By Senator Rodriguez

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A bill to be entitled

An act relating to the Department of Health; creating s. 381.875, F.S.; defining terms; prohibiting certain research in this state relating to enhanced potential pandemic pathogens; requiring researchers applying for state or local funding to disclose certain information; requiring the Department of Health to enjoin violations of specified provisions; providing construction; amending s. 381.986, F.S.; defining the term "attractive to children"; prohibiting medical marijuana treatment centers from producing marijuana products that are attractive to children or manufactured in specified manners; prohibiting marijuana packaging and labeling from including specified wording; prohibiting medical marijuana treatment centers from using certain content in their advertising which is attractive to children or promotes the recreational use of marijuana; requiring the department to adopt certain rules; revising background screening requirements for certain individuals; amending s. 381.988, F.S.; requiring medical marijuana testing laboratories to subject their employees to background screenings; revising background screening requirements for certain individuals; amending s. 382.005, F.S.; requiring local registrars to electronically file all live birth, death, and fetal death records in their respective jurisdictions in the department's electronic registration system; requiring the local

registrars to file a paper record with the department if the electronic system is unavailable; requiring local registrars to make blank paper forms available in such instances; providing requirements for such paper records; amending s. 382.008, F.S.; conforming provisions to changes made by the act; amending s. 382.009, F.S.; revising the types of health care practitioners who may make certain determinations of death; amending ss. 382.013 and 382.015, F.S.; conforming provisions to changes made by the act; amending ss. 382.021 and 382.023, F.S.; revising the frequency with which circuit courts must transmit marriage licenses and certain dissolution-of-marriage records to the department; requiring that such records be transmitted electronically; amending s. 382.025, F.S.; extending the timeframe for the confidentiality of certain birth records; authorizing persons appointed by the department to issue certified copies of live birth, death, and fetal death certificates; amending s. 401.27, F.S.; revising requirements for applicants for certification or recertification as emergency medical technicians or paramedics; deleting a requirement that a certain certification examination be offered monthly; deleting related duties of the department; deleting a temporary certificate and related provisions; amending s. 401.2701, F.S.; exempting certain emergency medical services training program applicants from the requirement to have a certain affiliation agreement; amending s. 401.272,

F.S.; revising the purpose of certain provisions; specifying requirements for the provision of specified services by paramedics and emergency medical technicians under certain circumstances; revising the department's rulemaking authority; amending s. 401.34, F.S.; deleting certain provisions and fees related to the department's grading of a certain certification examination; amending s. 401.435, F.S.; revising provisions related to minimum standards for emergency medical responder training; amending s. 464.203, F.S.; exempting certain applicants for certification as a certified nursing assistant from the skills-demonstration portion of a certain competency examination; amending ss. 468.1225 and 468.1245, F.S.; revising the scope of practice for audiologists, as it relates to hearing aids to apply to prescription hearing aids only; amending s. 468.1246, F.S.; conforming provisions to changes made by the act; deleting obsolete language; amending ss. 468.1255, 468.1265, and 468.1275, F.S.; conforming provisions to changes made by the act; amending s. 484.0401, F.S.; revising legislative findings and intent to conform to changes made by the act; reordering and amending s. 484.041, F.S.; providing and revising definitions; amending s. 484.042, F.S.; revising membership requirements for members of the Board of Hearing Aid Specialists; amending s. 484.044, F.S.; revising the board's rulemaking authority; deleting obsolete language; amending ss. 484.0445, 484.045, 484.0501,

and 484.051, F.S.; revising the scope of practice for hearing aid specialists and making conforming changes to licensure and practice requirements; amending s. 484.0512, F.S.; conforming provisions to changes made by the act; deleting obsolete language; amending ss. 484.0513, 484.053, and 484.054, F.S.; conforming provisions to changes made by the act; amending s. 484.059, F.S.; conforming provisions to changes made by the act; providing applicability; providing a directive to the Division of Law Revision; providing effective dates.

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

Section 1. Effective upon this act becoming law, section 381.875, Florida Statutes, is created to read:

381.875 Enhanced potential pandemic pathogen research prohibited.—

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

(a) "Enhanced potential pandemic pathogen" means a potential pandemic pathogen that results from enhancing the transmissibility or virulence of a pathogen. The term does not include naturally occurring pathogens circulating in or recovered from nature, regardless of their pandemic potential.

(b) "Enhanced potential pandemic pathogen research" means research that may be reasonably anticipated to create, transfer, or use potential pandemic pathogens that result from enhancing a pathogen's transmissibility or virulence in humans.

(c) "Potential pandemic pathogen" means a bacterium, virus,

or other microorganism that is likely to be both:

1. Highly transmissible and capable of wide, uncontrollable spread in human populations; and

2. Highly virulent, making it likely to cause significant morbidity or mortality in humans.

(2) Any research that is reasonably likely to create an enhanced potential pandemic pathogen or that has been determined by the United States Department of Health and Human Services, another federal agency, or a state agency as defined in s. 11.45 to create such a pathogen is prohibited in this state.

(3) Any researcher applying for state or local funding to conduct research in this state must disclose in the application to the funding source whether the research meets the definition of enhanced potential pandemic pathogen research.

(4) The Department of Health shall exercise its authority under s. 381.0012 to enjoin violations of this section.

(5) This section does not affect research funded or conducted before the effective date of this act.

Section 2. Present paragraphs (a) through (o) of subsection (1) of section 381.986, Florida Statutes, are redesignated as paragraphs (b) through (p), respectively, a new paragraph (a) is added to that subsection, and paragraphs (a) and (c) of subsection (3), paragraphs (e), (h), and (k) of subsection (8), and subsection (9) of that section are amended, to read:

381.986 Medical use of marijuana.—

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

(a) "Attractive to children" means the use of any image or words designed or likely to appeal to persons younger than 18 years of age, including, but not limited to, cartoons, toys,

animals, food, or depictions of persons younger than 18 years of age; any other likeness to images, characters, or phrases that are popularly used to advertise to persons younger than 18 years of age; or any reasonable likeness to commercially available candy.

(3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.—

(a) Before being approved as a qualified physician~~, as defined in paragraph (1)(m),~~ and before each license renewal, a physician must successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association which encompass the requirements of this section and any rules adopted hereunder. The course and examination must ~~shall~~ be administered at least annually and may be offered in a distance learning format, including an electronic, online format that is available upon request. The price of the course may not exceed $500. A physician who has met the physician education requirements of former s. 381.986(4), Florida Statutes 2016, before June 23, 2017, shall be deemed to be in compliance with this paragraph from June 23, 2017, until 90 days after the course and examination required by this paragraph become available.

(c) Before being employed as a medical director~~, as defined in paragraph (1)(i),~~ and before each license renewal, a medical director must successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association which encompass the requirements of this section and any rules adopted hereunder. The course and examination must ~~shall~~ be administered at least annually and may be offered in a distance learning

format, including an electronic, online format that is available upon request. The price of the course may not exceed $500.

(8) MEDICAL MARIJUANA TREATMENT CENTERS.—

(e) A licensed medical marijuana treatment center shall cultivate, process, transport, and dispense marijuana for medical use. A licensed medical marijuana treatment center may not contract for services directly related to the cultivation, processing, and dispensing of marijuana or marijuana delivery devices, except that a medical marijuana treatment center licensed pursuant to subparagraph (a)1. may contract with a single entity for the cultivation, processing, transporting, and dispensing of marijuana and marijuana delivery devices. A licensed medical marijuana treatment center must, at all times, maintain compliance with the criteria demonstrated and representations made in the initial application and the criteria established in this subsection. Upon request, the department may grant a medical marijuana treatment center a variance from the representations made in the initial application. Consideration of such a request shall be based upon the individual facts and circumstances surrounding the request. A variance may not be granted unless the requesting medical marijuana treatment center can demonstrate to the department that it has a proposed alternative to the specific representation made in its application which fulfills the same or a similar purpose as the specific representation in a way that the department can reasonably determine will not be a lower standard than the specific representation in the application. A variance may not be granted from the requirements in subparagraph 2. and subparagraphs (b)1. and 2.

1. A licensed medical marijuana treatment center may transfer ownership to an individual or entity who meets the requirements of this section. A publicly traded corporation or publicly traded company that meets the requirements of this section is not precluded from ownership of a medical marijuana treatment center. To accommodate a change in ownership:

a. The licensed medical marijuana treatment center shall notify the department in writing at least 60 days before the anticipated date of the change of ownership.

b. The individual or entity applying for initial licensure due to a change of ownership must submit an application that must be received by the department at least 60 days before the date of change of ownership.

c. Upon receipt of an application for a license, the department shall examine the application and, within 30 days after receipt, notify the applicant in writing of any apparent errors or omissions and request any additional information required.

d. Requested information omitted from an application for licensure must be filed with the department within 21 days after the department's request for omitted information or the application shall be deemed incomplete and shall be withdrawn from further consideration and the fees shall be forfeited.

e. Within 30 days after the receipt of a complete application, the department shall approve or deny the application.

2. A medical marijuana treatment center, and any individual or entity who directly or indirectly owns, controls, or holds with power to vote 5 percent or more of the voting shares of a

medical marijuana treatment center, may not acquire direct or indirect ownership or control of any voting shares or other form of ownership of any other medical marijuana treatment center.

3. A medical marijuana treatment center may not enter into any form of profit-sharing arrangement with the property owner or lessor of any of its facilities where cultivation, processing, storing, or dispensing of marijuana and marijuana delivery devices occurs.

4. All employees of a medical marijuana treatment center must be 21 years of age or older and have passed a background screening pursuant to subsection (9).

5. Each medical marijuana treatment center must adopt and enforce policies and procedures to ensure employees and volunteers receive training on the legal requirements to dispense marijuana to qualified patients.

6. When growing marijuana, a medical marijuana treatment center:

a. May use pesticides determined by the department, after consultation with the Department of Agriculture and Consumer Services, to be safely applied to plants intended for human consumption, but may not use pesticides designated as restricted-use pesticides pursuant to s. 487.042.

b. Must grow marijuana within an enclosed structure and in a room separate from any other plant.

c. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state in accordance with chapter 581 and any rules adopted thereunder.

d. Must perform fumigation or treatment of plants, or

remove and destroy infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

7. Each medical marijuana treatment center must produce and make available for purchase at least one low-THC cannabis product.

8. A medical marijuana treatment center that produces edibles must hold a permit to operate as a food establishment pursuant to chapter 500, the Florida Food Safety Act, and must comply with all the requirements for food establishments pursuant to chapter 500 and any rules adopted thereunder. Edibles may not contain more than 200 milligrams of tetrahydrocannabinol, and a single serving portion of an edible may not exceed 10 milligrams of tetrahydrocannabinol. Edibles may have a potency variance of no greater than 15 percent. Marijuana products, including edibles, may not be attractive to children; be manufactured in the shape of humans, cartoons, or animals; be manufactured in a form that bears any reasonable resemblance to products available for consumption as commercially available candy; or contain any color additives. To discourage consumption of edibles by children, the department shall determine by rule any shapes, forms, and ingredients allowed and prohibited for edibles. Medical marijuana treatment centers may not begin processing or dispensing edibles until after the effective date of the rule. The department shall also adopt sanitation rules providing the standards and requirements for the storage, display, or dispensing of edibles.

9. Within 12 months after licensure, a medical marijuana treatment center must demonstrate to the department that all of its processing facilities have passed a Food Safety Good

Manufacturing Practices, such as Global Food Safety Initiative or equivalent, inspection by a nationally accredited certifying body. A medical marijuana treatment center must immediately stop processing at any facility which fails to pass this inspection until it demonstrates to the department that such facility has met this requirement.

10. A medical marijuana treatment center that produces prerolled marijuana cigarettes may not use wrapping paper made with tobacco or hemp.

11. When processing marijuana, a medical marijuana treatment center must:

a. Process the marijuana within an enclosed structure and in a room separate from other plants or products.

b. Comply with department rules when processing marijuana with hydrocarbon solvents or other solvents or gases exhibiting potential toxicity to humans. The department shall determine by rule the requirements for medical marijuana treatment centers to use such solvents or gases exhibiting potential toxicity to humans.

c. Comply with federal and state laws and regulations and department rules for solid and liquid wastes. The department shall determine by rule procedures for the storage, handling, transportation, management, and disposal of solid and liquid waste generated during marijuana production and processing. The Department of Environmental Protection shall assist the department in developing such rules.

d. Test the processed marijuana using a medical marijuana testing laboratory before it is dispensed. Results must be verified and signed by two medical marijuana treatment center

employees. Before dispensing, the medical marijuana treatment center must determine that the test results indicate that low-THC cannabis meets the definition of low-THC cannabis, the concentration of tetrahydrocannabinol meets the potency requirements of this section, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and all marijuana is safe for human consumption and free from contaminants that are unsafe for human consumption. The department shall determine by rule which contaminants must be tested for and the maximum levels of each contaminant which are safe for human consumption. The Department of Agriculture and Consumer Services shall assist the department in developing the testing requirements for contaminants that are unsafe for human consumption in edibles. The department shall also determine by rule the procedures for the treatment of marijuana that fails to meet the testing requirements of this section, s. 381.988, or department rule. The department may select samples of marijuana from a medical marijuana treatment center facility which shall be tested by the department to determine whether the marijuana meets the potency requirements of this section, is safe for human consumption, and is accurately labeled with the tetrahydrocannabinol and cannabidiol concentration or to verify the result of marijuana testing conducted by a marijuana testing laboratory. The department may also select samples of marijuana delivery devices from a medical marijuana treatment center to determine whether the marijuana delivery device is safe for use by qualified patients. A medical marijuana treatment center may not require payment from the department for the sample. A medical marijuana treatment center must recall marijuana,

including all marijuana and marijuana products made from the same batch of marijuana, that fails to meet the potency requirements of this section, that is unsafe for human consumption, or for which the labeling of the tetrahydrocannabinol and cannabidiol concentration is inaccurate. The department shall adopt rules to establish marijuana potency variations of no greater than 15 percent using negotiated rulemaking pursuant to s. 120.54(2)(d) which accounts for, but is not limited to, time lapses between testing, testing methods, testing instruments, and types of marijuana sampled for testing. The department may not issue any recalls for product potency as it relates to product labeling before issuing a rule relating to potency variation standards. A medical marijuana treatment center must also recall all marijuana delivery devices determined to be unsafe for use by qualified patients. The medical marijuana treatment center must retain records of all testing and samples of each homogenous batch of marijuana for at least 9 months. The medical marijuana treatment center must contract with a marijuana testing laboratory to perform audits on the medical marijuana treatment center's standard operating procedures, testing records, and samples and provide the results to the department to confirm that the marijuana or low-THC cannabis meets the requirements of this section and that the marijuana or low-THC cannabis is safe for human consumption. A medical marijuana treatment center shall reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of such audits. A medical marijuana treatment center may use a laboratory that has not been certified by the department under s. 381.988 until such time as

at least one laboratory holds the required certification, but in no event later than July 1, 2018.

e. Package the marijuana in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

f. Package the marijuana in a receptacle that has a firmly affixed and legible label stating the following information:

(I) The marijuana or low-THC cannabis meets the requirements of sub-subparagraph d.

(II) The name of the medical marijuana treatment center from which the marijuana originates.

(III) The batch number and harvest number from which the marijuana originates and the date dispensed.

(IV) The name of the physician who issued the physician certification.

(V) The name of the patient.

(VI) The product name, if applicable, and dosage form, including concentration of tetrahydrocannabinol and cannabidiol. The product name may not contain wording commonly associated with products that are attractive to children or which promote the recreational use of marijuana ~~marketed by or to children~~.

(VII) The recommended dose.

(VIII) A warning that it is illegal to transfer medical marijuana to another person.

(IX) A marijuana universal symbol developed by the department.

12. The medical marijuana treatment center shall include in each package a patient package insert with information on the specific product dispensed related to:

a. Clinical pharmacology.

b. Indications and use.

c. Dosage and administration.

d. Dosage forms and strengths.

e. Contraindications.

f. Warnings and precautions.

g. Adverse reactions.

13. In addition to the packaging and labeling requirements specified in subparagraphs 11. and 12., marijuana in a form for smoking must be packaged in a sealed receptacle with a legible and prominent warning to keep away from children and a warning that states marijuana smoke contains carcinogens and may negatively affect health. Such receptacles for marijuana in a form for smoking must be plain, opaque, and white without depictions of the product or images other than the medical marijuana treatment center's department-approved logo and the marijuana universal symbol.

14. The department shall adopt rules to regulate the types, appearance, and labeling of marijuana delivery devices dispensed from a medical marijuana treatment center. The rules must require marijuana delivery devices to have an appearance consistent with medical use.

15. Each edible must ~~shall~~ be individually sealed in plain, opaque wrapping marked only with the marijuana universal symbol. Where practical, each edible must ~~shall~~ be marked with the marijuana universal symbol. In addition to the packaging and labeling requirements in subparagraphs 11. and 12., edible receptacles must be plain, opaque, and white without depictions of the product or images other than the medical marijuana

treatment center's department-approved logo and the marijuana universal symbol. The receptacle must also include a list of all the edible's ingredients, storage instructions, an expiration date, a legible and prominent warning to keep away from children and pets, and a warning that the edible has not been produced or inspected pursuant to federal food safety laws.

16. When dispensing marijuana or a marijuana delivery device, a medical marijuana treatment center:

a. May dispense any active, valid order for low-THC cannabis, medical cannabis and cannabis delivery devices issued pursuant to former s. 381.986, Florida Statutes 2016, which was entered into the medical marijuana use registry before July 1, 2017.

b. May not dispense more than a 70-day supply of marijuana within any 70-day period to a qualified patient or caregiver. May not dispense more than one 35-day supply of marijuana in a form for smoking within any 35-day period to a qualified patient or caregiver. A 35-day supply of marijuana in a form for smoking may not exceed 2.5 ounces unless an exception to this amount is approved by the department pursuant to paragraph (4)(f).

c. Must have the medical marijuana treatment center's employee who dispenses the marijuana or a marijuana delivery device enter into the medical marijuana use registry his or her name or unique employee identifier.

d. Must verify that the qualified patient and the caregiver, if applicable, each have an active registration in the medical marijuana use registry and an active and valid medical marijuana use registry identification card, the amount and type of marijuana dispensed matches the physician

certification in the medical marijuana use registry for that qualified patient, and the physician certification has not already been filled.

e. May not dispense marijuana to a qualified patient who is younger than 18 years of age. If the qualified patient is younger than 18 years of age, marijuana may only be dispensed to the qualified patient's caregiver.

f. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes or wrapping papers made with tobacco or hemp, other than a marijuana delivery device required for the medical use of marijuana and which is specified in a physician certification.

g. Must, upon dispensing the marijuana or marijuana delivery device, record in the registry the date, time, quantity, and form of marijuana dispensed; the type of marijuana delivery device dispensed; and the name and medical marijuana use registry identification number of the qualified patient or caregiver to whom the marijuana delivery device was dispensed.

h. Must ensure that patient records are not visible to anyone other than the qualified patient, his or her caregiver, and authorized medical marijuana treatment center employees.

(h) A medical marijuana treatment center may not engage in advertising that is visible to members of the public from any street, sidewalk, park, or other public place, except:

1. The dispensing location of a medical marijuana treatment center may have a sign that is affixed to the outside or hanging in the window of the premises which identifies the dispensary by the licensee's business name, a department-approved trade name, or a department-approved logo. A medical marijuana treatment

center's trade name and logo may not contain wording or images that are attractive to children ~~commonly associated with marketing targeted toward children~~ or which promote recreational use of marijuana.

2. A medical marijuana treatment center may engage in Internet advertising and marketing under the following conditions:

a. All advertisements must be approved by the department.

b. An advertisement may not have any content that is attractive to children or which promotes the recreational use of marijuana ~~specifically targets individuals under the age of 18, including cartoon characters or similar images~~.

c. An advertisement may not be an unsolicited pop-up advertisement.

d. Opt-in marketing must include an easy and permanent opt-out feature.

(k) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection. The department shall adopt rules it deems necessary to protect the health and safety of qualified patients and minors, including, but not limited to, standards to ensure that medical marijuana treatment centers operate in a manner consistent with the provision of medical products and rules to discourage the diversion and illicit use of marijuana.

(9) BACKGROUND SCREENING.—An individual required to undergo a background screening pursuant to this section must pass a level 2 background screening as provided under chapter 435, which, in addition to the disqualifying offenses provided in s. 435.04, shall exclude an individual who has an arrest awaiting

final disposition for, has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to an offense under chapter 837, chapter 895, or chapter 896 or similar law of another jurisdiction. Exemptions from disqualification as provided under s. 435.07 do not apply to this subsection.

(a) Such individual must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

(b) Fees for state and federal fingerprint processing and retention shall be borne by the medical marijuana treatment center or caregiver, as applicable ~~individual~~. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

(c) Fingerprints submitted to the Department of Law Enforcement pursuant to this subsection shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the department.

Section 3. Paragraph (d) of subsection (1) of section 381.988, Florida Statutes, is amended to read:

381.988 Medical marijuana testing laboratories; marijuana tests conducted by a certified laboratory.—

(1) A person or entity seeking to be a certified marijuana testing laboratory must:

(d) Require all employees, owners, and managers to submit to and pass a level 2 background screening pursuant to chapter 435. The department ~~s. 435.04 and~~ shall deny certification if the person or entity seeking certification has a disqualifying offense as provided in s. 435.04 or has an arrest awaiting final disposition for, has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in chapter 837, chapter 895, or chapter 896 or similar law of another jurisdiction. Exemptions from disqualification as provided under s. 435.07 do not apply to this paragraph.

1. Such employees, owners, and managers must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

2. Fees for state and federal fingerprint processing and retention shall be borne by the certified marijuana testing laboratory ~~such owners or managers~~. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

3. Fingerprints submitted to the Department of Law

Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the department.

Section 4. Section 382.005, Florida Statutes, is amended to read:

382.005 Duties of local registrars.—

(1) Each local registrar is charged with the strict and thorough enforcement of the provisions of this chapter and rules adopted hereunder in his or her registration district, and shall make an immediate report to the department of any violation or apparent violation of this law or rules adopted hereunder.

(2) Each local registrar must electronically file all live birth, death, and fetal death records within their respective jurisdictions in the department's electronic registration system. If the department's electronic registration system is unavailable, the local registrar must file a paper record with the department.

(3) Each local registrar must ~~shall~~ make ~~available~~ blank forms available if the department's electronic registration system is unavailable, ~~as necessary~~ and must ~~shall~~ examine each paper certificate of live birth, death, or fetal death when presented for registration in order to ascertain whether ~~or not~~ it has been completed in accordance with ~~the provisions of~~ this chapter and adopted rules. All paper birth, death, and fetal death certificates must ~~shall~~ be typewritten in permanent black

ink, and a paper certificate is not complete and correct if it does not supply each item of information called for or satisfactorily account for its omission.

(4)~~(3)~~ The local registrar or his or her deputy, if authorized by the department, shall sign as registrar in attestation of the date of registration of any paper records filed, and may also make and preserve a local paper record of each birth, death, and fetal death certificate registered by him or her, in such manner as directed by the department. The local registrar shall transmit daily to the department all original paper certificates registered. If no births, deaths, or fetal deaths occurred in any month, the local registrar or deputy shall, on the 7th day of the following month, report that fact to the department on a form provided for such purpose.

(5)~~(4)~~ Each local registrar, immediately upon appointment, shall designate one or more deputy registrars to act on behalf of the local registrar.

Section 5. Subsection (2) of section 382.008, Florida Statutes, is amended to read:

382.008 Death, fetal death, and nonviable birth registration.—

(2)(a) The funeral director who first assumes custody of a dead body or fetus shall electronically file the certificate of death or fetal death. In the absence of the funeral director, the physician, physician assistant, advanced practice registered nurse registered under s. 464.0123, or other person in attendance at or after the death or the district medical examiner of the county in which the death occurred or the body was found shall electronically file the certificate of death or

fetal death. The person who files the certificate shall obtain personal data from a legally authorized person as described in s. 497.005 or the best qualified person or source available. The medical certification of cause of death must ~~shall~~ be furnished to the funeral director, either in person or via certified mail or electronic transfer, by the physician, physician assistant, advanced practice registered nurse registered under s. 464.0123, or medical examiner responsible for furnishing such information. For fetal deaths, the physician, physician assistant, advanced practice registered nurse registered under s. 464.0123, midwife, or hospital administrator shall provide any medical or health information to the funeral director within 72 hours after expulsion or extraction.

(b) The State Registrar shall ~~may~~ receive electronically a certificate of death, fetal death, or nonviable birth which is required to be filed with the registrar under this chapter through facsimile or other electronic transfer for the purpose of filing the certificate. The receipt of a certificate of death, fetal death, or nonviable birth by electronic transfer constitutes delivery to the State Registrar as required by law.

Section 6. Subsection (2) of section 382.009, Florida Statutes, is amended to read:

382.009 Recognition of brain death under certain circumstances.—

(2) Determination of death pursuant to this section must ~~shall~~ be made in accordance with currently accepted reasonable medical standards by two licensed health care practitioners who must be physicians or physician assistants licensed under chapter 458 or chapter 459 or advanced practice registered

nurses registered under s. 464.0123. One of the health care practitioners must ~~physician shall~~ be the treating health care practitioner ~~physician, and the other physician shall be a board-eligible or board-certified neurologist, neurosurgeon, internist, pediatrician, surgeon, or anesthesiologist~~.

Section 7. Section 382.013, Florida Statutes, is amended to read:

382.013 Birth registration.—A certificate for each live birth that occurs in this state shall be filed within 5 days after such birth in the department's electronic registration system with the local registrar of the district in which the birth occurred and shall be registered by the local registrar if the certificate has been completed and filed in accordance with this chapter and adopted rules. The information regarding registered births shall be used for comparison with information in the state case registry, as defined in chapter 61.

(1) FILING.—

(a) If a birth occurs in a hospital, birth center, or other health care facility, or en route thereto, the person in charge of the facility is ~~shall be~~ responsible for preparing the certificate, certifying the facts of the birth, and filing the certificate in the department's electronic registration system with the local registrar. Within 48 hours after the birth, the physician, midwife, or person in attendance during or immediately after the delivery shall provide the facility with the medical information required by the birth certificate.

(b) If a birth occurs outside a facility and a physician licensed in this state, a certified nurse midwife, a midwife licensed in this state, or a public health nurse employed by the

department was in attendance during or immediately after the delivery, that person shall prepare and file the certificate.

(c) If a birth occurs outside a facility and the delivery is not attended by one of the persons described in paragraph (b), the person in attendance, the mother, or the father shall report the birth to the registrar and provide proof of the facts of birth. The department may require such documents to be presented and such proof to be filed as it deems necessary and sufficient to establish the truth of the facts to be recorded by the certificate and may withhold registering the birth until its requirements are met.

(d) If a birth occurs in a moving conveyance and the child is first removed from the conveyance in this state, the birth shall be filed and registered in this state and the place to which the child is first removed shall be considered the place of birth.

(e) The mother or the father of the child shall attest to the accuracy of the personal data entered on the certificate in time to permit the timely registration of the certificate.

(f) If a certificate of live birth is incomplete, the local registrar shall immediately notify the health care facility or person filing the certificate and shall require the completion of the missing items of information if they can be obtained before ~~prior to~~ issuing certified copies of the birth certificate.

(g) Regardless of any plan to place a child for adoption after birth, the information on the birth certificate as required by this section must be as to the child's birth parents unless and until an application for a new birth record is made

under s. 63.152.

(h) The State Registrar may receive electronically a birth certificate for each live birth which is required to be filed with the registrar under this chapter through facsimile or other electronic transfer for the purpose of filing the birth certificate. The receipt of a birth certificate by electronic transfer constitutes delivery to the State Registrar as required by law.

(2) PATERNITY.—

(a) If the mother is married at the time of birth, the name of the husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(b) Notwithstanding paragraph (a), if the husband of the mother dies while the mother is pregnant but before the birth of the child, the name of the deceased husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(c) If the mother is not married at the time of the birth, the name of the father may not be entered on the birth certificate without the execution of an affidavit signed by both the mother and the person to be named as the father. The facility shall give notice orally or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from signing an acknowledgment of paternity, as well as information provided by the Title IV-D

agency established pursuant to s. 409.2557, regarding the benefits of voluntary establishment of paternity. Upon request of the mother and the person to be named as the father, the facility shall assist in the execution of the affidavit, a notarized voluntary acknowledgment of paternity, or a voluntary acknowledgment of paternity that is witnessed by two individuals and signed under penalty of perjury as specified by s. 92.525(2).

(d) If the paternity of the child is determined by a court of competent jurisdiction as provided under s. 382.015 or there is a final judgment of dissolution of marriage which requires the former husband to pay child support for the child, the name of the father and the surname of the child shall be entered on the certificate in accordance with the finding and order of the court. If the court fails to specify a surname for the child, the surname shall be entered in accordance with subsection (3).

(e) If the paternity of the child is determined pursuant to s. 409.256, the name of the father and the surname of the child shall be entered on the certificate in accordance with the finding and order of the Department of Revenue.

(f) If the mother and father marry each other at any time after the child’s birth, upon receipt of a marriage license that identifies any such child, the department shall amend the certificate with regard to the parents’ marital status as though the parents were married at the time of birth.

(g) If the father is not named on the certificate, no other information about the father shall be entered on the certificate.

(3) NAME OF CHILD.—

(a) If the mother is married at the time of birth, the mother and father whose names are entered on the birth certificate shall select the given names and surname of the child if both parents have custody of the child, otherwise the parent who has custody shall select the child's name.

(b) If the mother and father whose names are entered on the birth certificate disagree on the surname of the child and both parents have custody of the child, the surname selected by the father and the surname selected by the mother shall both be entered on the birth certificate, separated by a hyphen, with the selected names entered in alphabetical order. If the parents disagree on the selection of a given name, the given name may not be entered on the certificate until a joint agreement that lists the agreed upon given name and is notarized by both parents is submitted to the department, or until a given name is selected by a court.

(c) If the mother is not married at the time of birth, the parent who will have custody of the child shall select the child's given name and surname.

(d) If multiple names of the child exceed the space provided on the face of the birth certificate they shall be listed on the back of the certificate. Names listed on the back of the certificate shall be part of the official record.

(4) UNDETERMINED PARENTAGE.—The person having custody of a child of undetermined parentage shall register a birth certificate showing all known or approximate facts relating to the birth. To assist in later determination, information concerning the place and circumstances under which the child was found shall be included on the portion of the birth certificate

relating to marital status and medical details. In the event the child is later identified, a new birth certificate shall be prepared which shall bear the same number as the original birth certificate, and the original certificate shall be sealed and filed, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be opened to inspection by, nor shall certified copies of the same be issued except by court order to, any person other than the registrant if of legal age.

(5) DISCLOSURE.—The original certificate of live birth shall contain all the information required by the department for legal, social, and health research purposes. However, all information concerning parentage, marital status, and medical details shall be confidential and exempt from the provisions of s. 119.07(1), except for health research purposes as approved by the department, nor shall copies of the same be issued except as provided in s. 382.025.

Section 8. Section 382.015, Florida Statutes, is amended to read:

382.015 New certificates of live birth; duty of clerks of court and department.—The clerk of the court in which any proceeding for adoption, annulment of an adoption, affirmation of parental status, or determination of paternity is to be registered, shall within 30 days after the final disposition, forward <u>electronically</u> to the department a certified copy of the court order, or a report of the proceedings upon a form to be furnished by the department, together with sufficient information to identify the original birth certificate and to enable the preparation of a new birth certificate. The clerk of the court shall implement a monitoring and quality control plan

to ensure that all judicial determinations of paternity are reported to the department in compliance with this section. The department shall track paternity determinations reported monthly by county, monitor compliance with the 30-day timeframe, and report the data to the clerks of the court quarterly.

(1) ADOPTION AND ANNULMENT OF ADOPTION.—

(a) Upon receipt of the report or certified copy of an adoption decree, together with the information necessary to identify the original certificate of live birth, and establish a new certificate, the department shall prepare and file a new birth certificate, absent objection by the court decreeing the adoption, the adoptive parents, or the adoptee if of legal age. The certificate shall bear the same file number as the original birth certificate. All names and identifying information relating to the adoptive parents entered on the new certificate shall refer to the adoptive parents, but nothing in the certificate shall refer to or designate the parents as being adoptive. All other items not affected by adoption shall be copied as on the original certificate, including the date of registration and filing.

(b) Upon receipt of the report or certified copy of an annulment-of-adoption decree, together with the sufficient information to identify the original certificate of live birth, the department shall, if a new certificate of birth was filed following an adoption report or decree, remove the new certificate and restore the original certificate to its original place in the files, and the certificate so removed shall be sealed by the department.

(c) Upon receipt of a report or certified copy of an

adoption decree or annulment-of-adoption decree for a person born in another state, the department shall forward the report or decree to the state of the registrant's birth. If the adoptee was born in Canada, the department shall send a copy of the report or decree to the appropriate birth registration authority in Canada.

(2) DETERMINATION OF PATERNITY.—Upon receipt of the report, a certified copy of a final decree of determination of paternity, or a certified copy of a final judgment of dissolution of marriage which requires the former husband to pay child support for the child, together with sufficient information to identify the original certificate of live birth, the department shall prepare and file a new birth certificate, which shall bear the same file number as the original birth certificate. The registrant's name shall be entered as decreed by the court or as reflected in the final judgment or support order. The names and identifying information of the parents shall be entered as of the date of the registrant's birth.

(3) AFFIRMATION OF PARENTAL STATUS.—Upon receipt of an order of affirmation of parental status issued pursuant to s. 742.16, together with sufficient information to identify the original certificate of live birth, the department shall prepare and file a new birth certificate which shall bear the same file number as the original birth certificate. The names and identifying information of the registrant's parents entered on the new certificate shall be the commissioning couple, but the new certificate may not make reference to or designate the parents as the commissioning couple.

(4) SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR ORIGINAL.—

When a new certificate of birth is prepared, the department shall substitute the new certificate of birth for the original certificate on file. All copies of the original certificate of live birth in the custody of a local registrar or other state custodian of vital records shall be forwarded to the State Registrar. Thereafter, when a certified copy of the certificate of birth or portion thereof is issued, it shall be a copy of the new certificate of birth or portion thereof, except when a court order requires issuance of a certified copy of the original certificate of birth. In an adoption, change in paternity, affirmation of parental status, undetermined parentage, or court-ordered substitution, the department shall place the original certificate of birth and all papers pertaining thereto under seal, not to be broken except by order of a court of competent jurisdiction or as otherwise provided by law.

(5) FORM.—Except for certificates of foreign birth which are registered as provided in s. 382.017, and delayed certificates of birth which are registered as provided in ss. 382.019 and 382.0195, all original, new, or amended certificates of live birth shall be identical in form, regardless of the marital status of the parents or the fact that the registrant is adopted or of undetermined parentage.

(6) RULES.—The department shall adopt and enforce all rules necessary for carrying out the provisions of this section.

Section 9. Section 382.021, Florida Statutes, is amended to read:

382.021 Department to receive marriage licenses.—Weekly ~~On or before the 5th day of each month~~, the county court judge or clerk of the circuit court shall electronically transmit all

original marriage licenses, with endorsements, received during the preceding calendar week ~~month~~, to the department. Any marriage licenses issued and not returned or any marriage licenses returned but not recorded shall be reported by the issuing county court judge or clerk of the circuit court to the department at the time of transmitting the recorded licenses on the forms to be prescribed and furnished by the department. If during any month no marriage licenses are issued or returned, the county court judge or clerk of the circuit court shall report such fact to the department upon forms prescribed and furnished by the department.

Section 10. Section 382.023, Florida Statutes, is amended to read:

382.023 Department to receive dissolution-of-marriage records; fees.—Clerks of the circuit courts shall collect for their services at the time of the filing of a final judgment of dissolution of marriage a fee of up to $10.50, of which 43 percent shall be retained by the clerk of the circuit court as a part of the cost in the cause in which the judgment is granted. The remaining 57 percent shall be remitted to the Department of Revenue for deposit to the Department of Health to defray part of the cost of maintaining the dissolution-of-marriage records. A record of each and every judgment of dissolution of marriage granted by the court during the preceding calendar week ~~month~~, giving names of parties and such other data as required by forms prescribed by the department, shall be electronically transmitted to the department weekly, ~~on or before the 10th day of each month,~~ along with an accounting of the funds remitted to the Department of Revenue pursuant to this section.

Section 11. Subsections (1) and (4) of section 382.025, Florida Statutes, are amended to read:

382.025 Certified copies of vital records; confidentiality; research.—

(1) BIRTH RECORDS.—Except for birth records over 125 ~~100~~ years old which are not under seal pursuant to court order, all birth records of this state shall be confidential and are exempt from the provisions of s. 119.07(1).

(a) Certified copies of the original birth certificate or a new or amended certificate, or affidavits thereof, are confidential and exempt from the provisions of s. 119.07(1) and, upon receipt of a request and payment of the fee prescribed in s. 382.0255, shall be issued only as authorized by the department and in the form prescribed by the department, and only:

1. To the registrant, if the registrant is of legal age, is a certified homeless youth, or is a minor who has had the disabilities of nonage removed under s. 743.01 or s. 743.015;

2. To the registrant’s parent or guardian or other legal representative;

3. Upon receipt of the registrant’s death certificate, to the registrant’s spouse or to the registrant’s child, grandchild, or sibling, if of legal age, or to the legal representative of any ~~of~~ such person ~~persons~~;

4. To any person if the birth record is more than 125 ~~over 100~~ years old and not under seal pursuant to court order;

5. To a law enforcement agency for official purposes;

6. To any agency of the state or the United States for official purposes upon approval of the department; or

7. Upon order of any court of competent jurisdiction.

(b) To protect the integrity of vital records and prevent the fraudulent use of the birth certificates of deceased persons, the department shall match birth and death certificates and post the fact of death to the appropriate birth certificate. Except for a commemorative birth certificate, any certification of a birth certificate of a deceased registrant shall be marked "deceased." In the case of a commemorative birth certificate, such indication of death shall be made on the back of the certificate.

(c) The department shall issue, upon request and upon payment of an additional fee as prescribed under s. 382.0255, a commemorative birth certificate representing that the birth of the person named thereon is recorded in the office of the registrar. The certificate issued under this paragraph shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the Governor.

(4) CERTIFIED COPIES OF ORIGINAL CERTIFICATES.—Only the state registrar, ~~and~~ local registrars, and those persons appointed by the department are authorized to issue any certificate which purports to be a certified copy of an original certificate of live birth, death, or fetal death. Except as provided in this section, preparing or issuing certificates is exempt from the provisions of s. 119.07(1).

Section 12. Subsections (3), (4), and (5) of section 401.27, Florida Statutes, are amended to read:

401.27 Personnel; standards and certification.—

(3) Any person who desires to be certified or recertified as an emergency medical technician or paramedic must apply to the department ~~under oath~~ on forms provided by the department which shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with applicable laws and rules. The department shall determine whether the applicant meets the requirements specified in this section and in rules of the department and shall issue a certificate to any person who meets such requirements.

(4) An applicant for certification or recertification as an emergency medical technician or paramedic must:

(a) Have completed an appropriate training program as follows:

1. For an emergency medical technician, an emergency medical technician training program approved by the department as equivalent to the most recent EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation;

2. For a paramedic, a paramedic training program approved by the department as equivalent to the most recent EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation;

(b) Attest ~~Certify under oath~~ that he or she is not addicted to alcohol or any controlled substance;

(c) Attest ~~Certify under oath~~ that he or she is free from any physical or mental defect or disease that might impair the applicant’s ability to perform his or her duties;

(d) Within 2 years after program completion have passed an

examination developed or required by the department;

(e)1. For an emergency medical technician, hold a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent as defined by department rule;

2. For a paramedic, hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent as defined by department rule;

(f) Submit the certification fee and the nonrefundable examination fee prescribed in s. 401.34, which examination fee will be required for each examination administered to an applicant; and

(g) Submit a completed application to the department, which application documents compliance with paragraphs (a), (b), (c), (e), (f), and this paragraph, and, if applicable, paragraph (d). ~~The application must be submitted so as to be received by the department at least 30 calendar days before the next regularly scheduled examination for which the applicant desires to be scheduled.~~

~~(5) The certification examination must be offered monthly. The department shall issue an examination admission notice to the applicant advising him or her of the time and place of the examination for which he or she is scheduled. Individuals achieving a passing score on the certification examination may be issued a temporary certificate with their examination grade report. The department must issue an original certification within 45 days after the examination. Examination questions and answers are not subject to discovery but may be introduced into~~

~~evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the administrative law judge. The department shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers in accordance with s. 119.071(1)(a).~~

Section 13. Paragraph (a) of subsection (1) of section 401.2701, Florida Statutes, is amended to read:

401.2701 Emergency medical services training programs.—

(1) Any private or public institution in Florida desiring to conduct an approved program for the education of emergency medical technicians and paramedics shall:

(a) Submit a completed application on a form provided by the department, which must include:

1. Evidence that the institution is in compliance with all applicable requirements of the Department of Education.

2. Evidence of an affiliation agreement with a hospital that has an emergency department staffed by at least one physician and one registered nurse.

3. Evidence of an affiliation agreement with a current emergency medical services provider that is licensed in this state. Such agreement shall include, at a minimum, a commitment by the provider to conduct the field experience portion of the education program. <u>An applicant licensed as an advanced life support service under s. 401.25 with permitted transport vehicles pursuant to s. 401.26 is exempt from the requirements of this subparagraph and need not submit evidence of an affiliation agreement with a current emergency medical services</u>

provider.

4. Documentation verifying faculty, including:

a. A medical director who is a licensed physician meeting the applicable requirements for emergency medical services medical directors as outlined in this chapter and rules of the department. The medical director shall have the duty and responsibility of certifying that graduates have successfully completed all phases of the education program and are proficient in basic or advanced life support techniques, as applicable.

b. A program director responsible for the operation, organization, periodic review, administration, development, and approval of the program.

5. Documentation verifying that the curriculum:

a. Meets the most recent Emergency Medical Technician-Basic National Standard Curriculum or the National EMS Education Standards approved by the department for emergency medical technician programs and Emergency Medical Technician-Paramedic National Standard Curriculum or the National EMS Education Standards approved by the department for paramedic programs.

b. Includes 2 hours of instruction on the trauma scorecard methodologies for assessment of adult trauma patients and pediatric trauma patients as specified by the department by rule.

6. Evidence of sufficient medical and educational equipment to meet emergency medical services training program needs.

Section 14. Section 401.272, Florida Statutes, is amended to read:

401.272 Emergency medical services community health care.—

(1) The purpose of this section is to encourage more

effective utilization of the skills of emergency medical technicians and paramedics by enabling them to perform~~, in partnership with local county health departments,~~ specific additional health care tasks that are consistent with the public health and welfare.

(2) Notwithstanding any other provision of law to the contrary:

(a) Paramedics or emergency medical technicians shall operate under the medical direction of a physician through two-way voice communication or pursuant to established standing orders or protocols and within the scope of their training when providing basic life support, advanced life support, and ~~may perform~~ health promotion and wellness activities ~~and blood pressure screenings~~ in a nonemergency environment~~, within the scope of their training, and under the direction of a medical director~~. As used in this paragraph, the term "health promotion and wellness" means the provision of public health programs pertaining to the prevention of illness and injury.

(b) Paramedics and emergency medical technicians shall operate under the medical direction of a physician through two-way communication or pursuant to established standing orders or protocols and within the scope of their training when a patient is not transported to an emergency department or is transported to a facility other than a hospital as defined in s. 395.002(12).

(c) Paramedics may administer immunizations in a nonemergency environment, within the scope of their training, and under the medical direction of a physician through two-way communication or pursuant to established standing orders or

protocols ~~medical director~~. There must be a written agreement between the physician providing medical direction ~~paramedic's medical director~~ and the department or the county health department located in each county in which the paramedic administers immunizations. This agreement must establish the protocols, policies, and procedures under which the paramedic must operate.

(d) ~~(c)~~ Paramedics may provide basic life support services and advanced life support services to patients receiving acute and postacute hospital care at home as specified in the paramedic's supervisory relationship with a physician or standing orders as described in s. 401.265, s. 458.348, or s. 459.025. A physician who supervises or provides medical direction to a paramedic who provides basic life support services or advanced life support services to patients receiving acute and postacute hospital care at home pursuant to a formal supervisory relationship or standing orders is liable for any act or omission of the paramedic acting under the physician's supervision or medical direction when providing such services. The department may adopt and enforce rules necessary to implement this paragraph.

(3) Each physician providing medical direction to ~~medical director under whose direction~~ a paramedic who administers immunizations must verify and document that the paramedic has received sufficient training and experience to administer immunizations. The verification must be documented on forms developed by the department, and the completed forms must be maintained at the service location of the licensee and made available to the department upon request.

(4) The department may adopt and enforce all rules necessary to enforce the provisions relating to a paramedic's administration of immunizations and the performance of health promotion and wellness activities ~~and blood pressure screenings~~ by a paramedic or emergency medical technician in a nonemergency environment.

Section 15. Subsections (5), (6), and (7) of section 401.34, Florida Statutes, are amended to read:

401.34 Fees.—

~~(5) The department may provide same-day grading of the examination for an applicant for emergency medical technician or paramedic certification.~~

~~(6) The department may offer walk-in eligibility determination and examination to applicants for emergency medical technician or paramedic certification who pay to the department a nonrefundable fee to be set by the department not to exceed $65. The fee is in addition to the certification fee and examination fee. The department must establish locations and times for eligibility determination and examination.~~

~~(7) The cost of emergency medical technician or paramedic certification examination review may not exceed $50.~~

Section 16. Section 401.435, Florida Statutes, is amended to read:

401.435 Emergency medical ~~First~~ responder agencies and training.—

(1) The department must adopt by rule the United States Department of Transportation National Emergency Medical Services Education Standards for the Emergency Medical ~~Services: First~~ Responder level ~~Training Course~~ as the minimum standard for

emergency medical ~~first~~ responder training. In addition, the department must adopt rules establishing minimum emergency medical ~~first~~ responder instructor qualifications. For purposes of this section, an emergency medical ~~a first~~ responder includes any individual who receives training to render initial care to an ill or injured person, other than an individual trained and certified pursuant to s. 943.1395(1), but who does not have the primary responsibility of treating and transporting ill or injured persons.

(2) Each emergency medical ~~first~~ responder agency must take all reasonable efforts to enter into a memorandum of understanding with the emergency medical services licensee within whose territory the agency operates in order to coordinate emergency services at an emergency scene. The department must provide a model memorandum of understanding for this purpose. The memorandum of understanding should include dispatch protocols, the roles and responsibilities of emergency medical ~~first~~ responder personnel at an emergency scene, and the documentation required for patient care rendered. For purposes of this section, the term "emergency medical ~~first~~ responder agency" includes a law enforcement agency, a fire service agency not licensed under this part, a lifeguard agency, and a volunteer organization that renders, as part of its routine functions, on-scene patient care before emergency medical technicians or paramedics arrive.

Section 17. Paragraph (a) of subsection (1) of section 464.203, Florida Statutes, is amended to read:

464.203 Certified nursing assistants; certification requirement.—

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required background screening pursuant to s. 400.215. If the person has successfully passed the required background screening pursuant to s. 400.215 or s. 408.809 within 90 days before applying for a certificate to practice and the person's background screening results are not retained in the clearinghouse created under s. 435.12, the board shall waive the requirement that the applicant successfully pass an additional background screening pursuant to s. 400.215. The person must also meet one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department. Any person who has successfully completed an approved training program within 6 months before filing an application for certification is not required to take the skills-demonstration portion of the competency examination.

Section 18. Section 468.1225, Florida Statutes, is amended to read:

468.1225 Procedures, equipment, and protocols.—

(1) The following minimal procedures shall be used when a licensed audiologist fits and sells a prescription hearing aid:

(a) Pure tone audiometric testing by air and bone to determine the type and degree of hearing deficiency when indicated.

(b) Effective masking when indicated.

(c) Appropriate testing to determine speech reception thresholds, speech discrimination scores, the most comfortable listening levels, uncomfortable loudness levels, and the selection of the best fitting arrangement for maximum hearing aid benefit when indicated.

(2) The following equipment shall be used:

(a) A wide range audiometer that ~~which~~ meets the specifications of the American National Standards Institute for diagnostic audiometers when indicated.

(b) A speech audiometer or a master hearing aid in order to determine the most comfortable listening level and speech discrimination when indicated.

(3) A final fitting ensuring physical and operational comfort of the prescription hearing aid shall be made when indicated.

(4) A licensed audiologist who fits and sells prescription hearing aids shall obtain the following medical clearance: If, upon inspection of the ear canal with an otoscope in the common procedure of fitting a prescription hearing aid and upon interrogation of the client, there is any recent history of infection or any observable anomaly, the client shall be instructed to see a physician, and a prescription hearing aid may ~~shall~~ not be fitted until medical clearance is obtained for the condition noted. If, upon return, the condition noted is no longer observable and the client signs a medical waiver, a prescription hearing aid may be fitted. Any person with a significant difference between bone conduction hearing and air conduction hearing must be informed of the possibility of

medical or surgical correction.

(5)(a) A licensed audiologist's office must have available, or have access to, a selection of prescription hearing aid models, hearing aid supplies, and services complete enough to accommodate the various needs of the hearing aid wearers.

(b) At the time of the initial examination for fitting and sale of a prescription hearing aid, the attending audiologist must notify the prospective purchaser of the benefits of telecoil, also known as "t" coil or "t" switch, technology, including increased access to telephones and noninvasive access to assistive listening systems required under the Americans with Disabilities Act of 1990.

(6) Unless otherwise indicated, each audiometric test conducted by a licensee or a certified audiology assistant in the fitting and selling of prescription hearing aids must ~~shall~~ be made in a testing room that has been certified by the department, or by an agent approved by the department, not to exceed the following sound pressure levels at the specified frequencies: 250Hz-40dB, 500Hz-40dB, 750Hz-40dB, 1000Hz-40dB, 1500Hz-42dB, 2000Hz-47dB, 3000Hz-52dB, 4000Hz-57dB, 6000Hz-62dB, and 8000Hz-67dB. An exception to this requirement shall be made in the case of a client who, after being provided written notice of the benefits and advantages of having the test conducted in a certified testing room, requests that the test be conducted in a place other than the licensee's certified testing room. Such request must ~~shall~~ be documented by a waiver that ~~which~~ includes the written notice and is signed by the licensee and the client before ~~prior to~~ the testing. The waiver must ~~shall~~ be executed on a form provided by the department. The executed waiver must

~~shall~~ be attached to the client's copy of the contract, and a copy of the executed waiver must ~~shall~~ be retained in the licensee's file.

(7) The board may ~~shall have the power to~~ prescribe the minimum procedures and equipment used in the conducting of hearing assessments and for the fitting and selling of prescription hearing aids. The board shall adopt and enforce rules necessary to implement ~~carry out the provisions of~~ this subsection and subsection (6).

(8) Any duly authorized officer or employee of the department may ~~shall have the right to~~ make such inspections and investigations as ~~are~~ necessary ~~in order~~ to determine the state of compliance with ~~the provisions of~~ this section and the applicable rules and may enter the premises of a licensee and inspect the records of same upon reasonable belief that a violation of this law is being or has been committed or that the licensee has failed or is failing to comply with ~~the provisions of~~ this part.

Section 19. Section 468.1245, Florida Statutes, is amended to read:

468.1245 Itemized listing of prices; delivery of prescription hearing aid; receipt; guarantee; packaging; disclaimer.—

(1) Before ~~Prior to~~ delivery of services or products to a prospective purchaser, a licensee must ~~shall~~ disclose, upon request by the prospective purchaser, an itemized listing of prices, which must ~~listing shall~~ include separate price estimates for each service component and each product. Provision of such itemized listing of prices may ~~shall~~ not be predicated

on the prospective purchaser's payment of any charge or agreement to purchase any service or product.

(2) Any licensee who fits and sells a prescription hearing aid shall, at the time of delivery, provide the purchaser with a receipt containing the seller's signature, the address of his or her regular place of business, and his or her license or certification number, if applicable, together with the brand, model, manufacturer or manufacturer's identification code, and serial number of the prescription hearing aid furnished and the amount charged for the prescription hearing aid. The receipt must also ~~shall~~ specify whether the prescription hearing aid is new, used, or rebuilt, ~~and shall specify~~ the length of time and other terms of the guarantee, and by whom the prescription hearing aid is guaranteed. When the client has requested an itemized list of prices, the receipt must ~~shall~~ also provide an itemization of the total purchase price, including, but not limited to, the cost of the aid, ear mold, batteries, and other accessories, and the cost of any services. Notice of the availability of this service must be displayed in a conspicuous manner in the office. The receipt must also ~~shall~~ state that any complaint concerning the prescription hearing aid and its guarantee, if not reconciled with the licensee from whom the prescription hearing aid was purchased, should be directed by the purchaser to the department. The address and telephone number of such office must ~~shall~~ be stated on the receipt.

(3) A prescription ~~No~~ hearing aid may not be sold to any person unless both the packaging containing the prescription hearing aid and the contract provided pursuant to subsection (2) carry the following disclaimer in 10-point or larger type: "A

hearing aid will not restore normal hearing, nor will it prevent further hearing loss."

Section 20. Section 468.1246, Florida Statutes, is amended to read:

468.1246 Thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee.—

(1) A person selling a prescription hearing aid in this state must provide the buyer with written notice of a 30-day trial period and money-back guarantee. The guarantee must permit the purchaser to cancel the purchase for a valid reason as defined by rule of the board within 30 days after receiving the prescription hearing aid, by returning the prescription hearing aid or mailing written notice of cancellation to the seller. If the prescription hearing aid must be repaired, remade, or adjusted during the 30-day trial period, the running of the 30-day trial period is suspended 1 day for each 24-hour period that the prescription hearing aid is not in the purchaser's possession. A repaired, remade, or adjusted prescription hearing aid must be claimed by the purchaser within 3 working days after notification of availability. The running of the 30-day trial period resumes on the day the purchaser reclaims a repaired, remade, or adjusted prescription hearing aid or on the 4th day after notification of availability.

(2) The board, in consultation with the Board of Hearing Aid Specialists, shall prescribe by rule the terms and conditions to be contained in the money-back guarantee and any exceptions thereto. Such rule must ~~shall~~ provide, at a minimum, that the charges for earmolds and service provided to fit the prescription hearing aid may be retained by the licensee. The

rules must ~~shall~~ also set forth any reasonable charges to be held by the licensee as a cancellation fee. ~~Such rule shall be effective on or before December 1, 1994. Should the board fail to adopt such rule, a licensee may not charge a cancellation fee which exceeds 5 percent of the total charge for a hearing aid alone.~~ The terms and conditions of the guarantee, including the total amount available for refund, must ~~shall~~ be provided in writing to the purchaser before ~~prior to~~ the signing of the contract.

Section 21. Section 468.1255, Florida Statutes, is amended to read:

468.1255 Cancellation by medical authorization; purchaser's right to return.—

(1) In addition to any other rights and remedies the purchaser of a prescription hearing aid may have, the purchaser has ~~shall have~~ the right to rescind the transaction if the purchaser for whatever reason consults a licensed physician with specialty board certification in otolaryngology or internal medicine or a licensed family practice physician, subsequent to purchasing a prescription hearing aid, and the physician certifies in writing that the purchaser has a hearing impairment for which a prescription hearing aid will not provide a benefit or that the purchaser has a medical condition which contraindicates the use of a prescription hearing aid.

(2) The purchaser of a prescription hearing aid has ~~shall have~~ the right to rescind as provided in subsection (1) only if the purchaser gives a written notice of the intent to rescind the transaction to the seller at the seller's place of business by certified mail, return receipt requested, which notice shall

be posted not later than 60 days following the date of delivery of the prescription hearing aid to the purchaser, and the purchaser returns the prescription hearing aid to the seller in the original condition less normal wear and tear.

(3) If the conditions of subsections (1) and (2) are met, the seller must ~~shall~~, without request, refund to the purchaser, within 10 days after ~~of~~ the receipt of notice to rescind, a full and complete refund of all moneys received, less 5 percent. The purchaser does not ~~shall~~ incur any ~~no~~ additional liability for rescinding the transaction.

Section 22. Section 468.1265, Florida Statutes, is amended to read:

468.1265 Sale or distribution of prescription hearing aids through mail; penalty.—It is unlawful for any person to sell or distribute prescription hearing aids through the mail to the ultimate consumer. Any person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 23. Section 468.1275, Florida Statutes, is amended to read:

468.1275 Place of business; display of license.—Each licensee who fits and sells a prescription hearing aid shall declare and establish a regular place of business, at which his or her license shall be conspicuously displayed.

Section 24. Section 484.0401, Florida Statutes, is amended to read:

484.0401 Purpose.—The Legislature recognizes that the dispensing of prescription hearing aids requires particularized knowledge and skill to ensure that the interests of the hearing-

impaired public will be adequately served and safely protected. It recognizes that a poorly selected or fitted prescription hearing aid not only will give little satisfaction but may interfere with hearing ability and, therefore, deems it necessary in the interest of the public health, safety, and welfare to regulate the dispensing of prescription hearing aids in this state. Restrictions on the fitting and selling of prescription hearing aids shall be imposed only to the extent necessary to protect the public from physical and economic harm, and restrictions shall not be imposed in a manner which will unreasonably affect the competitive market.

Section 25. Section 484.041, Florida Statutes, is reordered and amended to read:

484.041 Definitions.—As used in this part, the term:

(1) "Board" means the Board of Hearing Aid Specialists.

(2) "Department" means the Department of Health.

(3) "Dispensing prescription hearing aids" means and includes:

(a) Conducting and interpreting hearing tests for purposes of selecting suitable prescription hearing aids, making earmolds or ear impressions, and providing appropriate counseling.

(b) All acts pertaining to the selling, renting, leasing, pricing, delivery, and warranty of prescription hearing aids.

(6) ~~(4)~~ "Hearing aid specialist" means a person duly licensed in this state to practice the dispensing of prescription hearing aids.

(4) ~~(5)~~ "Hearing aid" means any wearable ~~an amplifying~~ device designed for, offered for the purpose of, or represented as aiding persons with, or compensating for, impaired hearing ~~to~~

~~be worn by a hearing-impaired person to improve hearing~~.

(10)~~(6)~~ "Trainee" means a person studying prescription hearing aid dispensing under the direct supervision of an active licensed hearing aid specialist for the purpose of qualifying for certification to sit for the licensure examination.

(5)~~(7)~~ "Hearing aid establishment" means any establishment in this ~~the~~ state which employs a licensed hearing aid specialist who offers, advertises, and performs hearing aid services for the general public.

(7) "Over-the-counter hearing aid" means an air-conduction hearing aid that does not require implantation or other surgical intervention and is intended for use by a person 18 years of age or older to compensate for perceived mild to moderate hearing impairment.

(8) "Prescription hearing aid" means a hearing aid that is not an over-the-counter hearing aid and that does not otherwise meet the criteria for a prescription hearing aid under this part.

(9) "Sponsor" means an active, licensed hearing aid specialist under whose direct supervision one or more trainees are studying prescription hearing aid dispensing for the purpose of qualifying for certification to sit for the licensure examination.

Section 26. Subsection (2) of section 484.042, Florida Statutes, is amended to read:

484.042 Board of Hearing Aid Specialists; membership, appointment, terms.—

(2) Five members of the board shall be hearing aid specialists who have been licensed and practicing the dispensing

of prescription hearing aids in this state for at least the preceding 4 years. The remaining four members, none of whom shall derive economic benefit from the fitting or dispensing of hearing aids, shall be appointed from the resident lay public of this state. One of the lay members shall be a prescription hearing aid user but may not ~~neither~~ be nor have been a hearing aid specialist or a licensee of a closely related profession. One lay member shall be an individual age 65 or over. One lay member shall be an otolaryngologist licensed pursuant to chapter 458 or chapter 459.

Section 27. Subsection (2) of section 484.044, Florida Statutes, is amended to read:

484.044 Authority to make rules.—

(2) The board shall adopt rules requiring that each prospective purchaser of a prescription hearing aid be notified by the attending hearing aid specialist, at the time of the initial examination for fitting and sale of a hearing aid, of telecoil, "t" coil, or "t" switch technology. The rules shall further require that hearing aid specialists make available to prospective purchasers or clients information regarding telecoils, "t" coils, or "t" switches. ~~These rules shall be effective on or before October 1, 1994.~~

Section 28. Subsection (2) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.—

(2) A trainee shall perform the functions of a hearing aid specialist in accordance with board rules only under the direct supervision of a licensed hearing aid specialist. The term "direct supervision" means that the sponsor is responsible for

all work being performed by the trainee. The sponsor or a hearing aid specialist designated by the sponsor shall give final approval to work performed by the trainee and shall be physically present at the time the prescription hearing aid is delivered to the client.

Section 29. Subsection (2) of section 484.045, Florida Statutes, is amended to read:

484.045 Licensure by examination.—

(2) The department shall license each applicant who the board certifies meets all of the following criteria:

(a) Has completed the application form and remitted the required fees.~~;~~

(b) Is of good moral character.~~;~~

(c) Is 18 years of age or older.~~;~~

(d) Is a graduate of an accredited high school or its equivalent.~~;~~

(e)1. Has met the requirements of the training program; or

2.a. Has a valid, current license as a hearing aid specialist or its equivalent from another state and has been actively practicing in such capacity for at least 12 months; or

b. Is currently certified by the National Board for Certification in Hearing Instrument Sciences and has been actively practicing for at least 12 months.~~;~~

(f) Has passed an examination, as prescribed by board rule.~~; and~~

(g) Has demonstrated, in a manner designated by rule of the board, knowledge of state laws and rules relating to the fitting and dispensing of prescription hearing aids.

Section 30. Section 484.0501, Florida Statutes, is amended

to read:

484.0501 Minimal procedures and equipment.—

(1) The following minimal procedures shall be used in the fitting and selling of prescription hearing aids:

(a) Pure tone audiometric testing by air and bone to determine the type and degree of hearing deficiency.

(b) Effective masking when indicated.

(c) Appropriate testing to determine speech reception thresholds, speech discrimination scores, the most comfortable listening levels, uncomfortable loudness levels, and the selection of the best fitting arrangement for maximum hearing aid benefit.

(2) The following equipment shall be used:

(a) A wide range audiometer that ~~which~~ meets the specifications of the American National Standards Institute for diagnostic audiometers.

(b) A speech audiometer or a master hearing aid in order to determine the most comfortable listening level and speech discrimination.

(3) A final fitting ensuring physical and operational comfort of the prescription hearing aid shall be made.

(4) The following medical clearance shall be obtained: If, upon inspection of the ear canal with an otoscope in the common procedure of a prescription hearing aid fitter and upon interrogation of the client, there is any recent history of infection or any observable anomaly, the client must ~~shall~~ be instructed to see a physician, and a prescription hearing aid may ~~shall~~ not be fitted until medical clearance is obtained for the condition noted. If, upon return, the condition noted is no

longer observable and the client signs a medical waiver, a prescription hearing aid may be fitted. Any person with a significant difference between bone conduction hearing and air conduction hearing must be informed of the possibility of medical correction.

(5)(a) A prescription hearing aid establishment ~~office~~ must have available, or have access to, a selection of prescription hearing aid models, hearing aid supplies, and services complete enough to accommodate the various needs of the prescription hearing aid wearers.

(b) At the time of the initial examination for fitting and sale of a prescription hearing aid, the attending hearing aid specialist shall ~~must~~ notify the prospective purchaser or client of the benefits of telecoil, "t" coil, or "t" switch technology, including increased access to telephones and noninvasive access to assistive listening systems required under the Americans with Disabilities Act of 1990.

(6) Each audiometric test conducted by a licensee or authorized trainee in the fitting and selling of prescription hearing aids must ~~shall~~ be made in a testing room that has been certified by the department, or by an agent approved by the department, not to exceed the following sound pressure levels at the specified frequencies: 250Hz-40dB, 500Hz-40dB, 750Hz-40dB, 1000Hz-40dB, 1500Hz-42dB, 2000Hz-47dB, 3000Hz-52dB, 4000Hz-57dB, 6000Hz-62dB, and 8000Hz-67dB. An exception to this requirement shall be made in the case of a client who, after being provided written notice of the benefits and advantages of having the test conducted in a certified testing room, requests that the test be conducted in a place other than the licensee's certified testing

room. Such request must ~~shall~~ be documented by a waiver which includes the written notice and is signed by the licensee and the client before ~~prior to~~ the testing. The waiver must ~~shall~~ be executed on a form provided by the department. The executed waiver must ~~shall~~ be attached to the client's copy of the contract, and a copy of the executed waiver must ~~shall~~ be retained in the licensee's file.

(7) The board may ~~shall have the power to~~ prescribe the minimum procedures and equipment which must ~~shall~~ be used in the conducting of hearing assessments, and for the fitting and selling of prescription hearing aids, including equipment that will measure the prescription hearing aid's response curves to ensure that they meet the manufacturer's specifications. These procedures and equipment may differ from those provided in this section in order to take full advantage of devices and equipment which may hereafter become available and which are demonstrated to be of greater efficiency and accuracy. The board shall adopt and enforce rules necessary to implement ~~carry out the provisions of~~ this subsection and subsection (6).

(8) Any duly authorized officer or employee of the department may ~~shall have the right to~~ make such inspections and investigations as ~~are~~ necessary ~~in order~~ to determine the state of compliance with ~~the provisions of~~ this section and the applicable rules and may enter the premises of a licensee and inspect the records of same upon reasonable belief that a violation of this law is being or has been committed or that the licensee has failed or is failing to comply with ~~the provisions of~~ this part ~~act~~.

(9) A licensed hearing aid specialist may service, market,

sell, dispense, provide customer support for, and distribute prescription and over-the-counter hearing aids.

Section 31. Section 484.051, Florida Statutes, is amended to read:

484.051 Itemization of prices; delivery of prescription hearing aid; receipt, packaging, disclaimer, guarantee.—

(1) Before ~~Prior to~~ delivery of services or products to a prospective purchaser, any person who fits and sells prescription hearing aids must ~~shall~~ disclose on request by the prospective purchaser an itemized listing of prices, which must ~~listing shall~~ include separate price estimates for each service component and each product. Provision of such itemized listing of prices may ~~shall~~ not be predicated on the prospective purchaser's payment of any charge or agreement to purchase any service or product.

(2) Any person who fits and sells a prescription hearing aid must ~~shall~~, at the time of delivery, provide the purchaser with a receipt containing the seller's signature, the address of her or his regular place of business, and her or his license or trainee registration number, if applicable, together with the brand, model, manufacturer or manufacturer's identification code, and serial number of the prescription hearing aid furnished and the amount charged for the prescription hearing aid. The receipt must also ~~shall~~ specify whether the prescription hearing aid is new, used, or rebuilt, ~~and shall specify~~ the length of time and other terms of the guarantee, and by whom the prescription hearing aid is guaranteed. If ~~When~~ the client has requested an itemized list of prices, the receipt must ~~shall~~ also provide an itemization of the total purchase

price, including, but not limited to, the cost of the aid, earmold, batteries and other accessories, and any services. Notice of the availability of this service shall be displayed in a conspicuous manner in the office. The receipt must also ~~shall~~ state that any complaint concerning the prescription hearing aid and guarantee therefor, if not reconciled with the licensee from whom the prescription hearing aid was purchased, should be directed by the purchaser to the Department of Health. The address and telephone number of such office must ~~shall~~ be stated on the receipt.

(3) A prescription ~~No~~ hearing aid may not be sold to any person unless both the packaging containing the prescription hearing aid and the itemized receipt provided pursuant to subsection (2) carry the following disclaimer in 10-point or larger type: "A hearing aid will not restore normal hearing, nor will it prevent further hearing loss."

Section 32. Section 484.0512, Florida Statutes, is amended to read:

484.0512 Thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee; criminal penalty.—

(1) A person selling a prescription hearing aid in this state must provide the buyer with written notice of a 30-day trial period and money-back guarantee. The guarantee must permit the purchaser to cancel the purchase for a valid reason, as defined by ~~rule of the~~ board rule, within 30 days after receiving the prescription hearing aid, by returning the prescription hearing aid or mailing written notice of cancellation to the seller. If the prescription hearing aid must be repaired, remade, or adjusted during the 30-day trial period,

the running of the 30-day trial period is suspended 1 day for each 24-hour period that the prescription hearing aid is not in the purchaser's possession. A repaired, remade, or adjusted prescription hearing aid must be claimed by the purchaser within 3 working days after notification of availability. The running of the 30-day trial period resumes on the day the purchaser reclaims the repaired, remade, or adjusted prescription hearing aid or on the fourth day after notification of availability, whichever occurs earlier.

(2) The board, in consultation with the Board of Speech-Language Pathology and Audiology, shall prescribe by rule the terms and conditions to be contained in the money-back guarantee and any exceptions thereto. Such rules must ~~rule shall~~ provide, at a minimum, that the charges for earmolds and service provided to fit the prescription hearing aid may be retained by the licensee. The rules must ~~shall~~ also set forth any reasonable charges to be held by the licensee as a cancellation fee. ~~Such rule shall be effective on or before December 1, 1994. Should the board fail to adopt such rule, a licensee may not charge a cancellation fee which exceeds 5 percent of the total charge for a hearing aid alone.~~ The terms and conditions of the guarantee, including the total amount available for refund, must ~~shall~~ be provided in writing to the purchaser before ~~prior to~~ the signing of the contract.

(3) Within 30 days after the return or attempted return of the prescription hearing aid, the seller shall refund all moneys that must be refunded to a purchaser pursuant to this section. A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) For purposes of this section, the term "seller" or "person selling a prescription hearing aid" includes:

(a) Any ~~natural~~ person licensed under this part or any other ~~natural~~ person who signs a sales receipt required by s. 484.051(2) or s. 468.1245(2) or ~~who~~ otherwise fits, delivers, or dispenses a prescription hearing aid.

(b) Any business organization, whether a sole proprietorship, partnership, corporation, professional association, joint venture, business trust, or other legal entity, that ~~which~~ dispenses a prescription hearing aid or enters into an agreement to dispense a prescription hearing aid.

(c) Any person who controls, manages, or operates an establishment or business that dispenses a prescription hearing aid or enters into an agreement to dispense a prescription hearing aid.

Section 33. Section 484.0513, Florida Statutes, is amended to read:

484.0513 Cancellation by medical authorization; purchaser's right to return.—

(1) In addition to any other rights and remedies the purchaser of a prescription hearing aid may have, the purchaser has ~~shall have~~ the right to rescind the transaction if the purchaser for whatever reason consults a licensed physician with specialty board certification in otolaryngology or internal medicine or a licensed family practice physician, subsequent to purchasing a prescription hearing aid, and the physician certifies in writing that the purchaser has a hearing impairment for which a prescription hearing aid will not provide a benefit or that the purchaser has a medical condition which

contraindicates the use of a prescription hearing aid.

(2) The purchaser of a prescription hearing aid has ~~shall have~~ the right to rescind as provided in subsection (1) only if the purchaser gives a written notice of the intent to rescind the transaction to the seller at the seller's place of business by certified mail, return receipt requested, which must ~~notice shall~~ be posted within ~~not later than~~ 60 days after ~~following~~ the date of delivery of the prescription hearing aid to the purchaser, and the purchaser returns the prescription hearing aid to the seller in the original condition less normal wear and tear.

(3) If the conditions of subsections (1) and (2) are met, the seller must ~~shall~~, without request, refund to the purchaser, within 10 days after ~~of the~~ receipt of the notice to rescind, a full and complete refund of all moneys received, less 5 percent. The purchaser does not ~~shall~~ incur any ~~no~~ additional liability for rescinding the transaction.

Section 34. Section 484.053, Florida Statutes, is amended to read:

484.053 Prohibitions; penalties.—

(1) A person may not:

(a) Practice dispensing prescription hearing aids unless the person is a licensed hearing aid specialist;

(b) Use the name or title "hearing aid specialist" when the person has not been licensed under this part;

(c) Present as her or his own the license of another;

(d) Give false, incomplete, or forged evidence to the board or a member thereof for the purposes of obtaining a license;

(e) Use or attempt to use a hearing aid specialist license

that is delinquent or has been suspended, revoked, or placed on inactive status;

(f) Knowingly employ unlicensed persons in the practice of dispensing prescription hearing aids; or

(g) Knowingly conceal information relative to violations of this part.

(2) Any person who violates any provision ~~of the provisions~~ of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(3) If a person licensed under this part allows the sale of a prescription hearing aid by an unlicensed person not registered as a trainee or fails to comply with the requirements of s. 484.0445(2) relating to supervision of trainees, the board must ~~shall~~, upon determination of that violation, order the full refund of moneys paid by the purchaser upon return of the prescription hearing aid to the seller's place of business.

Section 35. Section 484.054, Florida Statutes, is amended to read:

484.054 Sale or distribution of prescription hearing aids through mail; penalty.—It is unlawful for any person to sell or distribute prescription hearing aids through the mail to the ultimate consumer. Any violation of this section constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 36. Section 484.059, Florida Statutes, is amended to read:

484.059 Exemptions.—

(1) The licensure requirements of this part do not apply to any person engaged in recommending prescription hearing aids as

part of the academic curriculum of an accredited institution of higher education, or as part of a program conducted by a public charitable institution supported primarily by voluntary contribution, provided this organization does not dispense or sell prescription hearing aids or accessories.

(2) The licensure requirements of this part do not apply to any person licensed to practice medicine in this ~~the~~ state, except that such physician must ~~shall~~ comply with the requirement of periodic filing of the certificate of testing and calibration of audiometric equipment as provided in this part. A ~~No~~ person employed by or working under the supervision of a person licensed to practice medicine may not ~~shall~~ perform any services or acts which would constitute the dispensing of prescription hearing aids as defined in s. 484.041 ~~s. 484.041(3)~~, unless such person is a licensed hearing aid specialist.

(3) The licensure requirements of this part do not apply to an audiologist licensed under ~~pursuant to~~ part I of chapter 468.

(4) Section ~~The provisions of s.~~ 484.053(1)(a) does ~~shall~~ not apply to registered trainees operating in compliance with this part and board rules ~~of the board~~.

(5) The licensure requirements of this part do not apply to a person who services, markets, sells, dispenses, provides customer support for, or distributes exclusively over-the-counter hearing aids, whether through in-person transactions, by mail, or online. For purposes of this subsection, over-the-counter hearing aids are those that are available without the supervision, prescription, or other order, involvement, or intervention of a licensed person to consumers through in-person

transactions, by mail, or online. These devices allow the user to control the device and customize it to the user's hearing needs through the use of tools, tests, or software, including, but not limited to, wireless technology or tests for self-assessment of hearing loss.

Section 37. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date the act becomes a law.

Section 38. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2023.