

By Senator Altman

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1 A bill to be entitled
2 An act relating to medical quality assurance; amending
3 s. 395.0193, F.S.; requiring certain disciplinary
4 actions to be reported to the Division of Medical
5 Quality Assurance of the Department of Health rather
6 than the Division of Health Quality Assurance of the
7 Agency for Health Care Administration; amending s.
8 395.0197, F.S.; requiring the agency to forward copies
9 of adverse incident reports to the department;
10 amending s. 395.3025, F.S.; authorizing disclosure of
11 certain patient records to the department; requiring
12 the administrator or records custodian of a facility
13 to certify which records have been provided to the
14 department; requiring the facility to charge a fee for
15 copies of the records provided to the department;
16 amending s. 400.145, F.S.; requiring the administrator
17 or records custodian of a facility to certify which
18 records have been provided to the department; amending
19 s. 400.147, F.S.; authorizing the department to
20 receive notification of adverse incidents for purposes
21 of certain disciplinary proceedings; requiring the
22 department to review certain adverse incident reports;
23 requiring the agency to forward adverse incident
24 reports to the department; amending s. 456.001, F.S.;
25 providing a definition; amending s. 456.011, F.S.;
26 providing additional requirements for the constitution
27 of a quorum for meetings of certain committees and
28 boards operating under ch. 456, F.S.; amending s.
29 456.013, F.S.; requiring an application fee for

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30 licensure examinations; providing for extension of a
31 temporary license; revising licensure requirements;
32 authorizing the board or department to adopt rules
33 requiring the display of a professional license;
34 amending s. 456.025, F.S.; authorizing the increase of
35 certain licensure fees; authorizing the imposition of
36 reinspection fees; amending s. 456.036, F.S.;
37 prohibiting the department from renewing the license
38 of licensees owing outstanding fees, costs, or fines;
39 providing for notice; providing for renewal of a
40 license when requirements are met; amending s.
41 456.037, F.S.; authorizing the board or department to
42 require by rule the display of a business
43 establishment license; amending s. 456.063, F.S.;
44 authorizing the board or department to adopt rules
45 relating to the reporting of sexual misconduct by
46 licensed health care practitioners; amending s.
47 456.072, F.S.; providing that failure to report
48 disciplinary actions taken against a licensee's
49 license to practice is an additional ground under
50 which the practitioner is subject to discipline by the
51 department or the board having jurisdiction over the
52 practitioner; providing penalties; amending ss.
53 381.00593, 381.0303, 456.074, 456.41, 468.703,
54 627.6474, 641.315, 766.1016, 766.1116, 768.13, and
55 768.28, F.S.; conforming cross-references; providing
56 an effective date.

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

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Section 1. Subsection (4) of section 395.0193, Florida Statutes, is amended to read:

395.0193 Licensed facilities; peer review; disciplinary powers; agency or partnership with physicians.—

(4) Pursuant to ss. 458.337 and 459.016, any disciplinary actions taken under subsection (3) shall be reported in writing to the Division of Medical Health Quality Assurance of the Department of Health ~~agency~~ within 30 working days after its initial occurrence, regardless of the pendency of appeals to the governing board of the hospital. The notification shall identify the disciplined practitioner, the action taken, and the reason for such action. All final disciplinary actions taken under subsection (3), if different from those which were reported to the division ~~agency~~ within 30 days after the initial occurrence, shall be reported within 10 working days to the Division of Medical Health Quality Assurance of the department ~~agency~~ in writing and shall specify the disciplinary action taken and the specific grounds therefor. The division shall review each report and determine whether it potentially involved conduct by the licensee that is subject to disciplinary action, in which case s. 456.073 shall apply. The reports are not subject to inspection under s. 119.07(1) even if the division's investigation results in a finding of probable cause.

Section 2. Subsection (7) of section 395.0197, Florida Statutes, is amended to read:

395.0197 Internal risk management program.—

(7) Any of the following adverse incidents, whether occurring in the licensed facility or arising from health care

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88 prior to admission in the licensed facility, shall be reported
89 by the facility to the agency within 15 calendar days after its
90 occurrence:

91 (a) The death of a patient;

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

93 (c) The performance of a surgical procedure on the wrong
94 patient;

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

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

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

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

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

106

107 The agency may grant extensions to this reporting requirement
108 for more than 15 days upon justification submitted in writing by
109 the facility administrator to the agency. The agency may require
110 an additional, final report. These reports shall not be
111 available to the public pursuant to s. 119.07(1) or any other
112 law providing access to public records, nor be discoverable or
113 admissible in any civil or administrative action, except in
114 disciplinary proceedings by the agency or the appropriate
115 regulatory board, nor shall they be available to the public as
116 part of the record of investigation for and prosecution in

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117 disciplinary proceedings made available to the public by the
118 agency or the appropriate regulatory board. However, the agency
119 or the appropriate regulatory board shall make available, upon
120 written request by a health care professional against whom
121 probable cause has been found, any such records which form the
122 basis of the determination of probable cause. The agency may
123 investigate, as it deems appropriate, any such incident and
124 prescribe measures that must or may be taken in response to the
125 incident. The agency shall forward a copy of each incident
126 report received from a facility to the Division of Medical
127 Quality Assurance within the Department of Health ~~review each~~
128 ~~incident and determine whether it potentially involved conduct~~
129 ~~by the health care professional who is subject to disciplinary~~
130 ~~action, in which case the provisions of s. 456.073 shall apply.~~

131 Section 3. Paragraph (e) of subsection (4) of section
132 395.3025, Florida Statutes, is amended to read:

133 395.3025 Patient and personnel records; copies;
134 examination.-

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

139 (e) The Department of Health ~~agency~~ upon subpoena issued
140 pursuant to s. 456.071, but the records obtained thereby must be
141 used solely for the purpose of the department ~~agency~~ and the
142 appropriate professional board in its investigation,
143 prosecution, and appeal of disciplinary proceedings. The
144 administrator or records custodian in a facility licensed under
145 this chapter shall certify that true and complete copies of the

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146 records requested pursuant to a subpoena or a patient release
147 have been provided to the department or otherwise identify those
148 documents that have not been provided. If the department agency
149 requests copies of the records, the facility shall charge a
150 reasonable fee as determined by rule of the department ~~no more~~
151 ~~than its actual copying costs, including reasonable staff time.~~
152 The records must be sealed and must not be available to the
153 public pursuant to s. 119.07(1) or any other statute providing
154 access to records, nor may they be available to the public as
155 part of the record of investigation for and prosecution in
156 disciplinary proceedings made available to the public by the
157 department agency or the appropriate regulatory board. However,
158 the department agency must make available, upon written request
159 by a practitioner against whom probable cause has been found,
160 any such records that form the basis of the determination of
161 probable cause.

162 Section 4. Subsection (3) is added to section 400.145,
163 Florida Statutes, to read:

164 400.145 Records of care and treatment of resident; copies
165 to be furnished.—

166 (3) The administrator or records custodian in a facility
167 licensed under this chapter shall certify that true and complete
168 copies of records or documents subpoenaed pursuant to s. 456.057
169 or s. 456.071 or requested by a patient release have been
170 provided to the Department of Health or otherwise identify those
171 documents that have not been provided.

172 Section 5. Subsection (7) and paragraph (b) of subsection
173 (8) of section 400.147, Florida Statutes, are amended to read:

174 400.147 Internal risk management and quality assurance

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175 program.—

176 (7) The facility shall initiate an investigation and shall
177 notify the agency within 1 business day after the risk manager
178 or his or her designee has received a report pursuant to
179 paragraph (1)(d). The notification must be made in writing and
180 be provided electronically, by facsimile device or overnight
181 mail delivery. The notification must include information
182 regarding the identity of the affected resident, the type of
183 adverse incident, the initiation of an investigation by the
184 facility, and whether the events causing or resulting in the
185 adverse incident represent a potential risk to any other
186 resident. The notification is confidential as provided by law
187 and is not discoverable or admissible in any civil or
188 administrative action, except in disciplinary proceedings by the
189 Department of Health agency or the appropriate regulatory board.
190 The agency may investigate, as it deems appropriate, any such
191 incident and prescribe measures that must or may be taken in
192 response to the incident. The Department of Health agency shall
193 review each incident and determine whether it potentially
194 involved conduct by the health care professional who is subject
195 to disciplinary action, in which case the provisions of s.
196 456.073 shall apply.

197 (8)

198 (b) A copy of the adverse incident report submitted ~~The~~
199 ~~information reported~~ to the agency pursuant to paragraph (a)
200 which relates to health care practitioners as defined in s.
201 456.001(4) shall be forwarded to the Division of Medical Quality
202 Assurance within the Department of Health for review ~~persons~~
203 ~~licensed under chapter 458, chapter 459, chapter 461, or chapter~~

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204 ~~466 shall be reviewed by the agency. The agency shall determine~~
205 ~~whether any of the incidents potentially involved conduct by a~~
206 ~~health care professional who is subject to disciplinary action,~~
207 ~~in which case the provisions of s. 456.073 shall apply.~~

208 Section 6. Subsections (1) through (7) of section 456.001,
209 Florida Statutes, are renumbered as subsections (2) through (8),
210 respectively, and a new subsection (1) is added to that section
211 to read:

212 456.001 Definitions.—As used in this chapter, the term:

213 (1) "Application" means the documents required by the
214 department to initiate the licensing process, including, but not
215 limited to, the initial document filing and responses to
216 requests from the department for additional data and
217 information.

218 Section 7. Subsection (3) of section 456.011, Florida
219 Statutes, is amended to read:

220 456.011 Boards; organization; meetings; compensation and
221 travel expenses.—

222 (3) The board shall meet at least once annually and may
223 meet as often as is necessary. Meetings shall be conducted
224 through teleconferencing or other technological means, unless
225 disciplinary hearings involving standard of care, sexual
226 misconduct, fraud, impairment, or felony convictions; licensure
227 denial hearings; or controversial rule hearings are being
228 conducted; or unless otherwise approved in advance of the
229 meeting by the director of the Division of Medical Quality
230 Assurance. The chairperson or a quorum of the board shall have
231 the authority to call meetings, except as provided in this
232 subsection ~~above~~ relating to in-person meetings. A quorum shall

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233 be necessary for the conduct of official business by the board
234 or any committee thereof. Unless otherwise provided by law, 51
235 percent or more of the appointed members of the board or any
236 committee, when applicable, who have taken the oath of office
237 pursuant to s. 5, Art. II of the State Constitution shall
238 constitute a quorum. The membership of committees of the board,
239 except as otherwise authorized pursuant to this chapter or the
240 applicable practice act, shall be composed of currently
241 appointed members of the board. The vote of a majority of the
242 members of the quorum shall be necessary for any official action
243 by the board or committee. Three consecutive unexcused absences
244 or absences constituting 50 percent or more of the board's
245 meetings within any 12-month period shall cause the board
246 membership of the member in question to become void, and the
247 position shall be considered vacant. The board, or the
248 department when there is no board, shall, by rule, define
249 unexcused absences.

250 Section 8. Subsections (3) through (12) of section 456.013,
251 Florida Statutes, are renumbered as subsections (4) through
252 (13), respectively, subsection (1) is amended, present
253 subsection (2) is renumbered as subsection (3) and amended, and
254 a new subsection (2) is added to that section, to read:

255 456.013 Department; general licensing provisions.—

256 (1)(a) Any person desiring to be licensed in a profession
257 within the jurisdiction of the department shall apply to the
258 department in writing to take the licensure examination. The
259 application shall be made on a form prepared and furnished by
260 the department. The application form must be available on the
261 World Wide Web and the department may accept electronically

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262 submitted applications beginning July 1, 2001. A nonrefundable
263 application fee established by the board, or the department when
264 there is no board, shall be submitted with the application in an
265 amount established by rule by the board, or the department when
266 there is no board, to comply with s. 456.025. The application
267 shall require the social security number of the applicant,
268 except as provided in paragraph (b). The form shall be
269 supplemented as needed to reflect any material change in any
270 circumstance or condition stated in the application which takes
271 place between the initial filing of the application and the
272 final grant or denial of the license and which might affect the
273 decision of the department. If an application is submitted
274 electronically, the department may require supplemental
275 materials, including an original signature of the applicant and
276 verification of credentials, to be submitted in a nonelectronic
277 format. An incomplete application shall expire 1 year after
278 initial filing. In order to further the economic development
279 goals of the state, and notwithstanding any law to the contrary,
280 the department may enter into an agreement with the county tax
281 collector for the purpose of appointing the county tax collector
282 as the department's agent to accept applications for licenses
283 and applications for renewals of licenses. The agreement must
284 specify the time within which the tax collector must forward any
285 applications and accompanying application fees to the
286 department.

287 (b) If an applicant has not been issued a social security
288 number by the Federal Government at the time of application
289 because the applicant is not a citizen or resident of this
290 country, the department may process the application using a

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291 unique personal identification number. If such an applicant is
292 otherwise eligible for licensure, the board, or the department
293 when there is no board, may issue to the applicant a temporary
294 license, as established by rule of the board, or the department
295 when there is no board ~~to the applicant~~, which shall expire 90
296 ~~30~~ days after issuance unless a social security number is
297 obtained and submitted in writing to the department. Upon
298 receipt of the applicant's social security number, the
299 department shall issue a new license, which shall expire at the
300 end of the current biennium.

301 (c) The license shall be issued in the legal name of the
302 applicant as reflected on the applicant's birth certificate or
303 United States passport. A request to change or issue a license
304 under any other name must be supported by either a certified
305 copy of a marriage license, a certified copy of an order of a
306 United States federal or state court, or the applicant's
307 original naturalization certificate.

308 (2) The board, or the department when there is no board,
309 may adopt a rule allowing an applicant for licensure to complete
310 the coursework requirements for licensure by successfully
311 completing the required coursework as a student or by teaching
312 the required coursework as an instructor or professor in an
313 accredited institution.

314 (3)~~(2)~~ Before the issuance of any license, the department
315 shall charge an initial license fee as determined by the
316 applicable board or, if there is no board, by rule of the
317 department. Upon receipt of the appropriate license fee, the
318 department shall issue a license to any person certified by the
319 appropriate board, or its designee, as having met the licensure

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320 requirements imposed by law or rule. The license shall consist
321 of a wallet-size identification card and a wall card measuring 6
322 1/2 inches by 5 inches. The licensee shall surrender to the
323 department the wallet-size identification card and the wall card
324 if the licensee's license is issued in error or is revoked. The
325 board, or the department when there is no board, may by rule
326 require the display of a license.

327 Section 9. Subsections (2) through (11) of section 456.025,
328 Florida Statutes, are renumbered as subsections (3) through
329 (12), respectively, present subsection (4) is amended, and new
330 subsections (2) and (13) are added to that section, to read:

331 456.025 Fees; receipts; disposition.—

332 (2) Notwithstanding any other provision of law, when a
333 profession is in a deficit, the board, or the department if
334 there is no board, shall increase fees to satisfy the
335 requirements of subsection (1).

336 (5)~~(4)~~ Each board, or the department if there is no board,
337 may charge a fee not to exceed \$25, as determined by rule, for
338 the issuance of a wall certificate pursuant to s. 456.013~~(3)~~(2)
339 requested by a licensee who was licensed prior to July 1, 1998,
340 or for the issuance of a duplicate wall certificate requested by
341 any licensee.

342 (13) Each board, or the department if there is no board,
343 may charge a fee as determined by rule for the reinspection of a
344 business establishment prior to its licensure.

345 Section 10. Subsections (14) and (15) of section 456.036,
346 Florida Statutes, are renumbered as subsections (15) and (16),
347 respectively, and a new subsection (14) is added to that section
348 to read:

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349 456.036 Licenses; active and inactive status; delinquency.-

350 (14) The department may not renew the license of a
351 licensee, as defined in s. 456.001, who owes outstanding fees,
352 costs, or fines to the department. The department shall notify
353 each licensee who has failed to pay outstanding fees, costs, or
354 fines at the licensee's last known address of record with the
355 department when issuing the license renewal notice required by
356 s. 456.038. The department shall renew the license of any
357 licensee when the outstanding fees, costs, or fines are paid if
358 all other requirements for renewal are met.

359 Section 11. Subsections (4) and (5) of section 456.037,
360 Florida Statutes, are renumbered as subsections (5) and (6),
361 respectively, and a new subsection (4) is added to that section
362 to read:

363 456.037 Business establishments; requirements for active
364 status licenses; delinquency; discipline; applicability.-

365 (4) The board, or the department if there is no board, may
366 by rule require the display of a business establishment license.

367 Section 12. Subsection (3) of section 456.063, Florida
368 Statutes, is amended to read:

369 456.063 Sexual misconduct; disqualification for license,
370 certificate, or registration.-

371 (3) Licensed health care practitioners shall report
372 allegations of sexual misconduct to the department, regardless
373 of the practice setting in which the alleged sexual misconduct
374 occurred. Each board, or the department if there is no board,
375 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
376 implement this subsection.

377 Section 13. Paragraph (ii) is added to subsection (1) of

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378 section 456.072, Florida Statutes, to read:

379 456.072 Grounds for discipline; penalties; enforcement.—

380 (1) The following acts shall constitute grounds for which
381 the disciplinary actions specified in subsection (2) may be
382 taken:

383 (ii) Failing to report to the board, or the department if
384 there is no board, in writing, within 30 days after an action as
385 provided in subsection (2) has been taken against a licensee's
386 license to practice any profession in this state or another
387 state, territory, or jurisdiction.

388 (2) When the board, or the department when there is no
389 board, finds any person guilty of the grounds set forth in
390 subsection (1) or of any grounds set forth in the applicable
391 practice act, including conduct constituting a substantial
392 violation of subsection (1) or a violation of the applicable
393 practice act which occurred prior to obtaining a license, it may
394 enter an order imposing one or more of the following penalties:

395 (a) Refusal to certify, or to certify with restrictions, an
396 application for a license.

397 (b) Suspension or permanent revocation of a license.

398 (c) Restriction of practice or license, including, but not
399 limited to, restricting the licensee from practicing in certain
400 settings, restricting the licensee to work only under designated
401 conditions or in certain settings, restricting the licensee from
402 performing or providing designated clinical and administrative
403 services, restricting the licensee from practicing more than a
404 designated number of hours, or any other restriction found to be
405 necessary for the protection of the public health, safety, and
406 welfare.

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407 (d) Imposition of an administrative fine not to exceed
408 \$10,000 for each count or separate offense. If the violation is
409 for fraud or making a false or fraudulent representation, the
410 board, or the department if there is no board, must impose a
411 fine of \$10,000 per count or offense.

412 (e) Issuance of a reprimand or letter of concern.

413 (f) Placement of the licensee on probation for a period of
414 time and subject to such conditions as the board, or the
415 department when there is no board, may specify. Those conditions
416 may include, but are not limited to, requiring the licensee to
417 undergo treatment, attend continuing education courses, submit
418 to be reexamined, work under the supervision of another
419 licensee, or satisfy any terms which are reasonably tailored to
420 the violations found.

421 (g) Corrective action.

422 (h) Imposition of an administrative fine in accordance with
423 s. 381.0261 for violations regarding patient rights.

424 (i) Refund of fees billed and collected from the patient or
425 a third party on behalf of the patient.

426 (j) Requirement that the practitioner undergo remedial
427 education.

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429 In determining what action is appropriate, the board, or
430 department when there is no board, must first consider what
431 sanctions are necessary to protect the public or to compensate
432 the patient. Only after those sanctions have been imposed may
433 the disciplining authority consider and include in the order
434 requirements designed to rehabilitate the practitioner. All
435 costs associated with compliance with orders issued under this

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436 subsection are the obligation of the practitioner.

437 Section 14. Paragraph (a) of subsection (4) of section
438 381.00593, Florida Statutes, is amended to read:

439 381.00593 Public school volunteer health care practitioner
440 program.—

441 (4) (a) Notwithstanding any provision of chapter 458,
442 chapter 459, chapter 460, chapter 461, chapter 463, part I of
443 chapter 464, chapter 465, chapter 466, chapter 467, parts I and
444 X of chapter 468, or chapter 486 to the contrary, any health
445 care practitioner who participates in the program established in
446 this section and thereby agrees to provide his or her services,
447 without compensation, in a public school for at least 80 hours a
448 year for each school year during the biennial licensure period,
449 or, if the health care practitioner is retired, for at least 400
450 hours a year for each school year during the licensure period,
451 upon providing sufficient proof from the applicable school
452 district that the health care practitioner has completed such
453 hours at the time of license renewal under procedures specified
454 by the Department of Health, shall be eligible for the
455 following:

456 1. Waiver of the biennial license renewal fee for an active
457 license; and

458 2. Fulfillment of a maximum of 25 percent of the continuing
459 education hours required for license renewal under s.

460 456.013(10)~~(9)~~.

461
462 The school district may establish a schedule for health care
463 practitioners who participate in the program.

464 Section 15. Subsection (1) of section 381.0303, Florida

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465 Statutes, is amended to read:

466 381.0303 Special needs shelters.-

467 (1) PURPOSE.-The purpose of this section is to provide for
468 the operation and closure of special needs shelters and to
469 designate the Department of Health, through its county health
470 departments, as the lead agency for coordination of the
471 recruitment of health care practitioners, as defined in s.
472 456.001(5)~~(4)~~, to staff special needs shelters in times of
473 emergency or disaster and to provide resources to the department
474 to carry out this responsibility. However, nothing in this
475 section prohibits a county health department from entering into
476 an agreement with a local emergency management agency to assume
477 the lead responsibility for recruiting health care
478 practitioners.

479 Section 16. Subsection (3) of section 456.074, Florida
480 Statutes, is amended to read:

481 456.074 Certain health care practitioners; immediate
482 suspension of license.-

483 (3) The department may issue an emergency order suspending
484 or restricting the license of any health care practitioner as
485 defined in s. 456.001(5)~~(4)~~ who tests positive for any drug on
486 any government or private sector preemployment or employer-
487 ordered confirmed drug test, as defined in s. 112.0455, when the
488 practitioner does not have a lawful prescription and legitimate
489 medical reason for using such drug. The practitioner shall be
490 given 48 hours from the time of notification to the practitioner
491 of the confirmed test result to produce a lawful prescription
492 for the drug before an emergency order is issued.

493 Section 17. Paragraph (b) of subsection (2) of section

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494 456.41, Florida Statutes, is amended to read:

495 456.41 Complementary or alternative health care
496 treatments.—

497 (2) DEFINITIONS.—As used in this section, the term:

498 (b) "Health care practitioner" means any health care
499 practitioner as defined in s. 456.001 (5) ~~(4)~~.

500 Section 18. Subsection (2) of section 468.703, Florida
501 Statutes, is amended to read:

502 468.703 Board of Athletic Training.—

503 (2) Five members of the board must be licensed athletic
504 trainers. One member of the board must be a physician licensed
505 under chapter 458 or chapter 459. One member of the board must
506 be a physician licensed under chapter 460. Two members of the
507 board shall be consumer members, each of whom must be a resident
508 of this state who has never worked as an athletic trainer, who
509 has no financial interest in the practice of athletic training,
510 and who has never been a licensed health care practitioner as
511 defined in s. 456.001 (5) ~~(4)~~.

512 Section 19. Section 627.6474, Florida Statutes, is amended
513 to read:

514 627.6474 Provider contracts.—A health insurer shall not
515 require a contracted health care practitioner as defined in s.
516 456.001 (5) ~~(4)~~ to accept the terms of other health care
517 practitioner contracts with the insurer or any other insurer, or
518 health maintenance organization, under common management and
519 control with the insurer, including Medicare and Medicaid
520 practitioner contracts and those authorized by s. 627.6471, s.
521 627.6472, or s. 641.315, except for a practitioner in a group
522 practice as defined in s. 456.053 who must accept the terms of a

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523 contract negotiated for the practitioner by the group, as a
524 condition of continuation or renewal of the contract. Any
525 contract provision that violates this section is void. A
526 violation of this section is not subject to the criminal penalty
527 specified in s. 624.15.

528 Section 20. Subsection (10) of section 641.315, Florida
529 Statutes, is amended to read:

530 641.315 Provider contracts.—

531 (10) A health maintenance organization shall not require a
532 contracted health care practitioner as defined in s.
533 456.001(5)~~(4)~~ to accept the terms of other health care
534 practitioner contracts with the health maintenance organization
535 or any insurer, or other health maintenance organization, under
536 common management and control with the health maintenance
537 organization, including Medicare and Medicaid practitioner
538 contracts and those authorized by s. 627.6471, s. 627.6472, or
539 s. 641.315, except for a practitioner in a group practice as
540 defined in s. 456.053 who must accept the terms of a contract
541 negotiated for the practitioner by the group, as a condition of
542 continuation or renewal of the contract. Any contract provision
543 that violates this section is void. A violation of this section
544 is not subject to the criminal penalty specified in s. 624.15.

545 Section 21. Paragraph (a) of subsection (1) and subsection
546 (4) of section 766.1016, Florida Statutes, are amended to read:

547 766.1016 Patient safety data privilege.—

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

549 (a) "Patient safety data" means reports made to patient
550 safety organizations, including all health care data,
551 interviews, memoranda, analyses, root cause analyses, products

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552 of quality assurance or quality improvement processes,
553 corrective action plans, or information collected or created by
554 a health care facility licensed under chapter 395, or a health
555 care practitioner as defined in s. 456.001(5)~~(4)~~, as a result of
556 an occurrence related to the provision of health care services
557 which exacerbates an existing medical condition or could result
558 in injury, illness, or death.

559 (4) The exchange of patient safety data among health care
560 facilities licensed under chapter 395, or health care
561 practitioners as defined in s. 456.001(5)~~(4)~~, or patient safety
562 organizations which does not identify any patient shall not
563 constitute a waiver of any privilege established in this
564 section.

565 Section 22. Paragraph (b) of subsection (2) of section
566 766.1116, Florida Statutes, is amended to read:

567 766.1116 Health care practitioner; waiver of license
568 renewal fees and continuing education requirements.—

569 (2) Notwithstanding any provision of chapter 458, chapter
570 459, chapter 460, chapter 461, part I of chapter 464, chapter
571 466, or chapter 467 to the contrary, any health care
572 practitioner who participates as a health care provider under s.
573 766.1115 and thereby agrees with a governmental contractor to
574 provide his or her services without compensation and as an agent
575 of the governmental contractor to low-income recipients in
576 accordance with s. 766.1115 for at least 80 hours a year for
577 each year during the biennial licensure period, or, if the
578 health care practitioner is retired, for at least 400 hours a
579 year for each year during the licensure period, upon providing
580 sufficient proof from the applicable governmental contractor

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581 that the health care practitioner has completed the hours at the
582 time of license renewal under procedures specified by the
583 Department of Health, shall be eligible for:

584 (b) Fulfillment of a maximum of 25 percent of the
585 continuing education hours required for license renewal under s.
586 456.013 (10) ~~(9)~~.

587 Section 23. Paragraph (c) of subsection (2) of section
588 768.13, Florida Statutes, is amended to read:

589 768.13 Good Samaritan Act; immunity from civil liability.-

590 (2)

591 (c)1. Any health care practitioner as defined in s.
592 456.001 (5) ~~(4)~~ who is in a hospital attending to a patient of his
593 or her practice or for business or personal reasons unrelated to
594 direct patient care, and who voluntarily responds to provide
595 care or treatment to a patient with whom at that time the
596 practitioner does not have a then-existing health care patient-
597 practitioner relationship, and when such care or treatment is
598 necessitated by a sudden or unexpected situation or by an
599 occurrence that demands immediate medical attention, shall not
600 be held liable for any civil damages as a result of any act or
601 omission relative to that care or treatment, unless that care or
602 treatment is proven to amount to conduct that is willful and
603 wanton and would likely result in injury so as to affect the
604 life or health of another.

605 2. The immunity provided by this paragraph does not apply
606 to damages as a result of any act or omission of providing
607 medical care or treatment unrelated to the original situation
608 that demanded immediate medical attention.

609 3. For purposes of this paragraph, the Legislature's intent

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610 is to encourage health care practitioners to provide necessary
611 emergency care to all persons without fear of litigation as
612 described in this paragraph.

613 Section 24. Paragraph (a) of subsection (12) of section
614 768.28, Florida Statutes, is amended to read:

615 768.28 Waiver of sovereign immunity in tort actions;
616 recovery limits; limitation on attorney fees; statute of
617 limitations; exclusions; indemnification; risk management
618 programs.—

619 (12) (a) A health care practitioner, as defined in s.
620 456.001 (5) ~~(4)~~, who has contractually agreed to act as an agent
621 of a state university board of trustees to provide medical
622 services to a student athlete for participation in or as a
623 result of intercollegiate athletics, to include team practices,
624 training, and competitions, shall be considered an agent of the
625 respective state university board of trustees, for the purposes
626 of this section, while acting within the scope of and pursuant
627 to guidelines established in that contract. The contracts shall
628 provide for the indemnification of the state by the agent for
629 any liabilities incurred up to the limits set out in this
630 chapter.

631 Section 25. This act shall take effect July 1, 2009.