hours of training shall be part of the total hours of training
30 required annually.

31

1 (e) For a health care practitioner as defined in s.
2 456.001, continuing education hours taken as required by that
3 practitioner's licensing board shall be counted toward this
4 total of 4 hours.

5 (f) For an employee who is a licensed health care
6 practitioner as defined in s. 456.001, training that is
7 sanctioned by that practitioner's licensing board shall be
8 considered to be approved by the Department of Elderly
9 Affairs.

10 (g) The Department of Elderly Affairs or its designee
11 must approve the 1-hour and 3-hour training provided to
12 employees and direct caregivers under this section. The
13 department must consider for approval training offered in a
14 variety of formats. The department shall keep a list of
15 current providers who are approved to provide the 1-hour and
16 3-hour training. The department shall adopt rules to establish
17 standards for employees who are subject to this training and
18 for the trainers and the training required in this section.

19 (h) Upon completing any training described in this
20 section, the employee or direct caregiver shall be issued a
21 certificate that includes the name of the training provider,
22 the topic covered, and the date and signature of the training
23 provider. The certificate is evidence of completion of
24 training in the identified topic, and the employee or direct
25 caregiver is not required to repeat training in that topic if
26 the employee or direct caregiver changes employment to a
27 different adult day care center or to an assisted living
28 facility, nursing home, home health agency, or hospice. The
29 direct caregiver must comply with other applicable continuing
30 education requirements.

31

1 (i) An employee who is hired on or after July 1, 2003,
2 must complete the required training by July 1, 2004, or by the
3 deadline specified in this section, whichever is later.

4 (2) A center licensed under this part which claims
5 that it provides special care for persons who have Alzheimer's
6 disease or other related disorders must disclose in its
7 advertisements or in a separate document those services that
8 distinguish the care as being especially applicable to, or
9 suitable for, such persons. The center must give a copy of
10 all such advertisements or a copy of the document to each
11 person who requests information about the center and must
12 maintain a copy of all such advertisements and documents in
13 its records. The agency shall examine all such advertisements
14 and documents in the center's records as part of the license
15 renewal procedure.

16 Section 61. Section 400.6045, Florida Statutes, is
17 amended to read:

18 400.6045 Patients with Alzheimer's disease or other
19 related disorders; staff training requirements; certain
20 disclosures.--

21 (1) A hospice licensed under this part must provide
22 the following staff training:

23 (a) Upon beginning employment with the agency, each
24 employee must receive basic written information about
25 interacting with persons who have Alzheimer's disease or
26 dementia-related disorders.

27 (b) In addition to the information provided under
28 paragraph (a), employees who are expected to, or whose
29 responsibilities require them to, have direct contact with
30 participants who have Alzheimer's disease or dementia-related
31 disorders must complete initial training of at least 1 hour

1 within the first 3 months after beginning employment. The
2 training must include an overview of dementias and must
3 provide instruction in basic skills for communicating with
4 persons who have dementia.

5 (c) In addition to the requirements of paragraphs (a)
6 and (b), an employee who will be providing direct care to a
7 participant who has Alzheimer's disease or dementia-related
8 disorders must complete an additional 3 hours of training
9 within 9 months after beginning employment. This training must
10 include, but is not limited to, the management of problem
11 behaviors, information about promoting the patient's
12 independence in activities of daily living, and instruction in
13 skills for working with families and caregivers.

14 (d) For certified nursing assistants, the required 4
15 hours of training shall be part of the total hours of training
16 required annually.

17 (e) For a health care practitioner as defined in s.
18 456.001, continuing education hours taken as required by that
19 practitioner's licensing board shall be counted toward this
20 total of 4 hours.

21 (f) For an employee who is a licensed health care
22 practitioner as defined in s. 456.001, training that is
23 sanctioned by that practitioner's licensing board shall be
24 considered to be approved by the Department of Elderly
25 Affairs.

26 (g) The Department of Elderly Affairs or its designee
27 must approve the required 1-hour and 3-hour training provided
28 to employees or direct caregivers under this section. The
29 department must consider for approval training offered in a
30 variety of formats. The department shall keep a list of
31 current providers who are approved to provide the 1-hour and

1 3-hour training. The department shall adopt rules to establish
2 standards for employees who are subject to this training and
3 for the trainers and the training required in this section.

4 (h) Upon completing any training described in this
5 section, the employee or direct caregiver shall be issued a
6 certificate that includes the name of the training provider,
7 the topic covered, and the date and signature of the training
8 provider. The certificate is evidence of completion of
9 training in the identified topic, and the employee or direct
10 caregiver is not required to repeat training in that topic if
11 the employee or direct caregiver changes employment to a
12 different hospice or to a home health agency, assisted living
13 facility, nursing home, or adult day care center.

14 (i) An employee who is hired on or after July 1, 2003,
15 must complete the required training by July 1, 2004, or by the
16 deadline specified in this section, whichever is later.

17 (2) A hospice licensed under this part which claims
18 that it provides special care for persons who have Alzheimer's
19 disease or other related disorders must disclose in its
20 advertisements or in a separate document those services that
21 distinguish the care as being especially applicable to, or
22 suitable for, such persons. The hospice must give a copy of
23 all such advertisements or a copy of the document to each
24 person who requests information about programs and services
25 for persons with Alzheimer's disease or other related
26 disorders offered by the hospice and must maintain a copy of
27 all such advertisements and documents in its records. The
28 agency shall examine all such advertisements and documents in
29 the hospice's records as part of the license renewal
30 procedure.

31

1 Section 62. Except as otherwise expressly provided in
2 this act, this act shall take effect July 1, 2003, and this
3 section and sections 25-41 of this act shall take effect upon
4 becoming a law.

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 2750

9 The Committee Substitute includes the "Clara Ramsey Care of
10 the Elderly Act", which creates a category of geriatric
11 specialty nursing called certified geriatric specialist. The
12 bill establishes a scope of practice for certified geriatric
13 specialists, certification requirements, including education
14 requirements, and penalties for using the title of certified
15 geriatric specialist or for practicing geriatric specialty
16 nursing without a certificate. The Agency for Workforce
17 Innovation is required to create a pilot program for delivery
18 of geriatric nursing education to certified nursing assistants
19 who are employed in a nursing home and to submit evaluation
20 and status reports to the Governor and Legislature. The bill
21 appropriates \$157,017 to the Agency for Workforce Innovation
22 to support implementation of the pilot program.

23 The Committee Substitute requires home health agencies,
24 hospices and adult day care centers to provide written
25 information to employees, upon their beginning employment,
26 about interacting with patients or participants who have
27 Alzheimer's disease or dementia-related disorders. Employees
28 of these services must subsequently receive training in the
29 care of individuals with Alzheimer's disease or related
30 disorders.
31