

By the Committee on Health Regulation; and Senator Altman

588-04070-09

20092620c1

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 agency and the
12 department; requiring the administrator or records
13 custodian of a facility to certify which records have
14 been provided to the department; requiring the
15 facility to charge a fee for copies of the records
16 provided to the department; amending s. 400.145, F.S.;
17 requiring the administrator or records custodian of a
18 facility to certify which records have been provided
19 to the department; amending s. 400.147, F.S.;
20 authorizing the agency, department, or appropriate
21 regulatory board to receive notification of adverse
22 incidents for purposes of certain disciplinary
23 proceedings; requiring the department to review
24 certain adverse incident reports; requiring the agency
25 to forward adverse incident reports to the department;
26 amending s. 456.001, F.S.; providing a definition;
27 amending s. 456.011, F.S.; providing additional
28 requirements for the constitution of a quorum for
29 meetings of certain committees and boards operating

588-04070-09

20092620c1

30 under ch. 456, F.S.; amending s. 456.013, F.S.;

31 requiring an application fee for licensure

32 examinations; providing for extension of a temporary

33 license; revising licensure requirements; authorizing

34 the board or department to adopt rules requiring the

35 display of a professional license; amending s.

36 456.025, F.S.; authorizing the imposition of certain

37 licensure fees; authorizing the imposition of

38 reinspection fees; amending s. 456.036, F.S.;

39 prohibiting the department from renewing the license

40 of licensees owing outstanding fees, costs, or fines;

41 providing for notice; providing for renewal of a

42 license when requirements are met; amending s.

43 456.037, F.S.; authorizing the board or department to

44 require by rule the display of a business

45 establishment license; amending s. 456.063, F.S.;

46 authorizing the board or department to adopt rules

47 relating to the reporting of sexual misconduct by

48 licensed health care practitioners; amending s.

49 456.072, F.S.; providing that failure to report

50 disciplinary actions taken against a licensee's

51 license to practice is an additional ground under

52 which the practitioner is subject to discipline by the

53 department or the board having jurisdiction over the

54 practitioner; providing penalties; amending ss.

55 381.00593, 381.0303, 456.074, 456.41, 468.703,

56 627.6474, 641.315, 766.1016, 766.1116, 768.13, and

57 768.28, F.S.; conforming cross-references; providing

58 an effective date.

588-04070-09

20092620c1

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

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

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.—

588-04070-09

20092620c1

88 (7) Any of the following adverse incidents, whether
89 occurring in the licensed facility or arising from health care
90 prior to admission in the licensed facility, shall be reported
91 by the facility to the agency within 15 calendar days after its
92 occurrence:

93 (a) The death of a patient;

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

95 (c) The performance of a surgical procedure on the wrong
96 patient;

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

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

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

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

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

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

588-04070-09

20092620c1

117 regulatory board, nor shall they be available to the public as
118 part of the record of investigation for and prosecution in
119 disciplinary proceedings made available to the public by the
120 agency or the appropriate regulatory board. However, the agency
121 or the appropriate regulatory board shall make available, upon
122 written request by a health care professional against whom
123 probable cause has been found, any such records which form the
124 basis of the determination of probable cause. The agency may
125 investigate, as it deems appropriate, any such incident and
126 prescribe measures that must or may be taken in response to the
127 incident. The agency shall forward a copy of each incident
128 report received from a facility to the Division of Medical
129 Quality Assurance within the Department of Health ~~review each~~
130 ~~incident and determine whether it potentially involved conduct~~
131 ~~by the health care professional who is subject to disciplinary~~
132 ~~action, in which case the provisions of s. 456.073 shall apply.~~

133 Section 3. Paragraph (e) of subsection (4) of section
134 395.3025, Florida Statutes, is amended to read:

135 395.3025 Patient and personnel records; copies;
136 examination.-

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

141 (e) The agency upon subpoena issued pursuant to s. 408.15
142 or the department upon subpoena issued pursuant to s. 456.071,
143 but the records obtained thereby must be used solely for the
144 purpose of the agency, the department, and the appropriate
145 professional board in their ~~its~~ investigation, prosecution, and

588-04070-09

20092620c1

146 appeal of disciplinary proceedings. The administrator or records
147 custodian in a facility licensed under this chapter shall
148 certify that true and complete copies of the records requested
149 pursuant to a subpoena or a patient release have been provided
150 to the department or otherwise identify those documents that
151 have not been provided. If the department ~~agency~~ requests copies
152 of the records, the facility shall charge a fee pursuant to s.
153 395.3025 no more than its actual copying costs, including
154 ~~reasonable staff time~~. The records must be sealed and must not
155 be available to the public pursuant to s. 119.07(1) or any other
156 statute providing access to records, nor may they be available
157 to the public as part of the record of investigation for and
158 prosecution in disciplinary proceedings made available to the
159 public by the agency, the department, or the appropriate
160 regulatory board. However, the department ~~agency~~ must make
161 available, upon written request by a practitioner against whom
162 probable cause has been found, any such records that form the
163 basis of the determination of probable cause.

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

166 400.145 Records of care and treatment of resident; copies
167 to be furnished.-

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

174 Section 5. Subsection (7) and paragraph (b) of subsection

588-04070-09

20092620c1

175 (8) of section 400.147, Florida Statutes, are amended to read:
176 400.147 Internal risk management and quality assurance
177 program.—

178 (7) The facility shall initiate an investigation and shall
179 notify the agency within 1 business day after the risk manager
180 or his or her designee has received a report pursuant to
181 paragraph (1)(d). The notification must be made in writing and
182 be provided electronically, by facsimile device or overnight
183 mail delivery. The notification must include information
184 regarding the identity of the affected resident, the type of
185 adverse incident, the initiation of an investigation by the
186 facility, and whether the events causing or resulting in the
187 adverse incident represent a potential risk to any other
188 resident. The notification is confidential as provided by law
189 and is not discoverable or admissible in any civil or
190 administrative action, except in disciplinary proceedings by the
191 agency, the Department of Health, or the appropriate regulatory
192 board. The agency may investigate, as it deems appropriate, any
193 such incident and prescribe measures that must or may be taken
194 in response to the incident. The Department of Health ~~agency~~
195 shall review each incident and determine whether it potentially
196 involved conduct by the health care professional who is subject
197 to disciplinary action, in which case the provisions of s.
198 456.073 shall apply.

199 (8)

200 (b) A copy of the adverse incident report submitted ~~The~~
201 ~~information reported~~ to the agency pursuant to paragraph (a)
202 which relates to health care practitioners as defined in s.
203 456.001(4) shall be forwarded to the Division of Medical Quality

588-04070-09

20092620c1

204 Assurance within the Department of Health for review persons
205 ~~licensed under chapter 458, chapter 459, chapter 461, or chapter~~
206 ~~466 shall be reviewed by the agency. The agency shall determine~~
207 ~~whether any of the incidents potentially involved conduct by a~~
208 ~~health care professional who is subject to disciplinary action,~~
209 ~~in which case the provisions of s. 456.073 shall apply.~~

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

214 456.001 Definitions.—As used in this chapter, the term:

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

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

222 456.011 Boards; organization; meetings; compensation and
223 travel expenses.—

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

588-04070-09

20092620c1

233 the authority to call meetings, except as provided in this
234 subsection above relating to in-person meetings. A quorum shall
235 be necessary for the conduct of official business by the board
236 or any committee thereof. Unless otherwise provided by law, 51
237 percent or more of the appointed members of the board or any
238 committee, when applicable, who have taken the oath of office
239 pursuant to s. 5, Art. II of the State Constitution or s. 114.05
240 shall constitute a quorum. The membership of committees of the
241 board, except as otherwise authorized pursuant to this chapter
242 or the applicable practice act, shall be composed of currently
243 appointed members of the board. The vote of a majority of the
244 members of the quorum shall be necessary for any official action
245 by the board or committee. Three consecutive unexcused absences
246 or absences constituting 50 percent or more of the board's
247 meetings within any 12-month period shall cause the board
248 membership of the member in question to become void, and the
249 position shall be considered vacant. The board, or the
250 department when there is no board, shall, by rule, define
251 unexcused absences.

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

257 456.013 Department; general licensing provisions.—

258 (1) (a) Any person desiring to be licensed in a profession
259 within the jurisdiction of the department shall apply to the
260 department in writing to take the licensure examination. The
261 application shall be made on a form prepared and furnished by

588-04070-09

20092620c1

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

289 (b) If an applicant has not been issued a social security
290 number by the Federal Government at the time of application

588-04070-09

20092620c1

291 because the applicant is not a citizen or resident of this
292 country, the department may process the application using a
293 unique personal identification number. If such an applicant is
294 otherwise eligible for licensure, the board, or the department
295 when there is no board, may issue to the applicant a temporary
296 license, as established by rule of the board, or the department
297 when there is no board ~~to the applicant~~, which shall expire 90
298 ~~30~~ days after issuance unless a social security number is
299 obtained and submitted in writing to the department. Upon
300 receipt of the applicant's social security number, the
301 department shall issue a new license, which shall expire at the
302 end of the current biennium.

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

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

316 (3)~~(2)~~ Before the issuance of any license, the department
317 shall charge an initial license fee as determined by the
318 applicable board or, if there is no board, by rule of the
319 department. Upon receipt of the appropriate license fee, the

588-04070-09

20092620c1

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

329 Section 9. Subsection (12) is added to section 456.025,
330 Florida Statutes, to read:

331 456.025 Fees; receipts; disposition.-

332 (12) Each board, or the department if there is no board,
333 may charge a fee as determined by rule for the reinspection of a
334 business establishment prior to its licensure.

335 Section 10. Subsections (14) and (15) of section 456.036,
336 Florida Statutes, are renumbered as subsections (15) and (16),
337 respectively, and a new subsection (14) is added to that section
338 to read:

339 456.036 Licenses; active and inactive status; delinquency.-

340 (14) The department may not renew the license of a
341 licensee, as defined in s. 456.001, who owes outstanding fees,
342 costs, or fines to the department. The department shall notify
343 each licensee who has failed to pay outstanding fees, costs, or
344 fines at the licensee's last known address of record with the
345 department when issuing the license renewal notice required by
346 s. 456.038. The department shall renew the license of any
347 licensee when the outstanding fees, costs, or fines are paid if
348 all other requirements for renewal are met.

588-04070-09

20092620c1

349 Section 11. Subsections (4) and (5) of section 456.037,
350 Florida Statutes, are renumbered as subsections (5) and (6),
351 respectively, and a new subsection (4) is added to that section
352 to read:

353 456.037 Business establishments; requirements for active
354 status licenses; delinquency; discipline; applicability.—

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

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

359 456.063 Sexual misconduct; disqualification for license,
360 certificate, or registration.—

361 (3) Licensed health care practitioners shall report
362 allegations of sexual misconduct to the department, regardless
363 of the practice setting in which the alleged sexual misconduct
364 occurred. Each board, or the department if there is no board,
365 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
366 implement this subsection.

367 Section 13. Paragraph (ii) is added to subsection (1) of
368 section 456.072, Florida Statutes, to read:

369 456.072 Grounds for discipline; penalties; enforcement.—

370 (1) The following acts shall constitute grounds for which
371 the disciplinary actions specified in subsection (2) may be
372 taken:

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

588-04070-09

20092620c1

378 (2) When the board, or the department when there is no
379 board, finds any person guilty of the grounds set forth in
380 subsection (1) or of any grounds set forth in the applicable
381 practice act, including conduct constituting a substantial
382 violation of subsection (1) or a violation of the applicable
383 practice act which occurred prior to obtaining a license, it may
384 enter an order imposing one or more of the following penalties:

385 (a) Refusal to certify, or to certify with restrictions, an
386 application for a license.

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

388 (c) Restriction of practice or license, including, but not
389 limited to, restricting the licensee from practicing in certain
390 settings, restricting the licensee to work only under designated
391 conditions or in certain settings, restricting the licensee from
392 performing or providing designated clinical and administrative
393 services, restricting the licensee from practicing more than a
394 designated number of hours, or any other restriction found to be
395 necessary for the protection of the public health, safety, and
396 welfare.

397 (d) Imposition of an administrative fine not to exceed
398 \$10,000 for each count or separate offense. If the violation is
399 for fraud or making a false or fraudulent representation, the
400 board, or the department if there is no board, must impose a
401 fine of \$10,000 per count or offense.

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

403 (f) Placement of the licensee on probation for a period of
404 time and subject to such conditions as the board, or the
405 department when there is no board, may specify. Those conditions
406 may include, but are not limited to, requiring the licensee to

588-04070-09

20092620c1

407 undergo treatment, attend continuing education courses, submit
408 to be reexamined, work under the supervision of another
409 licensee, or satisfy any terms which are reasonably tailored to
410 the violations found.

411 (g) Corrective action.

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

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

416 (j) Requirement that the practitioner undergo remedial
417 education.

418

419 In determining what action is appropriate, the board, or
420 department when there is no board, must first consider what
421 sanctions are necessary to protect the public or to compensate
422 the patient. Only after those sanctions have been imposed may
423 the disciplining authority consider and include in the order
424 requirements designed to rehabilitate the practitioner. All
425 costs associated with compliance with orders issued under this
426 subsection are the obligation of the practitioner.

427 Section 14. Paragraph (a) of subsection (4) of section
428 381.00593, Florida Statutes, is amended to read:

429 381.00593 Public school volunteer health care practitioner
430 program.—

431 (4) (a) Notwithstanding any provision of chapter 458,
432 chapter 459, chapter 460, chapter 461, chapter 463, part I of
433 chapter 464, chapter 465, chapter 466, chapter 467, parts I and
434 X of chapter 468, or chapter 486 to the contrary, any health
435 care practitioner who participates in the program established in

588-04070-09

20092620c1

436 this section and thereby agrees to provide his or her services,
437 without compensation, in a public school for at least 80 hours a
438 year for each school year during the biennial licensure period,
439 or, if the health care practitioner is retired, for at least 400
440 hours a year for each school year during the licensure period,
441 upon providing sufficient proof from the applicable school
442 district that the health care practitioner has completed such
443 hours at the time of license renewal under procedures specified
444 by the Department of Health, shall be eligible for the
445 following:

- 446 1. Waiver of the biennial license renewal fee for an active
447 license; and
- 448 2. Fulfillment of a maximum of 25 percent of the continuing
449 education hours required for license renewal under s.
450 456.013(10) ~~(9)~~.

451
452 The school district may establish a schedule for health care
453 practitioners who participate in the program.

454 Section 15. Subsection (1) of section 381.0303, Florida
455 Statutes, is amended to read:

456 381.0303 Special needs shelters.-

457 (1) PURPOSE.-The purpose of this section is to provide for
458 the operation and closure of special needs shelters and to
459 designate the Department of Health, through its county health
460 departments, as the lead agency for coordination of the
461 recruitment of health care practitioners, as defined in s.
462 456.001(5) ~~(4)~~, to staff special needs shelters in times of
463 emergency or disaster and to provide resources to the department
464 to carry out this responsibility. However, nothing in this

588-04070-09

20092620c1

465 section prohibits a county health department from entering into
466 an agreement with a local emergency management agency to assume
467 the lead responsibility for recruiting health care
468 practitioners.

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

471 456.074 Certain health care practitioners; immediate
472 suspension of license.—

473 (3) The department may issue an emergency order suspending
474 or restricting the license of any health care practitioner as
475 defined in s. 456.001 (5) ~~(4)~~ who tests positive for any drug on
476 any government or private sector preemployment or employer-
477 ordered confirmed drug test, as defined in s. 112.0455, when the
478 practitioner does not have a lawful prescription and legitimate
479 medical reason for using such drug. The practitioner shall be
480 given 48 hours from the time of notification to the practitioner
481 of the confirmed test result to produce a lawful prescription
482 for the drug before an emergency order is issued.

483 Section 17. Paragraph (b) of subsection (2) of section
484 456.41, Florida Statutes, is amended to read:

485 456.41 Complementary or alternative health care
486 treatments.—

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

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

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

492 468.703 Board of Athletic Training.—

493 (2) Five members of the board must be licensed athletic

588-04070-09

20092620c1

494 trainers. One member of the board must be a physician licensed
495 under chapter 458 or chapter 459. One member of the board must
496 be a physician licensed under chapter 460. Two members of the
497 board shall be consumer members, each of whom must be a resident
498 of this state who has never worked as an athletic trainer, who
499 has no financial interest in the practice of athletic training,
500 and who has never been a licensed health care practitioner as
501 defined in s. 456.001(5)~~(4)~~.

502 Section 19. Section 627.6474, Florida Statutes, is amended
503 to read:

504 627.6474 Provider contracts.—A health insurer shall not
505 require a contracted health care practitioner as defined in s.
506 456.001(5)~~(4)~~ to accept the terms of other health care
507 practitioner contracts with the insurer or any other insurer, or
508 health maintenance organization, under common management and
509 control with the insurer, including Medicare and Medicaid
510 practitioner contracts and those authorized by s. 627.6471, s.
511 627.6472, or s. 641.315, except for a practitioner in a group
512 practice as defined in s. 456.053 who must accept the terms of a
513 contract negotiated for the practitioner by the group, as a
514 condition of continuation or renewal of the contract. Any
515 contract provision that violates this section is void. A
516 violation of this section is not subject to the criminal penalty
517 specified in s. 624.15.

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

520 641.315 Provider contracts.—

521 (10) A health maintenance organization shall not require a
522 contracted health care practitioner as defined in s.

588-04070-09

20092620c1

523 456.001(5)~~(4)~~ to accept the terms of other health care
524 practitioner contracts with the health maintenance organization
525 or any insurer, or other health maintenance organization, under
526 common management and control with the health maintenance
527 organization, including Medicare and Medicaid practitioner
528 contracts and those authorized by s. 627.6471, s. 627.6472, or
529 s. 641.315, except for a practitioner in a group practice as
530 defined in s. 456.053 who must accept the terms of a contract
531 negotiated for the practitioner by the group, as a condition of
532 continuation or renewal of the contract. Any contract provision
533 that violates this section is void. A violation of this section
534 is not subject to the criminal penalty specified in s. 624.15.

535 Section 21. Paragraph (a) of subsection (1) and subsection
536 (4) of section 766.1016, Florida Statutes, are amended to read:
537 766.1016 Patient safety data privilege.—

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

539 (a) "Patient safety data" means reports made to patient
540 safety organizations, including all health care data,
541 interviews, memoranda, analyses, root cause analyses, products
542 of quality assurance or quality improvement processes,
543 corrective action plans, or information collected or created by
544 a health care facility licensed under chapter 395, or a health
545 care practitioner as defined in s. 456.001(5)~~(4)~~, as a result of
546 an occurrence related to the provision of health care services
547 which exacerbates an existing medical condition or could result
548 in injury, illness, or death.

549 (4) The exchange of patient safety data among health care
550 facilities licensed under chapter 395, or health care
551 practitioners as defined in s. 456.001(5)~~(4)~~, or patient safety

588-04070-09

20092620c1

552 organizations which does not identify any patient shall not
553 constitute a waiver of any privilege established in this
554 section.

555 Section 22. Paragraph (b) of subsection (2) of section
556 766.1116, Florida Statutes, is amended to read:

557 766.1116 Health care practitioner; waiver of license
558 renewal fees and continuing education requirements.—

559 (2) Notwithstanding any provision of chapter 458, chapter
560 459, chapter 460, chapter 461, part I of chapter 464, chapter
561 466, or chapter 467 to the contrary, any health care
562 practitioner who participates as a health care provider under s.
563 766.1115 and thereby agrees with a governmental contractor to
564 provide his or her services without compensation and as an agent
565 of the governmental contractor to low-income recipients in
566 accordance with s. 766.1115 for at least 80 hours a year for
567 each year during the biennial licensure period, or, if the
568 health care practitioner is retired, for at least 400 hours a
569 year for each year during the licensure period, upon providing
570 sufficient proof from the applicable governmental contractor
571 that the health care practitioner has completed the hours at the
572 time of license renewal under procedures specified by the
573 Department of Health, shall be eligible for:

574 (b) Fulfillment of a maximum of 25 percent of the
575 continuing education hours required for license renewal under s.
576 456.013(10)~~(9)~~.

577 Section 23. Paragraph (c) of subsection (2) of section
578 768.13, Florida Statutes, is amended to read:

579 768.13 Good Samaritan Act; immunity from civil liability.—

580 (2)

588-04070-09

20092620c1

581 (c)1. Any health care practitioner as defined in s.
582 456.001(5) ~~(4)~~ who is in a hospital attending to a patient of his
583 or her practice or for business or personal reasons unrelated to
584 direct patient care, and who voluntarily responds to provide
585 care or treatment to a patient with whom at that time the
586 practitioner does not have a then-existing health care patient-
587 practitioner relationship, and when such care or treatment is
588 necessitated by a sudden or unexpected situation or by an
589 occurrence that demands immediate medical attention, shall not
590 be held liable for any civil damages as a result of any act or
591 omission relative to that care or treatment, unless that care or
592 treatment is proven to amount to conduct that is willful and
593 wanton and would likely result in injury so as to affect the
594 life or health of another.

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

599 3. For purposes of this paragraph, the Legislature's intent
600 is to encourage health care practitioners to provide necessary
601 emergency care to all persons without fear of litigation as
602 described in this paragraph.

603 Section 24. Paragraph (a) of subsection (12) of section
604 768.28, Florida Statutes, is amended to read:

605 768.28 Waiver of sovereign immunity in tort actions;
606 recovery limits; limitation on attorney fees; statute of
607 limitations; exclusions; indemnification; risk management
608 programs.—

609 (12) (a) A health care practitioner, as defined in s.

588-04070-09

20092620c1

610 456.001(5)~~(4)~~, who has contractually agreed to act as an agent
611 of a state university board of trustees to provide medical
612 services to a student athlete for participation in or as a
613 result of intercollegiate athletics, to include team practices,
614 training, and competitions, shall be considered an agent of the
615 respective state university board of trustees, for the purposes
616 of this section, while acting within the scope of and pursuant
617 to guidelines established in that contract. The contracts shall
618 provide for the indemnification of the state by the agent for
619 any liabilities incurred up to the limits set out in this
620 chapter.

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