An act relating to health care; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Department of Health to reimburse the Agency for Health Care Administration for certain costs; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing education tracking system; repealing s. 458.31151, F.S.; repealing obsolete provisions; amending s. 457.107, F.S.; for clarification of acupuncture fees; amending s. 483.807, F.S.; relating to clinical laboratory personnel fees; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means

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except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination item banks with certain entities; clarifying circumstances under which candidates may bring a challenge; providing for electronic administration of certain laws and rules examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.073, F.S.; authorizing a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for the posting of newsletters on the department's website; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising and providing disciplinary actions; amending s. 456.079, F.S.; requiring mitigating or aggravating

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circumstances to be in the final order to be considered in the imposition of penalties;
amending ss. 457.109, 458.320, 458.331,
458.345, 458.347, 459.0085, 459.015, 459.022,
460.413, 461.013, 462.14, 463.016, 464.018,
465.008, 465.016, 466.028, 466.037, 467.203,
468.1295, 468.1755, 468.217, 468.365, 468.518,
468.719, 468.811, 478.52, 480.046, 483.825,
483.901, 484.014, 484.056, 486.125, 490.009,
and 491.009, F.S.; revising and conforming provisions relating to disciplinary grounds and penalties; amending s. 458.315, F.S.; revising the procedure for obtaining a temporary permit; amending 459.0075, F.S.; revising the procedure for obtaining a limited license; providing requirements for the Board of Medicine in issuing temporary certificates; amending s. 456.065, F.S.; requiring the unlicensed activity fee to be in addition to all other fees collected from each licensee; amending ss. 458.347 and 459.022, F.S.; allowing authorized physician assistants to prescribe any medication not listed on a formulary established by the Council on Physician Assistants; allowing authorized physician assistants to dispense drug samples pursuant to proper prescription; eliminating the formulary committee and revising provisions relating to creation and amendment of the formulary, to conform; amending s. 456.003, F.S.; providing a limitation on the duties of certain boards;

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providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature; amending s. 409.9205, F.S.; transferring positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs to Career Services; amending s. 483.245, F.S.; prohibiting rebate or split-fee arrangements with dialysis facilities for patient referrals to clinical laboratories; providing penalties; amending s. 232.435, F.S.; providing training requirements for a first responder and teacher athletic trainer; amending s. 383.14, F.S.; amending screening requirements for postnatal screening; amending s. 395.0197, F.S.; revising provisions relating to hospital and ambulatory surgical center internal risk management programs; modifying requirements for risk management and prevention education and training; restricting participation of unlicensed persons in surgical procedures; requiring ongoing evaluation of surgical procedures and protocols; eliminating an annual report summarizing facility incident reports and disciplinary actions; requiring the Agency for Health Care Administration to

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publish website summaries of adverse incident reports; requiring facility reporting of allegations of sexual misconduct by health care practitioners; providing certain civil liability for licensed risk managers; prohibiting intimidation of a risk manager; providing a penalty; amending s. 395.10972, F.S.; increasing membership on the Health Care Risk Management Advisory Council; amending s. 395.701, F.S.; limiting the financial information the agency may require to determine the amount of hospital annual assessments; amending s. 409.905, F.S.; providing that the Agency for Health Care Administration may restrict the provision of mandatory services by mobile providers; amending s. 409.906, F.S.; providing that the agency may restrict or prohibit the provision of services by mobile providers; providing that Medicaid will not provide reimbursement for dental services provided in mobile dental units, except for certain units; amending s. 456.013, F.S.; providing a professional continuing education requirement relating to prevention of medical errors; amending s. 456.057, F.S.; providing for appointment of a records custodian under certain circumstances; amending s. 456.063, F.S.; requiring licensed health care practitioners to report to the Department of Health any allegations of sexual misconduct; amending s. 456.072, F.S.; providing additional
grounds for disciplinary actions; clarifying a penalty involving restriction of professional practice or license; providing additional penalties; requiring assessment of costs related to investigation and prosecution; amending s. 456.073, F.S.; requiring the Department of Health to notify the patient or legal representative of the status of a disciplinary case; requiring the department to provide certain information to the complainant; providing time limitations on the filing of administrative complaints against licensees of the department; amending s. 456.074, F.S.; providing for an emergency order suspending the license of a practitioner for fraud; amending s. 456.077, F.S.; specifying violations for which the Department of Health or a regulatory board may issue citations; amending s. 456.081, F.S.; requiring the Department of Health and regulatory boards to maintain a website containing specified information; amending ss. 458.331 and 459.015, F.S.; conforming language and cross references to changes made by the act; amending s. 641.51, F.S.; revising adverse determination provisions; amending ss. 465.019 and 465.0196, F.S.; requiring institutional pharmacies and special pharmacy permittees that use pharmacy technicians to have a written policy and procedures manual; directing the Department of Health and the Agency for Health Care Administration to review health care

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practitioner and facility reporting
requirements; requiring a report to the
Legislature; amending s. 468.1755, F.S.;
providing an additional ground for disciplinary
action against a nursing home administrator;
reenacting ss. 468.1695(3) and 468.1735, F.S.,
to incorporate said amendment in references;
reenacting s. 484.056(1)(a), F.S., relating to
disciplinary action against hearing aid
specialists, to incorporate the amendment to s.
456.072(1), in a reference; amending s.
766.101, F.S.; providing that a continuous
quality improvement committee of a licensed
pharmacy is a medical review committee for
purposes of immunity from liability, and
reenacting ss. 440.105(1)(a) and 626.989(6),
F.S., to incorporate said amendment in
references; amending s. 766.1115, F.S.;
conforming provisions and cross-references to
changes made by the act; amending s. 456.047,
F.S.; providing intent; revising and providing
definitions; revising duties of the Department
of Health relating to file maintenance;
providing that primary source data verified by
the department or its designee may be relied
upon to meet accreditation purposes; amending
s. 232.61, F.S.; requiring the Florida High
School Activities Association to adopt bylaws
which require students participating in
interscholastic athletic competition or who are
candidates for an interscholastic athletic team

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to satisfactorily pass a medical evaluation prior to participating in interscholastic athletic competition or engaging in practice with an interscholastic athletic team; providing requirements with respect to such evaluation; amending s. 240.4075, F.S.; transferring the Nursing Student Loan Forgiveness Program from the Department of Education to the Department of Health; including public schools, family practice teaching hospitals, and specialty hospitals for children as eligible facilities under the program; exempting such facilities from the fund-matching requirements of the program; amending s. 240.4076, F.S.; transferring the nursing scholarship program from the Department of Education to the Department of Health; providing requirements under the program for students seeking to qualify for a nursing faculty position and receive credit for work in such a position; including nursing homes, hospitals, public schools, colleges of nursing, and community college nursing programs as eligible facilities under the program; transferring powers, duties, functions, rules, records, personnel, property, and appropriations and other funds relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program from the Department of Education to the Department of Health; amending s. 464.005, F.S.; providing

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for future relocation of the headquarters of
the Board of Nursing; amending s. 464.008,
F.S.; revising education requirements for
licensure by examination; amending s. 464.009,
F.S.; revising requirements for licensure by
endorsement; requiring submission of
fingerprints for a criminal history check and a
fee to cover the costs of such check; providing
for an electronic applicant notification
process; creating s. 464.0195, F.S.; creating
the Florida Center for Nursing and providing
its goals; creating s. 464.0196, F.S.;
providing for a board of directors; providing
for appointment of board members; providing for
staggered terms; providing powers and duties;
authorizing per diem and travel expenses;
creating s. 464.0197, F.S.; declaring state
budget support for the center; prohibiting the
Board of Nursing from developing any rule
relating to faculty/student clinical ratios
until a specified time; requiring the Board of
Nursing and the Department of Education to
submit to the Legislature an implementation
plan detailing the impact and cost of any such
proposed rule change; amending s. 464.0205,
F.S.; deleting the application and processing
fee for applicants for a retired volunteer
nurse certificate; requiring study by Office of
Program Policy Analysis and Government
Accountability of the feasibility of
maintaining all of Medical Quality Assurance in

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one state agency; creating s. 456.0375, F.S.;
requiring registration of certain clinics;
providing requirements, including fees;
providing rulemaking authority; requiring
medical directors or clinic directors for such
clinics and providing their duties and
responsibilities; providing an appropriation;
amending s. 456.031, F.S.; providing an
alternative by which licensees under ch. 466,
F.S., relating to dentistry, may comply with a
general requirement that they take
domestic-violence education courses; amending
s. 456.033, F.S.; providing an alternative by
which such licensees may comply with a general
requirement that they take AIDS/HIV education
courses; amending s. 627.419, F.S.; providing
for appeals from certain adverse determinations
relating to dental service claims; providing
applicability; amending s. 468.302, F.S.;
revising a provision relating to exemption from
certification to use radiation on human beings;
providing training requirements; amending ss.
468.352, 468.355, 468.357, 468.358, and
468.359, F.S.; revising definitions and
provisions relating to licensure and use of
titles and abbreviations to correct and conform
terminology with respect to respiratory
therapists and respiratory care practitioners;
amending ss. 468.1155 and 468.1215, F.S.;
revising requirements for licensure to practice
speech-language pathology or audiology and for

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certification of speech-language pathology or audiology assistants; amending s. 480.033, F.S.; correcting terminology in the definition of "massage"; amending s. 484.002, F.S.; amending and creating definitions; amending ss. 484.002, 484.006, 484.012, F.S.; replacing references to the term "medical doctor" with the term "allopathic or osteopathic physician"; amending s. 484.013, F.S.; increasing the penalty for certain acts involving preparation or dispensing of optical devices; amending s. 921.0022, F.S.; providing for the ranking of such offense on the offense severity ranking chart; amending s. 484.015, F.S.; revising inspection authority; amending s. 484.0445, F.S.; removing certain provisions relating to the training program for hearing aid specialists; amending s. 484.045, F.S.; revising requirements for licensure as a hearing aid specialist by examination; amending s. 490.012, F.S.; prohibiting the use of certain titles or descriptions relating to the practice of psychology or school psychology unless properly licensed; providing penalties; amending s. 490.014, F.S.; revising exemptions from regulation under ch. 490, F.S., relating to psychology; correcting a cross-reference; amending s. 491.012, F.S.; revising prohibitions against unlicensed practice of clinical social work, marriage and family therapy, and mental health counseling to

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provide that practice by registered interns is lawful; amending s. 491.014, F.S.; revising exemptions from licensure under ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, to prohibit the use by certain employees of titles, names, or descriptions protected by the chapter; amending ss. 458.319, 459.008, and 765.102, F.S.; conforming terminology relating to palliative care; amending s. 765.101, F.S.; redefining the term "end-stage condition" with respect to health care advance directives; creating s. 765.1025, F.S.; prescribing the content and suitability of palliative care; amending s. 765.1103, F.S.; revising provisions relating to compliance with requests for pain management and palliative care; amending s. 765.205, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by health care surrogates, persons who have durable powers of attorney for health care, and proxy decisionmakers; amending s. 765.401, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by proxy decisionmakers; requiring the Department of Health to conduct an interim study on specialty certification and provide a report to the Legislature; amending s. 499.012, F.S.; authorizing transfer of prescription drugs between a retail pharmacy and a Modified Class II institutional pharmacy under a retail

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pharmacy wholesaler's permit; providing legislative intent; amending ss. 395.3025, 400.1415, and 456.057, F.S.; prohibiting the use of a patient's medical records for purposes of solicitation and marketing absent a specific written release or authorization; providing penalties; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; amending s. 400.141, F.S.; prescribing duties of nursing homes with respect to influenza and pneumococcal polysaccharide vaccinations; providing rulemaking authority; establishing the Office of Community Partners within the Department of Health to provide for delivery of social services through eligible private organizations and programs; providing procedure for transfer of general revenue funds to match federal funds received by the office; creating s. 458.3147, F.S.; providing automatic admission to any medical school in the State University System for United States Military Academy students or graduates; amending s. 409.91188, F.S.; requiring the Agency for Health Care Administration to seek certain waivers to allow certain Medicare beneficiaries to participate in the Medipass HIV disease management program; repealing s. 71(1) of ch. 98-171, Laws of Florida; abrogating the repeal

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of provisions of law which require background
screening of certain applicants for licensure,
certification, or registration; amending s.
766.302, F.S.; clarifying the definition of the
term "birth-related neurological injury";
amending s. 766.31, F.S.; providing for payment
of funeral expenses up to a specified amount;
repealing s. 766.308, F.S., which provides for
review by a medical advisory panel; amending s.
468.805, F.S.; revising grandfathering
requirements for licensure to practice
orthotics, prosthetics, or pedorthics without
meeting statutory educational requirements;
repealing s. 1, ch. 99-158, Laws of Florida,
relating to a deadline to apply for licensure
to practice orthotics, prosthetics, or
pedothics without meeting statutory
educational requirements; providing effective
dates.

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

Section 1. It is the intent of the Legislature that
the Medical Quality Assurance Trust Fund should be
administered in a fiscally responsible manner. It is also the
intent of the Legislature that the Department of Health reduce
expenses wherever possible to ensure that the cost of
regulation is reasonable and fair and does not serve as a
barrier to licensure in this state. The Legislature adopts
findings 1, 2, 4, 5, and 8 and the recommendations of the
Auditor General's Medical Quality Assurance Operational Audit

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Section 2. The Auditor General shall conduct a followup audit to the Medical Quality Assurance Operational Audit Report Number 01-063 to determine if the Department of Health has implemented the recommendations of that report. The Auditor General shall complete the followup audit and issue a report to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2002.

Section 3. The contract between the Department of Health and the Agency for Health Care Administration pursuant to section 20.43(3), Florida Statutes, is not subject to the provisions of section 216.346, Florida Statutes. The Department of Health shall reimburse the Agency for Health Care Administration for the agency's actual direct costs and the agency's indirect costs incurred as a result of the contract, subject to appropriated funds. The agency shall provide to the department documentation, explanation, and justification of all direct and indirect costs incurred, by budget entity.

Section 4. The Office of Program Policy Analysis and Government Accountability shall study the feasibility of maintaining the entire Medical Quality Assurance function, including enforcement, within a single department. The study shall be completed and a report issued to the President of the Senate and the Speaker of the House of Representatives no later than November 30, 2001.

Section 5. Subsection (1) of section 456.004, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

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456.004 Department; powers and duties.--The department, for the professions under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. The rules shall specify the expiration dates of licenses and the process for tracking compliance with continuing education requirements, financial responsibility requirements, and any other conditions of renewal set forth in statute or rule. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(10) Set an examination fee that includes all costs to develop, purchase, validate, administer, and defend the examination and is an amount certain to cover all administrative costs plus the actual per-applicant cost of the examination.

Section 6. Section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.--

(1) It is the intent of the Legislature that all costs of regulating health care professions and practitioners shall be borne solely by licensees and licensure applicants. It is also the intent of the Legislature that fees should be reasonable and not serve as a barrier to licensure. Moreover, it is the intent of the Legislature that the department operate as efficiently as possible and regularly report to the Legislature additional methods to streamline operational costs. Therefore, the boards in consultation with the department, or the department if there is no board, shall, by rule, set renewal fees which:

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(a) Shall be based on revenue projections prepared using generally accepted accounting procedures;
(b) Shall be adequate to cover all expenses relating to that board identified in the department's long-range policy plan, as required by s. 456.005;
(c) Shall be reasonable, fair, and not serve as a barrier to licensure;
(d) Shall be based on potential earnings from working under the scope of the license;
(e) Shall be similar to fees imposed on similar licensure types;
(f) Shall not be more than 10% greater than the fee imposed for the previous biennium;
(g) Shall not be more than 10% greater than the actual cost to regulate that profession for the previous biennium; and
(h) Shall be subject to challenge pursuant to chapter 120.

(2) The chairpersons of the boards and councils listed in s. 20.43(3)(g), shall meet annually at division headquarters to review the long-range policy plan required by s. 456.005 and current and proposed fee schedules. The chairpersons shall make recommendations for any necessary statutory changes relating to fees and fee caps. Such recommendations shall be compiled by the Department of Health and be included in the annual report to the Legislature required by s. 456.026 as well as be included in the long-range policy plan required by s. 456.005.

(2) Each board within the jurisdiction of the department, or the department when there is no board, shall determine by rule the amount of license fees for the
profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

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

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(4) Each board, or the department if there is no board, may, by rule, assess and collect a one-time fee from each active status licensee and each inactive status licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the professions as required in this section. Not more than one such assessment may be made in any 4-year period without specific legislative authorization.

(5) If the cash balance of the trust fund at the end of any fiscal year exceeds the total appropriation provided for the regulation of the health care professions in the prior fiscal year, the boards, in consultation with the department, may lower the license renewal fees.

(6) Each board authorized to approve continuing education providers, or the department if there is no board, may establish, by rule, a fee not to exceed $250 for anyone seeking approval to provide continuing education courses or programs and may establish by rule a biennial renewal fee not to exceed $250 for the renewal of providership of such courses. The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system. The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved

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continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted. This subsection does not apply to continuing education courses or providers approved by the board under chapter 465.

(7) (5) All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter. The Legislature shall appropriate funds from this trust fund sufficient to carry out this chapter and the provisions of law with respect to professions regulated by the Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this chapter for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The regulation by the department of professions, as defined in this chapter, shall be financed solely from revenue collected by it from fees and other charges and

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deposited in the Medical Quality Assurance Trust Fund, and all such revenue is hereby appropriated to the department. However, it is legislative intent that each profession shall operate within its anticipated fees. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession, except that the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. On or before October 1 of each year, the department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 456.026.

(8) The department shall provide a condensed management report of budgets, finances, performance statistics, and recommendations to each board at least once a quarter. The department shall identify and include in such presentations any changes, or projected changes, made to the board's budget since the last presentation.

(9) If a duplicate license is required or requested by the licensee, the board or, if there is no board, the department may charge a fee as determined by rule not to exceed $25 before issuance of the duplicate license.

(10) The department or the appropriate board shall charge a fee not to exceed $25 for the certification of a...
Section 7. Subsection (1) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.--
(1) The department shall renew a license upon receipt of the renewal application and the required fee set by the board by rule, not to exceed $500.

Section 8. Section 458.31151, Florida Statutes, is repealed.

Section 9. Subsection (1) of section 483.807, Florida Statutes, is amended to read:

483.807 Fees; establishment; disposition.--
(1) The board, by rule, shall establish fees to be paid for application, examination, reexamination, licensing and renewal, registration, laboratory training program application, reinstatement, and recordmaking and recordkeeping. The board may also establish, by rule, a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department in carrying out its licensure and other related responsibilities under this part. Fees shall be based on departmental estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of clinical laboratory personnel.

Section 10. Subsections (1), (3), and (4) of section 456.011, Florida Statutes, are amended to read:

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456.011 Boards; organization; meetings; compensation and travel expenses.--

(1) Each board within the department shall comply with the provisions of this chapter section.

(3) The board shall meet at least once annually and may meet as often as is necessary. Meetings shall be conducted through teleconferencing or other technological means, unless disciplinary hearings involving standard of care, sexual misconduct, fraud, impairment, or felony convictions; licensure denial hearings; or controversial rule hearings are being conducted; or unless otherwise approved in advance of the meeting by the director of the Division of Medical Quality Assurance. The chairperson or a quorum of the board shall have the authority to call other meetings, except as provided above relating to in-person meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this chapter or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

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(4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated $50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls that last less than 4 hours. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the secretary.

Section 11. Subsection (2) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.--

(2) Before the issuance of any license, the department shall may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule. The license shall consist of a wallet-size identification card and a wall card measuring 6 1/2 inches by 5 inches. In addition to the two-part license, the department, at the time of initial licensure, shall issue a wall certificate suitable for conspicuous display, which shall be no smaller than 8 1/2 inches by 14 inches. The licensee shall surrender to the department the wallet-size identification card, the wall card, and the wall certificate, if one has been issued by the department, if the licensee's license is revoked.
Section 12. Section 456.017, Florida Statutes, is amended to read:

456.017 Department of Health; examinations.--

(1)(a) The department shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations, in consultation with the appropriate board. The department shall certify that examinations developed and approved by the department adequately and reliably measure an applicant's ability to practice the profession regulated by the department. After an examination developed or approved by the department when there is no board, may reject any question which does not reliably measure the general areas of competency specified in the rules of the board. The department may contract for the preparation, administration, scoring, score reporting, and evaluation of examinations, when such services are available and approved by the board.

(b) For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board, or the department when there is no board, shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade. The department shall assess, and fees, where applicable, to cover the actual cost for any purchase, development, validation, and administration, and defense of required examinations. This subsection does not apply to national examinations approved and administered pursuant to paragraph (c). If a practical examination is deemed to be necessary, the rules shall specify the criteria.

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by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board, or the department when there is no board, may conduct such exercise. Therefore, board members, or employees of the department when there is no board, may serve as examiners at a practical examination with the consent of the board or department, as appropriate.

(c)1. The board, or the department when there is no board, shall approve by rule the use of one or more any national examinations examination which the department has certified as meeting requirements of national examinations and generally accepted testing standards pursuant to department rules. Providers of examinations seeking certification by the department shall pay the actual costs incurred by the department in making a determination regarding the certification. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department; or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination and supply test score information to the department. The department may delegate to the board the duty to provide and administer the examination. Any national examination approved by a board, or the department when there is no board, prior to October 1, 1997, is deemed certified under this paragraph.

2. The board, or the department when there is no board, shall approve and begin administering a national
examination no later than December 31, 2001. Neither the board nor the department may administer a state-developed written examination after December 31, 2001, notwithstanding any other provision of law. The examination may be administered electronically if adequate security measures are used, as determined by rule of the department.

3. The board, or the department when there is no board, may administer a state-developed practical or clinical examination, as required by the applicable practice act, if all costs of development, purchase, validation, administration, review, and defense are paid by the examination candidate prior to the administration of the examination. If a national practical or clinical examination is available and certified by the department pursuant to this section, the board, or the department when there is no board, may administer the national examination.

4. It is the intent of the Legislature to reduce the costs associated with state examinations and to encourage the use of national examinations whenever possible.

(d) Each board, or the department when there is no board, shall adopt rules regarding the security and monitoring of examinations. The department shall implement those rules adopted by the respective boards. In order to maintain the security of examinations, the department may employ the procedures set forth in s. 456.065 to seek fines and injunctive relief against an examinee who violates the provisions of s. 456.018 or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the

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department deems necessary to enforce such provisions or
rules. The scores of candidates who have taken state-developed
examinations shall be provided to the candidates
electronically using a candidate identification number, and
the department shall post the aggregate scores on the
department's website without identifying the names of the
candidates.

   (e) If the professional board with jurisdiction over
an examination concurs, the department may, for a fee, share
with any other state's licensing authority or a national
testing entity an examination or examination item bank
developed by or for the department unless prohibited by a
contract entered into by the department for development or
purchase of the examination. The department, with the
concurrence of the appropriate board, shall establish
guidelines that ensure security of a shared exam and shall
require that any other state's licensing authority comply with
those guidelines. Those guidelines shall be approved by the
appropriate professional board. All fees paid by the user
shall be applied to the department's examination and
development program for professions regulated by this chapter.

   (f) The department may adopt rules necessary to
administer this subsection.

   (2) For each examination developed by the department
or a contracted vendor, the board, or the department when
there is no board, shall adopt rules providing for
reexamination of any applicants who failed an examination
developed by the department or a contracted vendor. If both a
written and a practical examination are given, an applicant
shall be required to retake only the portion of the
examination on which the applicant failed to achieve a passing
grade, if the applicant successfully passes that portion
within a reasonable time, as determined by rule of the board,
or the department when there is no board, of passing the other
portion. Except for national examinations approved and
administered pursuant to this section, the department shall
provide procedures for applicants who fail an examination
developed by the department or a contracted vendor to review
their examination questions, answers, papers, grades, and
grading key for the questions the candidate answered
incorrectly or, if not feasible, the parts of the examination
failed. Applicants shall bear the actual cost for the
department to provide examination review pursuant to this
subsection. An applicant may waive in writing the
confidentiality of the applicant's examination grades.
Notwithstanding any other provisions, only candidates who fail
an examination by less than ten percent shall be entitled to
challenge the validity of the examination at hearing.

(3) For each examination developed or administered by
the department or a contracted vendor, an accurate record of
each applicant's examination questions, answers, papers,
grades, and grading key shall be kept for a period of not less
than 2 years immediately following the examination, and such
record shall thereafter be maintained or destroyed as provided
in chapters 119 and 257. This subsection does not apply to
national examinations approved and administered pursuant to
this section.

(4) Meetings of any member of the department or of any
board within the department held for the exclusive purpose of
creating or reviewing licensure examination questions or
proposed examination questions are exempt from the provisions
of s. 286.011 and s. 24(b), Art. I of the State Constitution.

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Any public records, such as tape recordings, minutes, or notes, generated during or as a result of such meetings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, these exemptions shall not affect the right of any person to review an examination as provided in subsection (2).

(5) For examinations developed by the department or a contracted vendor, each board, or the department when there is no board, may provide licensure examinations in an applicant's native language. Notwithstanding any other provision of law, applicants for examination or reexamination pursuant to this subsection shall bear the full cost for the department's development, preparation, validation, administration, grading, and evaluation of any examination in a language other than English prior to the examination being administered. Requests for translated examinations must be on file in the board office at least 6 months prior to the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English, the board shall consider the percentage of the population who speak the applicant's native language. Applicants must apply for translation to the applicable board at least 6 months prior to the scheduled examination.

(6) In addition to meeting any other requirements for licensure by examination or by endorsement, and notwithstanding the provisions in paragraph (1)(c), an applicant may be required by a board, or the department when there is no board, to certify competency in state laws and rules relating to the applicable practice act. Beginning October 1, 2001, all laws and rules examinations shall be administered electronically unless the laws and rules

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examination is administered concurrently with another written examination for that profession or unless the electronic administration would be substantially more expensive.

Section 13. Subsection (1) of section 456.035, Florida Statutes, is amended to read:

456.035 Address of record.--

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

Section 14. Subsections (2), (4), and (10) of section 456.073, Florida Statutes, are amended to read:

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

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for
disciplinary cases under its jurisdiction, to comply with the
time limits of this section while investigating a complaint
against a licensee constitutes harmless error in any
subsequent disciplinary action unless a court finds that
either the fairness of the proceeding or the correctness of
the action may have been impaired by a material error in
procedure or a failure to follow prescribed procedure. When
its investigation is complete and legally sufficient, the
department shall prepare and submit to the probable cause
panel of the appropriate regulatory board the investigative
report of the department. The report shall contain the
investigative findings and the recommendations of the
department concerning the existence of probable cause. The
department shall not recommend a letter of guidance in lieu of
finding probable cause if the subject has already been issued
a letter of guidance for a related offense. At any time after
legal sufficiency is found, the department may dismiss any
case, or any part thereof, if the department determines that
there is insufficient evidence to support the prosecution of
allegations contained therein. The department shall provide a
detailed report to the appropriate probable cause panel prior
to dismissal of any case or part thereof, and to the subject
of the complaint after dismissal of any case or part thereof,
under this section. For cases dismissed prior to a finding of
probable cause, such report is confidential and exempt from s.
119.07(1). The probable cause panel shall have access, upon
request, to the investigative files pertaining to a case prior
to dismissal of such case. If the department dismisses a case,
the probable cause panel may retain independent legal counsel,
employ investigators, and continue the investigation and
prosecution of the case as it deems necessary.

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(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its findings.

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determination of probable cause within 30 days after receipt
by it of the final investigative report of the department. The
secretary may grant extensions of the 15-day and the 30-day
time limits. In lieu of a finding of probable cause, the
probable cause panel, or the department if there is no board,
may issue a letter of guidance to the subject. If, within the
30-day time limit, as may be extended, the probable cause
panel does not make a determination regarding the existence of
probable cause or does not issue a letter of guidance in lieu
of a finding of probable cause, the department must make a
determination regarding the existence of probable cause within
10 days after the expiration of the time limit. If the
probable cause panel finds that probable cause exists, it
shall direct the department to file a formal complaint against
the licensee. The department shall follow the directions of
the probable cause panel regarding the filing of a formal
complaint. If directed to do so, the department shall file a
formal complaint against the subject of the investigation and
prosecute that complaint pursuant to chapter 120. However, the
department may decide not to prosecute the complaint if it
finds that probable cause has been improvidently found by the
panel. In such cases, the department shall refer the matter to
the board. The board may then file a formal complaint and
prosecute the complaint pursuant to chapter 120. The
department shall also refer to the board any investigation or
disciplinary proceeding not before the Division of
Administrative Hearings pursuant to chapter 120 or otherwise
completed by the department within 1 year after the filing of
a complaint. The department, for disciplinary cases under its
jurisdiction, must establish a uniform reporting system to
quarterly refer to each board the status of any investigation

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or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department, in consultation with the applicable probable cause panel, if there is no board, or each board must establish a plan to expedite, reduce, or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in

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writing to maintain the confidentiality of any information
received under this subsection until 10 days after probable
cause is found and to maintain the confidentiality of patient
records pursuant to s. 456.057. The subject may file a written
response to the information contained in the investigative
file. Such response must be filed within 20 days of mailing by
the department, unless an extension of time has been granted
by the department. This subsection does not prohibit the
department from providing such information to any law
enforcement agency or to any other regulatory agency.

Section 15. Section 456.081, Florida Statutes, is
amended to read:

456.081 Publication of information.--The department
and the boards shall have the authority to advise licensees
periodically, through the publication of a newsletter on the
department's website, about information that the department or
the board determines is of interest to the industry. Unless
otherwise prohibited by law, the department and the boards
shall publish a summary of final orders resulting in
disciplinary action fines, suspensions, or revocations, and
any other information the department or the board determines
is of interest to the public.

Section 16. Subsection (3) of section 456.079, Florida
Statutes, is amended to read:

456.079 Disciplinary guidelines.--
(3) A specific finding in the final order of
mitigating or aggravating circumstances shall allow the board
to impose a penalty other than that provided for in such
guidelines. If applicable, the board, or the department if
there is no board, shall adopt by rule disciplinary guidelines
to designate possible mitigating and aggravating circumstances

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and the variation and range of penalties permitted for such circumstances.

Section 17. Subsections (1) and (2) of section 457.109, Florida Statutes, are amended to read:

457.109 Disciplinary actions; grounds; action by the board.--

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2), which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license to practice acupuncture by bribery, by fraudulent misrepresentations, or through an error of the department.

(b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of acupuncture or to the ability to practice acupuncture. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.
(g) Aiding, assisting, procuring, employing, or advising any unlicensed person to practice acupuncture contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed acupuncturist.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed acupuncturist.

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.

(k) Making deceptive, untrue, or fraudulent representations in the practice of acupuncture or employing a trick or scheme in the practice of acupuncture when such scheme or trick fails to conform to the generally prevailing standards of treatment in the community.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep written medical records justifying the course of treatment of the patient.

(n) Exercising influence on the patient to exploit the patient for the financial gain of the licensee or of a third party.

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(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as an acupuncturist. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

(p) Gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar
acupuncturist as being acceptable under similar conditions and circumstances.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(r) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(s) Violating any provision of this chapter, a rule of the department, or a lawful order of the board previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(t) Conspiring with another to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(u) Fraud or deceit or gross negligence, incompetence, or misconduct in the operation of a course of study.

(v) Failing to comply with state, county, or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious diseases.

(w) Failing to comply with any rule of the board relating to health and safety, including, but not limited to, the sterilization of needles and equipment and the disposal of potentially infectious materials.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any

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applicant for licensure or licensee who is found guilty of
violating any provision of subsection (1) of this section or
who is found guilty of violating any provision of s.
456.072(1). When the board finds any person guilty of any of
the acts set forth in subsection (1), it may enter an order
imposing one or more of the following penalties:

(a) Refusal to certify to the department an
application for licensure.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed
$1,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the acupuncturist on probation for a
period of time and subject to such conditions as the board may
specify.

Section 18. Subsection (2) of section 458.315, Florida
Statutes, is amended to read:

458.315 Temporary certificate for practice in areas of
critical need.--Any physician who is licensed to practice in
any other state, whose license is currently valid, and who
pays an application fee of $300 may be issued a temporary
certificate to practice in communities of Florida where there
is a critical need for physicians. A certificate may be
issued to a physician who will be employed by a county health
department, correctional facility, community health center
funded by s. 329, s. 330, or s. 340 of the United States
Public Health Services Act, or other entity that provides
health care to indigents and that is approved by the State
Health Officer. The Board of Medicine may issue this
temporary certificate with the following restrictions:

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(2) The board may administer an abbreviated oral examination to determine the physician's competency, but no written regular examination is necessary. Within 60 days after receipt of an application for a temporary certificate, the board shall review the application and issue the temporary certificate or notify the applicant of denial.

Section 19. Paragraph (d) is added to subsection (1) of section 459.0075, Florida Statutes, to read:

459.0075 Limited licenses.--

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

(d) Within 60 days after receipt of an application for a limited license, the board shall review the application and issue the limited license or notify the applicant of denial.

Section 20. Subsection (6) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.--

(6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action under as specified in s. 458.331.

Section 21. Subsections (1) and (2) of section 458.331, Florida Statutes, are amended to read:

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

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which the disciplinary actions specified in subsection (2) may be taken:

CODING: Words stricken are deletions; words underlined are additions.
(a) Attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

(d) False, deceptive, or misleading advertising.

(e) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board. A treatment provider approved pursuant to s. 456.076 shall provide the department or consultant with information in accordance with the requirements of s. 456.076(3), (4), (5), and (6).

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board.

(g) Failing to perform any statutory or legal obligation placed upon a licensed physician.

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(h) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician.

(i) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a physician from receiving a fee for professional consultation services.

(j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(k) Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep legible, as defined by department rule in consultation with the board, medical records that

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identify the licensed physician or the physician extender and
supervising physician by name and professional title who is or
are responsible for rendering, ordering, supervising, or
billing for each diagnostic or treatment procedure and that
justify the course of treatment of the patient, including, but
not limited to, patient histories; examination results; test
results; records of drugs prescribed, dispensed, or
administered; and reports of consultations and
hospitalizations.

(n) Exercising influence on the patient or client in
such a manner as to exploit the patient or client for
financial gain of the licensee or of a third party, which
shall include, but not be limited to, the promoting or selling
of services, goods, appliances, or drugs.

(o) Promoting or advertising on any prescription form
of a community pharmacy unless the form shall also state "This
prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not
been duly authorized by the patient or client, or his or her
legal representative, except as provided in s. 743.064, s.
766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or
otherwise preparing a legend drug, including any controlled
substance, other than in the course of the physician's
professional practice. For the purposes of this paragraph, it
shall be legally presumed that prescribing, dispensing,
administering, mixing, or otherwise preparing legend drugs,
including all controlled substances, inappropriately or in
excessive or inappropriate quantities is not in the best
interest of the patient and is not in the course of the

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physician's professional practice, without regard to his or her intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed may not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the

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competent practice of medicine with reasonable skill and
safety to patients.

(t) Gross or repeated malpractice or the failure to
practice medicine with that level of care, skill, and
treatment which is recognized by a reasonably prudent similar
physician as being acceptable under similar conditions and
circumstances. The board shall give great weight to the
provisions of s. 766.102 when enforcing this paragraph. As
used in this paragraph, "repeated malpractice" includes, but
is not limited to, three or more claims for medical
malpractice within the previous 5-year period resulting in
indemnities being paid in excess of $25,000 each to the
claimant in a judgment or settlement and which incidents
involved negligent conduct by the physician. As used in this
paragraph, "gross malpractice" or "the failure to practice
medicine with that level of care, skill, and treatment which
is recognized by a reasonably prudent similar physician as
being acceptable under similar conditions and circumstances,"
shall not be construed so as to require more than one
instance, event, or act. Nothing in this paragraph shall be
construed to require that a physician be incompetent to
practice medicine in order to be disciplined pursuant to this
paragraph.

(u) Performing any procedure or prescribing any
therapy which, by the prevailing standards of medical practice
in the community, would constitute experimentation on a human
subject, without first obtaining full, informed, and written
consent.

(v) Practicing or offering to practice beyond the
scope permitted by law or accepting and performing
professional responsibilities which the licensee knows or has

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reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or any

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compound thereof, pursuant to chapter 893, to or for any
person except for:

1. The treatment of narcolepsy; hyperkinesis;
behavioral syndrome characterized by the developmentally
inappropriate symptoms of moderate to severe distractability,
short attention span, hyperactivity, emotional lability, and
impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation
of depression or the treatment of depression shown to be
refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such
drugs or compounds when an investigative protocol therefor is
submitted to, reviewed, and approved by the board before such
investigation is begun.

(dd) Failing to supervise adequately the activities of
those physician assistants, paramedics, emergency medical
technicians, or advanced registered nurse practitioners acting
under the supervision of the physician.

(ee) Prescribing, ordering, dispensing, administering,
supplying, selling, or giving growth hormones, testosterone or
its analogs, human chorionic gonadotropin (HCG), or other
hormones for the purpose of muscle building or to enhance
athletic performance. For the purposes of this subsection, the
term "muscle building" does not include the treatment of
injured muscle. A prescription written for the drug products
listed above may be dispensed by the pharmacist with the
presumption that the prescription is for legitimate medical
use.

(ff) Prescribing, ordering, dispensing, administering,
supplying, selling, or giving amygdalin (laetrile) to any
person.
(gg) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(hh) Improperly interfering with an investigation or with any disciplinary proceeding.

(ii) Failing to report to the department any licensee under this chapter or under chapter 459 who the physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the physician or physician assistant also provides services.

(jj) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(kk) Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

(ll) Advertising or holding oneself out as a board-certified specialist, if not qualified under s. 458.3312, in violation of this chapter.

(mm) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

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(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or certification with restrictions, to the department an application for licensure, certification, or registration.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physician.

(g) Issuance of a letter of concern.

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.
(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 22. Subsection (2) of section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty.--

(2) The board shall not certify to the department for registration any applicant who is under investigation in any state or jurisdiction for an act which would constitute grounds the basis for imposing a disciplinary action under penalty specified in s. 458.331(2)(b) until such time as the investigation is completed, at which time the provisions of s. 458.331 shall apply.

Section 23. Subsection (7) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.--

(7) PHYSICIAN ASSISTANT LICENSURE.--

(g) The Board of Medicine may impose any of the penalties authorized under specified in ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty

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of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 24. Subsection (6) of section 459.0085, Florida Statutes, is amended to read:

459.0085 Financial responsibility.--
   (6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action under as specified in s. 459.015.

Section 25. Subsections (1) and (2) of section 459.015, Florida Statutes, are amended to read:

459.015 Grounds for disciplinary action; action by the board and department.--
   (1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2), which the disciplinary actions specified in subsection (2) may be taken:
      (a) Attempting to obtain, obtaining, or renewing a license to practice osteopathic medicine or a certificate issued under this chapter by bribery, by fraudulent misrepresentations, or through an error of the department or the board.
      (b) Having a license or the authority to practice osteopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement offered in response to or in

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1 anticipation of the filing of administrative charges against
2 the physician shall be construed as action against the
3 physician's license.
4       (c) Being convicted or found guilty, regardless of
5 adjudication, of a crime in any jurisdiction which directly
6 relates to the practice of osteopathic medicine or to the
7 ability to practice osteopathic medicine. A plea of nolo
8 contendere shall create a rebuttable presumption of guilt to
9 the underlying criminal charges.
10       (d) False, deceptive, or misleading advertising.
11       (e) Failing to report to the department or the
12 department's impaired professional consultant any person who
13 the licensee or certificateholder knows is in violation of
14 this chapter or of the rules of the department or the board.
15 A treatment provider, approved pursuant to s. 456.076, shall
16 provide the department or consultant with information in
17 accordance with the requirements of s. 456.076(3), (4), (5),
18 and (6).
19       (f) Aiding, assisting, procuring, or advising any
20 unlicensed person to practice osteopathic medicine contrary to
21 this chapter or to a rule of the department or the board.
22       (g) Failing to perform any statutory or legal
23 obligation placed upon a licensed osteopathic physician.
24       (h) Giving false testimony in the course of any legal
25 or administrative proceedings relating to the practice of
26 medicine or the delivery of health care services.
27       (i) Making or filing a report which the licensee knows
28 to be false, intentionally or negligently failing to file a
29 report or record required by state or federal law, willfully
30 impeding or obstructing such filing, or inducing another
31 person to do so. Such reports or records shall include only
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those which are signed in the capacity as a licensed osteopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, person, partnership, firm, corporation, or other business entity, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent an osteopathic physician from receiving a fee for professional consultation services.

(k) Refusing to provide health care based on a patient's participation in pending or past litigation or participation in any disciplinary action conducted pursuant to this chapter, unless such litigation or disciplinary action directly involves the osteopathic physician requested to provide services.

(l) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of osteopathic medicine or employing a trick or scheme in the practice of osteopathic medicine.

(n) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or forms of overreaching or vexatious conduct. A

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solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(o) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(p) Fraudulently altering or destroying records relating to patient care or treatment, including, but not limited to, patient histories, examination results, and test results.

(q) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs.

(r) Promoting or advertising on any prescription form of a community pharmacy, unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(s) Performing professional services which have not been duly authorized by the patient or client or his or her legal representative except as provided in s. 743.064, s. 766.103, or s. 768.13.
(t) Prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the osteopathic physician's professional practice, without regard to his or her intent.

(u) Prescribing or dispensing any medicinal drug appearing on any schedule set forth in chapter 893 by the osteopathic physician for himself or herself or administering any such drug by the osteopathic physician to himself or herself unless such drug is prescribed for the osteopathic physician by another practitioner authorized to prescribe medicinal drugs.

(v) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(w) Being unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, have the authority to issue an order to compel

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a licensee to submit to a mental or physical examination by
physicians designated by the department. If the licensee
refuses to comply with such order, the department's order
directing such examination may be enforced by filing a
petition for enforcement in the circuit court where the
licensee resides or does business. The licensee against whom
the petition is filed shall not be named or identified by
initials in any public court records or documents, and the
proceedings shall be closed to the public. The department
shall be entitled to the summary procedure provided in s.
51.011. A licensee or certificateholder affected under this
paragraph shall at reasonable intervals be afforded an
opportunity to demonstrate that he or she can resume the
competent practice of medicine with reasonable skill and
safety to patients.

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

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acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances," or any combination thereof, and any publication by the board shall so specify.

(y) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.
(aa) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(bb) Violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(cc) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(dd) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(ee) Presigning blank prescription forms.

(ff) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the osteopathic physician for office use.

(gg) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

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2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(hh) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced registered nurse practitioners, or other persons acting under the supervision of the osteopathic physician.

(ii) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(jj) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(kk) Improperly interfering with an investigation or with any disciplinary proceeding.

(ll) Failing to report to the department any licensee under chapter 458 or under this chapter who the osteopathic physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which

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that person is licensed and who provides health care services
in a facility licensed under chapter 395, or a health
maintenance organization certificated under part I of chapter
641, in which the osteopathic physician or physician assistant
also provides services.

(mm) Being found by any court in this state to have
provided corroborating written medical expert opinion attached
to any statutorily required notice of claim or intent or to
any statutorily required response rejecting a claim, without
reasonable investigation.

(nn) Advertising or holding oneself out as a
board-certified specialist in violation of this chapter.

(oo) Failing to comply with the requirements of ss.
381.026 and 381.0261 to provide patients with information
about their patient rights and how to file a patient
complaint.

(pp) Violating any provision of this chapter or
chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or
imposing any of the penalties in s. 456.072(2) against any
applicant for licensure or licensee who is found guilty of
violating any provision of subsection (1) of this section or
who is found guilty of violating any provision of s.
456.072(1). When the board finds any person guilty of any of
the grounds set forth in subsection (1), it may enter an order
imposing one or more of the following penalties:

(a) Refusal to certify, or certify with restrictions,
to the department an application for certification, licensure,
renewal, or reactivation.

(b) Revocation or suspension of a license or
certificate.
(c) Restriction of practice.
(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.
(e) Issuance of a reprimand.
(f) Issuance of a letter of concern.
(g) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.
(h) Corrective action.
(i) Refund of fees billed to and collected from the patient.
(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 26. Paragraph (f) of subsection (7) of section 459.022, Florida Statutes, is amended to read:

459.022 Physician assistants.--
(7) PHYSICIAN ASSISTANT LICENSURE.--

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(f) The Board of Osteopathic Medicine may impose any of the penalties specified in ss. 456.072 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 27. Subsections (1) and (2) of section 460.413, Florida Statutes, are amended to read:

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

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2), which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license to practice chiropractic medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice chiropractic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of chiropractic medicine or to the ability to practice chiropractic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or
statement which would identify herself or himself as a
chiropractic physician or identify such chiropractic clinic or
related institution in which she or he practices or in which
she or he is owner, in whole or in part, as a chiropractic
institution.

(f) Advertising, practicing, or attempting to practice
under a name other than one's own.

(g) Failing to report to the department any person who
the licensee knows is in violation of this chapter or of the
rules of the department or the board.

(h) Aiding, assisting, procuring, or advising any
unlicensed person to practice chiropractic medicine contrary
to this chapter or to a rule of the department or the board.

(i) Failing to perform any statutory or legal
obligation placed upon a licensed chiropractic physician.

(j) Making or filing a report which the licensee knows
to be false, intentionally or negligently failing to file a
report or record required by state or federal law, willfully
impeding or obstructing such filing or inducing another person
to do so. Such reports or records shall include only those
which are signed in the capacity of a licensed chiropractic
physician.

(k) Making misleading, deceptive, untrue, or
fraudulent representations in the practice of chiropractic
medicine or employing a trick or scheme in the practice of
chiropractic medicine when such trick or scheme fails to
conform to the generally prevailing standards of treatment in
the chiropractic medical community.

(l) Soliciting patients either personally or through
an agent, unless such solicitation falls into a category of
solicitations approved by rule of the board.

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(m) Failing to keep legibly written chiropractic medical records that identify clearly by name and credentials the licensed chiropractic physician rendering, ordering, supervising, or billing for each examination or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and diagnosis of a disease, condition, or injury. X rays need not be retained for more than 4 years.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods or appliances, or drugs.

(o) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(p) Prescribing, dispensing, or administering any medicinal drug except as authorized by s. 460.403(9)(c)2., performing any surgery, or practicing obstetrics.

(q) Being unable to practice chiropractic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding by the secretary of the department, or his or her designee, or the probable cause panel of the board that probable cause exists to believe that the licensee is unable to practice the profession because of reasons stated in this paragraph, the department shall have the authority to compel a
licensee to submit to a mental or physical examination by a
physician designated by the department. If the licensee
refuses to comply with the department's order, the department
may file a petition for enforcement in the circuit court of
the circuit in which the licensee resides or does business.
The department shall be entitled to the summary procedure
provided in s. 51.011. The record of proceedings to obtain a
compelled mental or physical examination shall not be used
against a licensee in any other proceedings. A chiropractic
physician affected under this paragraph shall at reasonable
intervals be afforded an opportunity to demonstrate that she
or he can resume the competent practice of chiropractic
medicine with reasonable skill and safety to patients.

(r) Gross or repeated malpractice or the failure to
practice chiropractic medicine at a level of care, skill, and
treatment which is recognized by a reasonably prudent
chiropractic physician as being acceptable under similar
conditions and circumstances. The board shall give great
weight to the standards for malpractice in s. 766.102 in
interpreting this provision. A recommended order by an
administrative law judge, or a final order of the board
finding a violation under this section shall specify whether
the licensee was found to have committed "gross malpractice,"
"repeated malpractice," or "failure to practice chiropractic
medicine with that level of care, skill, and treatment which
is recognized as being acceptable under similar conditions and
circumstances" or any combination thereof, and any publication
by the board shall so specify.

(s) Performing any procedure or prescribing any
therapy which, by the prevailing standards of chiropractic
medical practice in the community, would constitute

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experimentation on human subjects, without first obtaining full, informed, and written consent.

(t) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(u) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating any provision of this chapter, any rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(x) Submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.

(y) Failing to preserve identity of funds and property of a patient. As provided by rule of the board, money or other property entrusted to a chiropractic physician for a specific purpose, including advances for costs and expenses of examination or treatment, is to be held in trust and must be applied only to that purpose. Money and other property of patients coming into the hands of a chiropractic physician are not subject to counterclaim or setoff for chiropractic physician's fees, and a refusal to account for and deliver

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over such money and property upon demand shall be deemed a
conversion. This is not to preclude the retention of money or
other property upon which the chiropractic physician has a
valid lien for services or to preclude the payment of agreed
fees from the proceeds of transactions for examinations or
treatments. Controversies as to the amount of the fees are
not grounds for disciplinary proceedings unless the amount
demanded is clearly excessive or extortionate, or the demand
is fraudulent. All funds of patients paid to a chiropractic
physician, other than advances for costs and expenses, shall
be deposited in one or more identifiable bank accounts
maintained in the state in which the chiropractic physician's
office is situated, and no funds belonging to the chiropractic
physician shall be deposited therein except as follows:

  1. Funds reasonably sufficient to pay bank charges may
be deposited therein.

  2. Funds belonging in part to a patient and in part
presently or potentially to the physician must be deposited
therein, but the portion belonging to the physician may be
withdrawn when due unless the right of the physician to
receive it is disputed by the patient, in which event the
disputed portion shall not be withdrawn until the dispute is
finally resolved.

Every chiropractic physician shall maintain complete records
of all funds, securities, and other properties of a patient
coming into the possession of the physician and render
appropriate accounts to the patient regarding them. In
addition, every chiropractic physician shall promptly pay or
deliver to the patient, as requested by the patient, the

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funds, securities, or other properties in the possession of
the physician which the patient is entitled to receive.

(z) Offering to accept or accepting payment for
services rendered by assignment from any third-party payor
after offering to accept or accepting whatever the third-party
payor covers as payment in full, if the effect of the offering
or acceptance is to eliminate or give the impression of
eliminating the need for payment by an insured of any required
deductions applicable in the policy of the insured.

(aa) Failing to provide, upon request of the insured,
a copy of a claim submitted to any third-party payor for
service or treatment of the insured.

(bb) Advertising a fee or charge for a service or
treatment which is different from the fee or charge the
licensee submits to third-party payors for that service or
treatment.

(cc) Advertising any reduced or discounted fees for
services or treatments, or advertising any free services or
treatments, without prominently stating in the advertisement
the usual fee of the licensee for the service or treatment
which is the subject of the discount, rebate, or free
offering.

(dd) Using acupuncture without being certified
pursuant to s. 460.403(9)(f).

(ee) Failing to report to the department any licensee
under chapter 458 or under chapter 459 who the chiropractic
physician or chiropractic physician's assistant knows has
violated the grounds for disciplinary action set out in the
law under which that person is licensed and who provides
health care services in a facility licensed under chapter 395,
or a health maintenance organization certificated under part I

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of chapter 641, in which the chiropractic physician or chiropractic physician's assistant also provides services.

(ff) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.
(b) Revocation or suspension of a license.
(c) Restriction of practice.
(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.
(e) Issuance of a reprimand.
(f) Placement of the chiropractic physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the chiropractic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another chiropractic physician.
(g) Imposition of costs of the investigation and prosecution.
(h) Requirement that the chiropractic physician undergo remedial education.
(i) Issuance of a letter of concern.
(j) Corrective action.
Refund of fees billed to and collected from the patient or a third party.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the chiropractic physician. All costs associated with compliance with orders issued under this subsection are the obligation of the chiropractic physician.

Section 28. Subsections (1) and (2) of section 461.013, Florida Statutes, are amended to read:

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

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license to practice podiatric medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice podiatric medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of podiatric medicine or to the ability to practice podiatric medicine. Any plea of nolo
contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, permitting, or advising any unlicensed person to practice podiatric medicine contrary to this chapter or to rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed podiatric physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such report or records shall include only those which are signed in the capacity of a licensed podiatric physician.

(j) Making misleading, deceptive, untrue, or fraudulent representations in the practice of podiatric medicine or employing a trick or scheme in the practice of podiatric medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community.

(k) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

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(l) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(m) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(n) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(o) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatric physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the podiatric physician's professional practice, without regard to her or his intent.

(p) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatric physician to herself or himself except those prescribed, dispensed, or administered to the podiatric

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physician by another practitioner authorized to prescribe, dispense, or administer them.

(q) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to chapter 893.

(r) Being unable to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the department shall, upon probable cause, have authority to compel a podiatric physician to submit to a mental or physical examination by physicians designated by the department. Failure of a podiatric physician to submit to such examination when directed shall constitute an admission of the allegations against her or him, unless the failure was due to circumstances beyond her or his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatric physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of podiatric medicine with reasonable skill and safety to patients.

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

(t) Performing any procedure or prescribing any therapy which, by the prevailing standards of podiatric medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed, and written consent.

(u) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(v) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(w) Violating any provision of this chapter or chapter 456, any rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(x) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would
tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(y) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for any of the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(z) Fraud, deceit, or misconduct in the practice of podiatric medicine.

(aa) Failing to report to the department any licensee under chapter 458 or chapter 459 who the podiatric physician knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the podiatric physician also provides services.

(bb) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(cc) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of
violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.
(b) Revocation or suspension of a license.
(c) Restriction of practice.
(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.
(e) Issuance of a reprimand.
(f) Placing the podiatric physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the podiatric physician to submit to treatment, to attend continuing education courses, to submit to reexamination, and to work under the supervision of another podiatric physician.
(g) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

Section 29. Subsections (1) and (2) of section 462.14, Florida Statutes, are amended to read:

462.14 Grounds for disciplinary action; action by the department.--

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license to practice naturopathic medicine by bribery, by

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1 fraudulent misrepresentation, or through an error of the
department.

(b) Having a license to practice naturopathic medicine
revoked, suspended, or otherwise acted against, including the
denial of licensure, by the licensing authority of another
state, territory, or country.

(c) Being convicted or found guilty, regardless of
adjudication, of a crime in any jurisdiction which directly
relates to the practice of naturopathic medicine or to the
ability to practice naturopathic medicine. Any plea of nolo
contendere shall be considered a conviction for purposes of
this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice
under a name other than one's own.

(f) Failing to report to the department any person who
the licensee knows is in violation of this chapter or of the
rules of the department.

(g) Aiding, assisting, procuring, or advising any
unlicensed person to practice naturopathic medicine contrary
to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal
obligation placed upon a licensed naturopathic physician.

(i) Making or filing a report which the licensee knows
to be false, intentionally or negligently failing to file a
report or record required by state or federal law, willfully
impeding or obstructing such filing or inducing another person
to do so. Such reports or records shall include only those
which are signed in the capacity as a licensed naturopathic
physician.

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(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a naturopathic physician from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with her or his physician.

(l) Making deceptive, untrue, or fraudulent representations in the practice of naturopathic medicine or employing a trick or scheme in the practice of naturopathic medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the medical community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, test
results, X rays, and records of the prescribing, dispensing and administering of drugs.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form also states "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the naturopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the naturopathic physician's professional practice, without regard to her or his intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the naturopathic physician to herself or himself, except one prescribed, dispensed, or administered to the naturopathic physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

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(s) Being unable to practice naturopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a naturopathic physician to submit to a mental or physical examination by physicians designated by the department. The failure of a naturopathic physician to submit to such an examination when so directed shall constitute an admission of the allegations against her or him upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the naturopathic physician's control. A naturopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of naturopathic medicine with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department may be used against a naturopathic physician in any other proceeding.

(t) Gross or repeated malpractice or the failure to practice naturopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The department shall give great weight to the provisions of s. 766.102 when enforcing this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, constitutes experimentation on a human

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subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating any provision of this chapter, any rule of the department, or a lawful order of the department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing by the naturopathic physician for office use any medicinal drug appearing on Schedule II in chapter 893.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug, or a compound designated pursuant to chapter 893 as a Schedule II controlled substance to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis;

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developmentally inappropriate symptoms of moderate to severe
distractability, short attention span, hyperactivity,
emotional lability, and impulsivity; or drug-induced brain
dysfunction.

2. The differential diagnostic psychiatric evaluation
of depression or the treatment of depression shown to be
refractory to other therapeutic modalities.

3. The clinical investigation of the effects of such
drugs or compounds when an investigative protocol therefor is
submitted to, reviewed, and approved by the department before
such investigation is begun.

(dd) Prescribing, ordering, dispensing, administering,
supplying, selling, or giving growth hormones, testosterone or
its analogs, human chorionic gonadotropin (HCG), or other
hormones for the purpose of muscle building or to enhance
athletic performance. For the purposes of this subsection, the
term "muscle building" does not include the treatment of
injured muscle. A prescription written for the drug products
listed above may be dispensed by the pharmacist with the
presumption that the prescription is for legitimate medical
use.

(ee) Violating any provision of this chapter or
chapter 456, or any rules adopted pursuant thereto.

(2) The department may enter an order denying
licensure or imposing any of the penalties in s. 456.072(2)
against any applicant for licensure or licensee who is found
guilty of violating any provision of subsection (1) of this
section or who is found guilty of violating any provision of
s. 456.072(1). When the department finds any person guilty of
any of the grounds set forth in subsection (1), it may enter
an order imposing one or more of the following penalties:

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(a) Refusal to certify to the department an
application for licensure.
(b) Revocation or suspension of a license.
(c) Restriction of practice.
(d) Imposition of an administrative fine not to exceed
$1,000 for each count or separate offense.
(e) Issuance of a reprimand.
(f) Placement of the naturopathic physician on
probation for a period of time and subject to such conditions
as the department may specify, including, but not limited to,
requiring the naturopathic physician to submit to treatment,
to attend continuing education courses, to submit to
reexamination, or to work under the supervision of another
naturopathic physician.

Section 30. Subsections (1) and (2) of section
463.016, Florida Statutes, are amended to read:
463.016 Grounds for disciplinary action; action by the
board.--
(1) The following acts shall constitute grounds for
denial of a license or disciplinary action, as specified in s.
456.072(2), which the disciplinary actions specified in
subsection (2) may be taken:
(a) Procuring or attempting to procure a license to
practice optometry by bribery, by fraudulent
misrepresentations, or through an error of the department or
board.
(b) Procuring or attempting to procure a license for
any other person by making or causing to be made any false
representation.

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(c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in her or his capacity as a licensed practitioner.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Fraud or deceit, negligence or incompetency, or misconduct in the practice of optometry.

(h) A violation or repeated violations of provisions of this chapter, or of chapter 456, and any rules promulgated pursuant thereto.

(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(j) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

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(l) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board.

(m) Gross or repeated malpractice.

(n) Practicing with a revoked, suspended, inactive, or delinquent license.

(o) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A licensed practitioner affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of optometry with reasonable skill and safety to patients.

(p) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida laws or rules regulating optometry.

(q) Violating any provision of s. 463.014 or s. 463.015.

(r) Violating any lawful order of the board or department, previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know she or he is not competent to perform.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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(2) The department may enter an order imposing any of the penalties in s. 456.072(2) against any licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.
(b) Revocation or suspension of a license.
(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.
(d) Issuance of a reprimand.

Section 31. Subsections (1) and (2) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.--

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

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of
licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being found guilty, regardless of adjudication, of any of the following offenses:
   1. A forcible felony as defined in chapter 776.
   2. A violation of chapter 812, relating to theft, robbery, and related crimes.
   3. A violation of chapter 817, relating to fraudulent practices.
   4. A violation of chapter 800, relating to lewdness and indecent exposure.
   5. A violation of chapter 784, relating to assault, battery, and culpable negligence.
   6. A violation of chapter 827, relating to child abuse.
   7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.
   8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.03 or under any similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently

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failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, which shall include, but not be limited to, any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice, in which case actual injury need not be established.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition.

In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by

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initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of

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violating any provision of subsection (1) of this section or
who is found guilty of violating any provision of s.
456.072(1). When the board finds any person guilty of any of
the grounds set forth in subsection (1), it may enter an order
imposing one or more of the following penalties:

(a) Refusal to certify to the department an
application for licensure.

(b) Revocation or suspension of a license with
reinstatement subject to the provisions of subsection (3).

(c) Permanent revocation of a license.

(d) Restriction of practice.

(e) Imposition of an administrative fine not to exceed
$1,000 for each count or separate offense.

(f) Issuance of a reprimand.

(g) Placement of the nurse on probation for a period
of time and subject to such conditions as the board may
specify, including requiring the nurse to submit to treatment,
to attend continuing education courses, to take an
examination, or to work under the supervision of another
nurse.

Section 32. Subsection (3) of section 465.008, Florida
Statutes, is amended to read:

465.008 Renewal of license.--

(3) Sixty days prior to the end of the biennium the
department shall mail a notice of renewal to the last known
address of the licensee.

Section 33. Subsections (1) and (2) of section
465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.--

CODING: Words stricken are deletions; words underlined are additions.
(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Obtaining a license by misrepresentation or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Permitting any person not licensed as a pharmacist in this state or not registered as an intern in this state, or permitting a registered intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist, to fill, compound, or dispense any prescriptions in a pharmacy owned and operated by such pharmacist or in a pharmacy where such pharmacist is employed or on duty.

(d) Being unfit or incompetent to practice pharmacy by reason of:

1. Habitual intoxication.

2. The misuse or abuse of any medicinal drug appearing in any schedule set forth in chapter 893.

3. Any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs, or medical supplies or for whom she or he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies.

(e) Violating any of the requirements of this chapter; or if licensed as a practitioner in this or any other state, violating any of the requirements of their respective practice act or violating chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et al.

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seq., known as the Comprehensive Drug Abuse Prevention and
Control Act; or chapter 893.

(f) Having been convicted or found guilty, regardless
of adjudication, in a court of this state or other
jurisdiction, of a crime which directly relates to the ability
to practice pharmacy or to the practice of pharmacy. A plea
of nolo contendere constitutes a conviction for purposes of
this provision.

(g) Using in the compounding of a prescription, or
furnishing upon prescription, an ingredient or article
different in any manner from the ingredient or article
prescribed, except as authorized in s. 465.019(6) or s.
465.025.

(h) Having been disciplined by a regulatory agency in
another state for any offense that would constitute a
violation of this chapter.

(i) Compounding, dispensing, or distributing a legend
drug, including any controlled substance, other than in the
course of the professional practice of pharmacy. For purposes
of this paragraph, it shall be legally presumed that the
compounding, dispensing, or distributing of legend drugs in
excessive or inappropriate quantities is not in the best
interests of the patient and is not in the course of the
professional practice of pharmacy.

(j) Making or filing a report or record which the
licensee knows to be false, intentionally or negligently
failing to file a report or record required by federal or
state law, willfully impeding or obstructing such filing, or
inducing another person to do so. Such reports or records
include only those which the licensee is required to make or
file in her or his capacity as a licensed pharmacist.
(k) Failing to make prescription fee or price information readily available by failing to provide such information upon request and upon the presentation of a prescription for pricing or dispensing. Nothing in this section shall be construed to prohibit the quotation of price information on a prescription drug to a potential consumer by telephone.

(l) Placing in the stock of any pharmacy any part of any prescription compounded or dispensed which is returned by a patient; however, in a hospital, nursing home, correctional facility, or extended care facility in which unit-dose medication is dispensed to inpatients, each dose being individually sealed and the individual unit dose or unit-dose system labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any, the unused unit dose of medication may be returned to the pharmacy for redispensing. Each pharmacist shall maintain appropriate records for any unused or returned medicinal drugs.

(m) Being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A pharmacist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of pharmacy with reasonable skill and safety to her or his customers.

(n) Violating a rule of the board or department or violating an order of the board or department previously entered in a disciplinary hearing.
(o) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the pharmacist also provides services.

(p) Failing to notify the Board of Pharmacy in writing within 20 days of the commencement or cessation of the practice of the profession of pharmacy in Florida when such commencement or cessation of the practice of the profession of pharmacy in Florida was a result of a pending or completed disciplinary action or investigation in another jurisdiction.

(q) Using or releasing a patient's records except as authorized by this chapter and chapter 456.

(r) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.
(d) Issuance of a reprimand.

(e) Placement of the pharmacist on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the pharmacist to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another pharmacist.

Section 34. Subsections (1) and (2) of section 466.028, Florida Statutes, are amended to read:

466.028 Grounds for disciplinary action; action by the board.--

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2), which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of dentistry or dental hygiene. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.
contrary to s. 466.019 or rules of the board adopted pursuant thereto.

    (e) Advertising, practicing, or attempting to practice under a name other than one's own.

    (f) Failing to report to the department any person who the licensee knows, or has reason to believe, is clearly in violation of this chapter or of the rules of the department or the board.

    (g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene contrary to this chapter or to a rule of the department or the board.

    (h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry.

    (i) Failing to perform any statutory or legal obligation placed upon a licensee.

    (j) Making or filing a report which the licensee knows to be false, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

    (k) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

    (l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry.

    (m) Failing to keep written dental records and medical history records justifying the course of treatment of the
patient including, but not limited to, patient histories, examination results, test results, and X rays, if taken.

(n) Failing to make available to a patient or client, or to her or his legal representative or to the department if authorized in writing by the patient, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(o) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in ss. 766.103 and 768.13.

(p) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the professional practice of the dentist. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the dentist, without regard to her or his intent.

(q) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to herself or himself, except those prescribed, dispensed, or administered to the dentist by another practitioner authorized to prescribe them.

(r) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or a compound thereof, pursuant to chapter 893, to

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or for any person except for the clinical investigation of the
effects of such drugs or compounds when an investigative
protocol therefor is submitted to, and reviewed and approved
by, the board before such investigation is begun.

(s) Being unable to practice her or his profession
with reasonable skill and safety to patients by reason of
illness or use of alcohol, drugs, narcotics, chemicals, or any
other type of material or as a result of any mental or
physical condition. In enforcing this paragraph, the
department shall have, upon a finding of the secretary or her
or his designee that probable cause exists to believe that the
licensee is unable to practice dentistry or dental hygiene
because of the reasons stated in this paragraph, the authority
to issue an order to compel a licensee to submit to a mental
or physical examination by physicians designated by the
department. If the licensee refuses to comply with such
order, the department's order directing such examination may
be enforced by filing a petition for enforcement in the
circuit court where the licensee resides or does business.
The licensee against whom the petition is filed shall not be
named or identified by initials in any public court records or
documents, and the proceedings shall be closed to the public.
The department shall be entitled to the summary procedure
provided in s. 51.011. A licensee affected under this
paragraph shall at reasonable intervals be afforded an
opportunity to demonstrate that she or he can resume the
competent practice of her or his profession with reasonable
skill and safety to patients.

(t) Fraud, deceit, or misconduct in the practice of
dentistry or dental hygiene.
(u) Failure to provide and maintain reasonable sanitary facilities and conditions.

(v) Failure to provide adequate radiation safeguards.

(w) Performing any procedure or prescribing any therapy which, by the prevailing standards of dental practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(x) Being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience or being guilty of dental malpractice. For purposes of this paragraph, it shall be legally presumed that a dentist is not guilty of incompetence or negligence by declining to treat an individual if, in the dentist's professional judgment, the dentist or a member of her or his clinical staff is not qualified by training and experience, or the dentist's treatment facility is not clinically satisfactory or properly equipped to treat the unique characteristics and health status of the dental patient, provided the dentist refers the patient to a qualified dentist or facility for appropriate treatment. As used in this paragraph, "dental malpractice" includes, but is not limited to, three or more claims within the previous 5-year period which resulted in indemnity being paid, or any single indemnity paid in excess of $5,000 in a judgment or settlement, as a result of negligent conduct on the part of the dentist.

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(y) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(z) Delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.

(aa) The violation or the repeated violation of this chapter, chapter 456, or any rule promulgated pursuant to chapter 456 or this chapter; the violation of a lawful order of the board or department previously entered in a disciplinary hearing; or failure to comply with a lawfully issued subpoena of the board or department.

(bb) Conspiring with another licensee or with any person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(cc) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.

(dd) Presigning blank prescription or laboratory work order forms.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the

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presumption that the prescription is for legitimate medical use.

(ff) Operating or causing to be operated a dental office in such a manner as to result in dental treatment that is below minimum acceptable standards of performance for the community. This includes, but is not limited to, the use of substandard materials or equipment, the imposition of time limitations within which dental procedures are to be performed, or the failure to maintain patient records as required by this chapter.

(gg) Administering anesthesia in a manner which violates rules of the board adopted pursuant to s. 466.017.

(hh) Failing to report to the department any licensee under chapter 458 or chapter 459 who the dentist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the dentist also provides services.

(ii) Failing to report to the board, in writing, within 30 days if action has been taken against one’s license to practice dentistry in another state, territory, or country.

(jj) Advertising specialty services in violation of this chapter.

(kk) Allowing any person other than another dentist or a professional corporation or limited liability company composed of dentists to direct, control, or interfere with a dentist’s clinical judgment; however, this paragraph may not be construed to limit a patient’s right of informed consent. To direct, control, or interfere with a dentist's clinical judgment may not be interpreted to mean dental services...
contractually excluded, the application of alternative benefits that may be appropriate given the dentist's prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

(11) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.
(b) Revocation or suspension of a license.
(c) Imposition of an administrative fine not to exceed $3,000 for each count or separate offense.
(d) Issuance of a reprimand.
(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate competency through a written or practical examination or to work under the supervision of another licensee.

(f) Restricting the authorized scope of practice.

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Section 35. Section 466.037, Florida Statutes, is amended to read:

466.037 Suspension and revocation; administrative fine.--The department may suspend or revoke the certificate of any dental laboratory registered under s. 466.032, for failing to comply with the provisions of this chapter or rules adopted by the department under this chapter. The department may impose an administrative fine not to exceed $500 for each count or separate offense.

Section 36. Subsections (1) and (2) of section 467.203, Florida Statutes, are amended to read:

467.203 Disciplinary actions; penalties.--

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

(a) Procuring, attempting to procure, or renewing a license to practice midwifery by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice midwifery revoked, suspended, or otherwise acted against, including being denied licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of midwifery or to the ability to practice midwifery. A plea of nolo contendere shall be considered a conviction for purposes of this provision.

(d) Making or filing a false report or record, which the licensee knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; or willfully impeding or obstructing such filing

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or inducing another to do so. Such reports or records shall include only those which are signed in the midwife's capacity as a licensed midwife.

    (e) Advertising falsely, misleadingly, or deceptively.

    (f) Engaging in unprofessional conduct, which includes, but is not limited to, any departure from, or the failure to conform to, the standards of practice of midwifery as established by the department, in which case actual injury need not be established.

    (g) Being unable to practice midwifery with reasonable skill and safety to patients by reason of illness; drunkenness; or use of drugs, narcotics, chemicals, or other materials or as a result of any mental or physical condition. A midwife affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of midwifery with reasonable skill and safety.

    (h) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

    (i) Willfully or repeatedly violating any provision of this chapter, any rule of the department, or any lawful order of the department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

    (j) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

    (2) The department may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section.

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section or who is found guilty of violating any provision of s. 456.072(1). When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to approve an application for licensure.
(b) Revocation or suspension of a license.
(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.
(d) Issuance of a reprimand.
(e) Placement of the midwife on probation for such period of time and subject to such conditions as the department may specify, including requiring the midwife to submit to treatment, undertake further relevant education or training, take an examination, or work under the supervision of another licensed midwife, a physician, or a nurse midwife licensed under part I of chapter 464.

Section 37. Subsections (1) and (2) of section 468.1295, Florida Statutes, are amended to read:

468.1295 Disciplinary proceedings.--
(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2), both disciplinary actions as set forth in subsection (2) and cease and desist or other related actions by the department as set forth in s. 456.065:

(a) Procuring or attempting to procure a license by bribery, by fraudulent misrepresentation, or through an error of the department or the board.
(b) Having a license revoked, suspended, or otherwise acted against, including denial of licensure, by the licensing authority of another state, territory, or country.
(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of speech-language pathology or audiology.

(d) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or records required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such report or record shall include only those reports or records which are signed in one's capacity as a licensed speech-language pathologist or audiologist.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Being proven guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of speech-language pathology or audiology.

(g) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(h) Practicing with a revoked, suspended, inactive, or delinquent license.

(i) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.
(j) Showing or demonstrating or, in the event of sale, delivery of a product unusable or impractical for the purpose represented or implied by such action.

(k) Failing to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of such equipment as designated by the board and on the form approved by the board.

(l) Aiding, assisting, procuring, employing, or advising any licensee or business entity to practice speech-language pathology or audiology contrary to this part, chapter 456, or any rule adopted pursuant thereto.

(m) Violating any provision of this part or chapter 456 or any rule adopted pursuant thereto.

(n) Misrepresenting the professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or using any other term or title which might connote the availability of professional services when such use is not accurate.

(o) Representing, advertising, or implying that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(p) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.
(p) Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(q) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(r) Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made," or in any other sense specially fabricated for an individual, when such is not the case.

(s) Canvassing from house to house or by telephone, either in person or by an agent, for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.

(t) Failing to notify the department in writing of a change in current mailing and place-of-practice address within 30 days after such change.

(u) Failing to provide all information as described in ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

(v) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee or certificateholder knows, or has reason to know, the licensee or certificateholder is not competent to perform.

(x) Aiding, assisting, procuring, or employing any unlicensed person to practice speech-language pathology or audiology.

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Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 468.1296.

Being unable to practice the profession for which he or she is licensed or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness, drunkenness, or use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, his or her designee, or the board that probable cause exists to believe that the licensee or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee or certificateholder to submit to a mental or physical examination by a physician, psychologist, clinical social worker, marriage and family therapist, or mental health counselor designated by the department or board. If the licensee or certificateholder refuses to comply with the department's order directing the examination, such order may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee or certificateholder resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph.

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paragraph shall at reasonable intervals be afforded an
opportunity to demonstrate that he or she can resume the
competent practice for which he or she is licensed or
certified with reasonable skill and safety to patients.

(bb) Violating any provision of this chapter or
chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or
imposing any of the penalties in s. 456.072(2) against any
applicant for licensure or licensee who is found guilty of
violating any provision of subsection (1) of this section or
who is found guilty of violating any provision of s.
456.072(1). When the board finds any person guilty of any of
the acts set forth in subsection (1), it may issue an order
imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with
restrictions, an application for licensure.

(b) Suspension or permanent revocation of a license.

(c) Issuance of a reprimand.

(d) Restriction of the authorized scope of practice.

(e) Imposition of an administrative fine not to exceed
$1,000 for each count or separate offense.

(f) Placement of the licensee or certificateholder on
probation for a period of time and subject to such conditions
as the board may specify. Those conditions may include, but
are not limited to, requiring the licensee or
certificateholder to undergo treatment, attend continuing
education courses, submit to be reexamined, work under the
supervision of another licensee, or satisfy any terms which
are reasonably tailored to the violation found.

(g) Corrective action.

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Section 38. Subsections (1) and (2) of section 468.1755, Florida Statutes, are amended to read:

468.1755  Disciplinary proceedings.--

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2), which the disciplinary actions in subsection (2) may be taken:

(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).

(b) Attempting to procure a license to practice nursing home administration by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(c) Having a license to practice nursing home administration revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of nursing home administration or the ability to practice nursing home administration. Any plea of nolo contendere shall be considered a conviction for purposes of this part.

(e) Making or filing a report or record which the licensee knows to be false, intentionally failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed nursing home administrator.

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(f) Authorizing the discharge or transfer of a resident for a reason other than those provided in ss. 400.022 and 400.0255.

(g) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(h) Fraud or deceit, negligence, incompetence, or misconduct in the practice of nursing home administration.

(i) A violation or repeated violations of this part, chapter 456, or any rules promulgated pursuant thereto.

(j) Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(k) Practicing with a revoked, suspended, inactive, or delinquent license.

(l) Repeatedly acting in a manner inconsistent with the health, safety, or welfare of the patients of the facility in which he or she is the administrator.

(m) Being unable to practice nursing home administration with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to serve as a nursing home administrator due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee

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refuses to comply with such order, the department's order
directing such examination may be enforced by filing a
petition for enforcement in the circuit court where the
licensee resides or serves as a nursing home administrator.
The licensee against whom the petition is filed shall not be
named or identified by initials in any public court records or
documents, and the proceedings shall be closed to the public.
The department shall be entitled to the summary procedure
provided in s. 51.011. A licensee affected under this
paragraph shall have the opportunity, at reasonable intervals,
to demonstrate that he or she can resume the competent
practice of nursing home administration with reasonable skill
and safety to patients.

(m) Willfully or repeatedly violating any of the
provisions of the law, code, or rules of the licensing or
supervising authority or agency of the state or political
subdivision thereof having jurisdiction of the operation and
licensing of nursing homes.

(n) Paying, giving, causing to be paid or given, or
offering to pay or to give to any person a commission or other
valuable consideration for the solicitation or procurement,
either directly or indirectly, of nursing home usage.

(o) Willfully permitting unauthorized disclosure of
information relating to a patient or his or her records.

(p) Discriminating with respect to patients,
employees, or staff on account of race, religion, color, sex,
or national origin.

(q) Violating any provision of this chapter or chapter
456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or
imposing any of the penalties in s. 456.072(2) against any
applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.
(b) Revocation or suspension of a license.
(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.
(d) Issuance of a reprimand.
(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of another licensee.
(f) Restriction of the authorized scope of practice.

Section 39. Section 468.217, Florida Statutes, is amended to read:

468.217 Denial of or refusal to renew license; suspension and revocation of license and other disciplinary measures.--

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2): The board may deny or refuse to renew a license, suspend or revoke a license, issue a reprimand, impose a fine, or impose probationary conditions upon a licensee, when the licensee or applicant for license has been guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, safety, or welfare of the public.
endanger, the health, welfare, or safety of the public. Such unprofessional conduct includes:

(a) Attempting to obtain, obtaining, or renewing a license to practice occupational therapy by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license to practice occupational therapy revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of occupational therapy or to the ability to practice occupational therapy. A plea of nolo contendere shall be considered a conviction for the purposes of this part.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own name.

(f) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or of the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice occupational therapy contrary to this part or to a rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed occupational therapist or occupational therapy assistant.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully

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impeding or obstructing such filing or inducing another person
to do so. Such reports or records include only those which
are signed in the capacity as a licensed occupational
therapist or occupational therapy assistant.

   (j) Paying or receiving any commission, bonus,
kickback, or rebate to or from, or engaging in any split-fee
arrangement in any form whatsoever with, a physician,
organization, agency, or person, either directly or
indirectly, for patients referred to providers of health care
goods and services, including, but not limited to, hospitals,
nursing homes, clinical laboratories, ambulatory surgical
centers, or pharmacies. The provisions of this paragraph
shall not be construed to prevent an occupational therapist or
occupational therapy assistant from receiving a fee for
professional consultation services.

   (k) Exercising influence within a patient-therapist
relationship for purposes of engaging a patient in sexual
activity. A patient is presumed to be incapable of giving
free, full, and informed consent to sexual activity with the
patient's occupational therapist or occupational therapy
assistant.

   (l) Making deceptive, untrue, or fraudulent
representations in the practice of occupational therapy or
employing a trick or scheme in the practice of occupational
therapy if such scheme or trick fails to conform to the
generally prevailing standards of treatment in the
occupational therapy community.

   (m) Soliciting patients, either personally or through
an agent, through the use of fraud, intimidation, undue
influence, or a form of overreaching or vexatious conduct. A
"solicitation" is any communication which directly or

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implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 768.13.

(q) Gross or repeated malpractice or the failure to practice occupational therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar occupational therapist or occupational therapy assistant as being acceptable under similar conditions and circumstances.

(r) Performing any procedure which, by the prevailing standards of occupational therapy practice in the community, would constitute experimentation on a human subject without first obtaining full, informed, and written consent.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t) Being unable to practice occupational therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.
condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel an occupational therapist or occupational therapy assistant to submit to a mental or physical examination by physicians designated by the department. The failure of an occupational therapist or occupational therapy assistant to submit to such examination when so directed constitutes an admission of the allegations against him or her, upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his or her control. An occupational therapist or occupational therapy assistant affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of occupational therapy with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against an occupational therapist or occupational therapy assistant in any other proceeding.

(u) Delegating professional responsibilities to a person when the licensee who is delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating any provision of this part, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would
tend to coerce, intimidate, or preclude another licensee from
lawfully advertising his or her services.

(x) Violating any provision of this chapter or chapter
456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or
imposing any of the penalties in s. 456.072(2) against any
applicant for licensure or licensee who is found guilty of
violating any provision of subsection (1) of this section or
who is found guilty of violating any provision of s.
456.072(1).

(3) The board may not reinstate the license of an
occupational therapist or occupational therapy assistant, or
cause a license to be issued to a person it has deemed
unqualified, until such time as the board is satisfied that
such person has complied with all the terms and conditions set
forth in the final order and is capable of safely engaging in
the practice of occupational therapy.

Section 40. Subsections (1) and (2) of section
468.365, Florida Statutes, are amended to read:

468.365 Disciplinary grounds and actions.--
(1) The following acts constitute grounds for denial
of a license or disciplinary action, as specified in s.
456.072(2) which the disciplinary actions in subsection (2)
may be taken:

(a) Procuring, attempting to procure, or renewing a
license as provided by this part by bribery, by fraudulent
misrepresentation, or through an error of the department or
the board.

(b) Having licensure, certification, registration, or
other authority, by whatever name known, to deliver
respiratory care services revoked, suspended, or otherwise

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acted against, including the denial of licensure, certification, registration, or other authority to deliver respiratory care services by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those reports or records which require the signature of a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a legitimate purpose.

(h) Willfully failing to report any violation of this part.

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(i) Willfully or repeatedly violating a rule of the board or the department or a lawful order of the board or department previously entered in a disciplinary hearing.

(j) Violation of any rule adopted pursuant to this part or chapter 456.

(j) Engaging in the delivery of respiratory care services with a revoked, suspended, or inactive license.

(k) Permitting, aiding, assisting, procuring, or advising any person who is not licensed pursuant to this part, contrary to this part or to any rule of the department or the board.

(l) Failing to perform any statutory or legal obligation placed upon a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(o) Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(p) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a person,

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organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation services.

(q) Exercising influence within a respiratory care relationship for the purpose of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner or respiratory therapist.

(r) Making deceptive, untrue, or fraudulent representations in the delivery of respiratory care services or employing a trick or scheme in the delivery of respiratory care services if such a scheme or trick fails to conform to the generally prevailing standards of other licensees within the community.

(s) Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(t) Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.

(u) Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or a third party, which includes, but is not limited

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to, the promoting or selling of services, goods, appliances, or drugs.

(v) Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 458 or chapter 459 and which are not in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 766.103, and 768.13.

(w) Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory care practitioner or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the licensee being examined. The failure of a respiratory care practitioner or respiratory therapist to submit to such an examination when so directed constitutes an admission of the allegations against her or him, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control. A respiratory care practitioner or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent delivery of respiratory care services with reasonable skill and safety to her or his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board

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shall be used against a respiratory care practitioner or
respiratory therapist in any other proceeding.

   (x) Violating any provision of this chapter or chapter
456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or
imposing any of the penalties in s. 456.072(2) against any
applicant for licensure or licensee who is found guilty of
violating any provision of subsection (1) of this section or
who is found guilty of violating any provision of s.
456.072(1). If the board finds any person guilty of any of the
grounds set forth in subsection (1), it may enter an order
imposing one or more of the following penalties:

   (a) Denial of an application for licensure.
   (b) Revocation or suspension of licensure.
   (c) Imposition of an administrative fine not to exceed
$1,000 for each count or separate offense.
   (d) Placement of the respiratory care practitioner or
respiratory therapist on probation for such period of time and
subject to such conditions as the board may specify,
including, but not limited to, requiring the respiratory care
practitioner or respiratory therapist to submit to treatment,
to attend continuing education courses, or to work under the
supervision of another respiratory care practitioner or
respiratory therapist.
   (e) Issuance of a reprimand.

Section 41. subsections (1) and (2) of section
468.518, Florida Statutes, are amended to read:

468.518 Grounds for disciplinary action.--
(1) The following acts constitute grounds for denial
of a license or disciplinary action, as specified in s.

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which the disciplinary actions in subsection (2) may be taken:

   (a) Violating any provision of this part, any board or agency rule adopted pursuant thereto, or any lawful order of the board or agency previously entered in a disciplinary hearing held pursuant to this part, or failing to comply with a lawfully issued subpoena of the agency. The provisions of this paragraph also apply to any order or subpoena previously issued by the Department of Health during its period of regulatory control over this part.

   (b) Being unable to engage in dietetics and nutrition practice or nutrition counseling with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

       1. A licensee whose license is suspended or revoked pursuant to this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that he or she can resume the competent practice of dietetics and nutrition or nutrition counseling with reasonable skill and safety to patients.

       2. Neither the record of the proceeding nor the orders entered by the board in any proceeding under this paragraph may be used against a licensee in any other proceeding.

   (c) Attempting to procure or procuring a license to practice dietetics and nutrition or nutrition counseling by fraud or material misrepresentation of material fact.

   (d) Having a license to practice dietetics and nutrition or nutrition counseling revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state, district, territory, or country.

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(e) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dietetics and nutrition or nutrition counseling or the ability to practice dietetics and nutrition or nutrition counseling.

(f) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a licensed dietitian/nutritionist or licensed nutrition counselor.

(g) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(h) Committing an act of fraud or deceit, or of negligence, incompetency, or misconduct in the practice of dietetics and nutrition or nutrition counseling.

(i) Practicing with a revoked, suspended, inactive, or delinquent license.

(j) Treating or undertaking to treat human ailments by means other than by dietetics and nutrition practice or nutrition counseling.

(k) Failing to maintain acceptable standards of practice as set forth by the board and the council in rules adopted pursuant to this part.

(l) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or profiting by means of a

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credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this part prohibits the members of any regularly and properly organized business entity that is composed of licensees under this part and recognized under the laws of this state from making any division of their total fees among themselves as they determine necessary.

(m) Advertising, by or on behalf of a licensee under this part, any method of assessment or treatment which is experimental or without generally accepted scientific validation.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

2 The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure;

(b) Revocation or suspension of a license;

(c) Imposition of an administrative fine not to exceed $1,000 for each violation;

(d) Issuance of a reprimand or letter of guidance;

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of a

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licensed dietitian/nutritionist or licensed nutrition
counselor; or

(f) Restriction of the authorized scope of practice of
the licensee.

Section 42. Section 468.719, Florida Statutes, is
amended to read:

468.719 Disciplinary actions.--
(1) The following acts constitute shall be grounds for
denial of a license or disciplinary action, as specified in s.
456.072(2) disciplinary actions provided for in subsection
(2):

(a) A violation of any law relating to the practice of
athletic training, including, but not limited to, any
violation of this part, s. 456.072, or any rule adopted
pursuant thereto.

(b) Failing to include the athletic trainer's name
and license number in any advertising, including, but not
limited to, business cards and letterhead, related to the
practice of athletic training. Advertising shall not include
clothing or other novelty items.

(c) Committing incompetency or misconduct in the
practice of athletic training.

(d) Committing fraud or deceit in the practice of
athletic training.

(e) Committing negligence, gross negligence, or
repeated negligence in the practice of athletic training.

(f) While practicing athletic training, being
unable to practice athletic training with reasonable skill and
safety to athletes by reason of illness or use of alcohol or
drugs or as a result of any mental or physical condition.

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(f) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072. When the board finds any person guilty of any of the acts set forth in subsection (1), the board may enter an order imposing one or more of the penalties provided in s. 456.072.

Section 43. Section 468.811, Florida Statutes, is amended to read:

468.811 Disciplinary proceedings.--

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

(a) Attempting to procure a license by fraudulent misrepresentation.

(b) Having a license to practice orthotics, prosthetics, or pedorthics revoked, suspended, or otherwise acted against, including the denial of licensure in another jurisdiction.

(c) Being convicted or found guilty of or pleading nolo contendere to, regardless of adjudication, in any jurisdiction, a crime that directly relates to the practice of orthotics, prosthetics, or pedorthics, including violations of

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federal laws or regulations regarding orthotics, prosthetics, or pedorthics.

(d) Filing a report or record that the licensee knows is false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only reports or records that are signed in a person's capacity as a licensee under this act.

(e) Advertising goods or services in a fraudulent, false, deceptive, or misleading manner.

(f) Violation of this act or chapter 456, or any rules adopted thereunder.

(g) Violation of an order of the board, agency, or department previously entered in a disciplinary hearing or failure to comply with a subpoena issued by the board, agency, or department.

(h) Practicing with a revoked, suspended, or inactive license.

(i) Gross or repeated malpractice or the failure to deliver orthotic, prosthetic, or pedorthic services with that level of care and skill which is recognized by a reasonably prudent licensed practitioner with similar professional training as being acceptable under similar conditions and circumstances.

(j) Failing to provide written notice of any applicable warranty for an orthosis, prosthesis, or pedorthic device that is provided to a patient.

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(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). The board may enter an order imposing one or more of the penalties in s. 456.072(2) against any person who violates any provision of subsection (1).

Section 44. Subsections (1) and (2) of section 478.52, Florida Statutes, are amended to read:

478.52 Disciplinary proceedings.--

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which the disciplinary actions in subsection (2) may be taken:

(a) Obtaining or attempting to obtain a license by bribery, fraud, or knowing misrepresentation.

(b) Having a license or other authority to deliver electrolysis services revoked, suspended, or otherwise acted against, including denial of licensure, in another jurisdiction.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime, in any jurisdiction, which directly relates to the practice of electrology.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required for electrologists, or willfully impeding or obstructing the filing of a report or record required by this act or inducing another person to do so.
(e) Circulating false, misleading, or deceptive advertising.
(f) Unprofessional conduct, including any departure from, or failure to conform to, acceptable standards related to the delivery of electrolysis services.
(g) Engaging or attempting to engage in the illegal possession, sale, or distribution of any illegal or controlled substance.
(h) Willfully failing to report any known violation of this chapter.
(i) Willfully or repeatedly violating a rule adopted under this chapter, or an order of the board or department previously entered in a disciplinary hearing.
(j) Engaging in the delivery of electrolysis services without an active license.
(k) Employing an unlicensed person to practice electrology.
(l) Failing to perform any statutory or legal obligation placed upon an electrologist.
(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.
(n) Delegating professional responsibilities to a person the licensee knows, or has reason to know, is unqualified by training, experience, or licensure to perform.
(o) Gross or repeated malpractice or the inability to practice electrolysis with reasonable skill and safety.
(p) Judicially determined mental incompetency.
(q) Practicing or attempting to practice electrolysis under a name other than her or his own.

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(r) Being unable to practice electrology with reasonable skill and safety because of a mental or physical condition or illness, or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

1. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and her or his failure to submit to such an examination constitutes an admission of the allegations against her or him, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control.

2. A licensee who is disciplined under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that she or he can resume the practice of electrology with reasonable skill and safety.

3. In any proceeding under this paragraph, the record of proceedings or the orders entered by the board may not be used against a licensee in any other proceeding.

(s) Disclosing the identity of or information about a patient without written permission, except for information which does not identify a patient and which is used for training purposes in an approved electrolysis training program.

(t) Practicing or attempting to practice any permanent hair removal except as described in s. 478.42(5).

(u) Operating any electrolysis facility unless it has been duly licensed as provided in this chapter.

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(v) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(a) Deny the application for licensure.
(b) Revoke or suspend the license.
(c) Impose an administrative fine not to exceed $5,000 for each count or separate offense.
(d) Place the licensee on probation for a specified time and subject the licensee to such conditions as the board determines necessary, including, but not limited to, requiring treatment, continuing education courses, reexamination, or working under the supervision of another licensee.
(e) Issue a reprimand to the licensee.
(f) Restriction of a licensee's practice.

Section 45. Subsections (1) and (2) of section 480.046, Florida Statutes, are amended to read:

480.046 Grounds for disciplinary action by the board.--

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which disciplinary actions specified in subsection

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(2) may be taken against a massage therapist or massage establishment licensed under this act:

(a) Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation.

(b) Having a license to practice massage revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this chapter or to a rule of the department or the board.

(f) Making deceptive, untrue, or fraudulent representations in the practice of massage.

(g) Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the department. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegations against her or him, consequent

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upon which a default and final order may be entered without
the taking of testimony or presentation of evidence. A
massage therapist affected under this paragraph shall at
reasonable intervals be afforded an opportunity to demonstrate
that she or he can resume the competent practice of massage
with reasonable skill and safety to clients.

(h) Gross or repeated malpractice or the failure to
practice massage with that level of care, skill, and treatment
which is recognized by a reasonably prudent massage therapist
as being acceptable under similar conditions and
circumstances.

(i) Practicing or offering to practice beyond the
scope permitted by law or accepting and performing
professional responsibilities which the licensee knows or has
reason to know that she or he is not competent to perform.

(j) Delegating professional responsibilities to a
person when the licensee delegating such responsibilities
knows or has reason to know that such person is not qualified
by training, experience, or licensure to perform.

(k) Violating any provision of this chapter, a rule of
the board or department, or a lawful order of the board or
department previously entered in a disciplinary hearing, or
failing to comply with a lawfully issued subpoena of the
department.

(l) Refusing to permit the department to inspect the
business premises of the licensee during regular business
hours.

(m) Failing to keep the equipment and premises of the
massage establishment in a clean and sanitary condition.

(n) Practicing massage at a site, location, or place
which is not duly licensed as a massage establishment, except

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that a massage therapist, as provided by rules adopted by the
board, may provide massage services, excluding colonic
irrigation, at the residence of a client, at the office of the
client, at a sports event, at a convention, or at a trade
show.

(o) Violating any provision of this chapter or chapter
456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or
imposing any of the penalties in s. 456.072(2) against any
applicant for licensure or licensee who is found guilty of
violating any provision of subsection (1) of this section or
who is found guilty of violating any provision of s.
456.072(1). When the board finds any person guilty of any of
the grounds set forth in subsection (1), it may enter an order
imposing one or more of the following penalties:

(a) Refusal to license an applicant.
(b) Revocation or suspension of a license.
(c) Issuance of a reprimand or censure.
(d) Imposition of an administrative fine not to exceed
$1,000 for each count or separate offense.

Section 46. Section 483.825, Florida Statutes, is
amended to read:

483.825 Grounds for disciplinary action.--
(1) The following acts constitute grounds for denial
of a license or disciplinary action, as specified in s.
456.072(2) which disciplinary actions specified in s. 483.827
may be taken against applicants, registrants, and licensees
under this part:

(a) Attempting to obtain, obtaining, or renewing a
license or registration under this part by bribery, by

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fraudulent misrepresentation, or through an error of the
department or the board.

(b) Engaging in or attempting to engage in, or
representing herself or himself as entitled to perform, any
clinical laboratory procedure or category of procedures not
authorized pursuant to her or his license.

(c) Demonstrating incompetence or making consistent
errors in the performance of clinical laboratory examinations
or procedures or erroneous reporting.

(d) Performing a test and rendering a report
thereon to a person not authorized by law to receive such
services.

(e) Has been convicted or found guilty of, or
entered a plea of nolo contendere to, regardless of
adjudication, a crime in any jurisdiction which directly
relates to the activities of clinical laboratory personnel or
involves moral turpitude or fraudulent or dishonest dealing.
The record of a conviction certified or authenticated in such
form as to be admissible in evidence under the laws of the
state shall be admissible as prima facie evidence of such
guilt.

(f) Having been adjudged mentally or physically
incompetent.

(g) Violating or Aiding and abetting in the
violation of any provision of this part or the rules adopted
hereunder.

(h) Reporting a test result when no laboratory test
was performed on a clinical specimen.

(i) Knowingly advertising false services or
credentials.

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(j) Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction. The licensing authority's acceptance of a relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the licensee, shall be construed as action against the licensee.

(k) Failing to report to the board, in writing, within 30 days that an action under subsection (5), subsection (6), or subsection (10) has been taken against the licensee or one's license to practice as clinical laboratory personnel in another state, territory, country, or other jurisdiction.

(l) Being unable to perform or report clinical laboratory examinations with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection, the department shall have, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this subsection, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate

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that he or she can resume competent practice with reasonable skill and safety to patients.

(m) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(n) Violating a previous order of the board entered in a disciplinary proceeding.

(o) Failing to report to the department a person or other licensee who the licensee knows is in violation of this chapter or the rules of the department or board adopted hereunder.

(p) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so, including, but not limited to, impeding an agent of the state from obtaining a report or record for investigative purposes. Such reports or records shall include only those generated in the capacity as a licensed clinical laboratory personnel.

(q) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly for patients referred to providers of health care goods and services including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this subsection shall not be construed to

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prevent a clinical laboratory professional from receiving a fee for professional consultation services.

(r) Exercising influence on a patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or other third party, which shall include, but not be limited to, the promoting, selling, or withholding of services, goods, appliances, referrals, or drugs.

(s) Practicing or offering to practice beyond the scope permitted by law or rule, or accepting or performing professional services or responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t) Misrepresenting or concealing a material fact at any time during any phase of the licensing, investigative, or disciplinary process, procedure, or proceeding.

(u) Improperly interfering with an investigation or any disciplinary proceeding.

(v) Engaging in or attempting to engage in sexual misconduct, causing undue embarrassment or using disparaging language or language of a sexual nature towards a patient, exploiting superior/subordinate, professional/patient, instructor/student relationships for personal gain, sexual gratification, or advantage.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or...
who is found guilty of violating any provision of s. 456.072(1).

(3) In determining the amount of the fine to be levied for a violation, as provided in subsection (1), the following factors shall be considered:

(a) The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of this part were violated.

(b) Actions taken by the licensee to correct the violation or to remedy complaints.

(c) Any previous violation by the licensee.

(d) The financial benefit to the licensee of committing or continuing the violation.

Section 47. Section 483.827, Florida Statutes, is repealed.

Section 48. Subsection (6) of section 483.901, Florida Statutes, is amended to read:

483.901 Medical physicists; definitions; licensure.--

(6) LICENSE REQUIRED.--An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. The council shall recommend to the department continuing education requirements that shall be

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a condition of license renewal. The department shall require
a minimum of 24 hours per biennium of continuing education
offered by an organization recommended by the council and
approved by the department. The department, upon
recommendation of the council, may adopt rules to specify
continuing education requirements for persons who hold a
license in more than one specialty.

(b) In order to apply for a medical physicist license
in one or more specialties, a person must file an individual
application for each specialty with the department. The
application must be on a form prescribed by the department and
must be accompanied by a nonrefundable application fee for
each specialty.

(c) The department may issue a license to an eligible
applicant if the applicant meets all license requirements. At
any time before the department issues a license, the applicant
may request in writing that the application be withdrawn. To
reapply, the applicant must submit a new application and an
additional nonrefundable application fee and must meet all
current licensure requirements.

(d) The department shall review each completed
application for a license which the department receives.

(e) On receipt of an application and fee as specified
in this section, the department may issue a license to
practice medical physics in this state on or after October 1,
1997, to a person who is board certified in the medical
physics specialty in which the applicant applies to practice
by the American Board of Radiology for diagnostic radiological
physics, therapeutic radiological physics, or medical nuclear
radiological physics; by the American Board of Medical Physics
for diagnostic radiological physics, therapeutic radiological

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physics, or medical nuclear radiological physics; or by the
American Board of Health Physics or an equivalent certifying
body approved by the department.

(f) A licensee shall:
1. Display the license in a place accessible to the
   public; and
2. Report immediately any change in the licensee's
   address or name to the department.

(g) The following acts constitute grounds for
denial of a license or disciplinary action, as specified in s.
456.072(2) which the disciplinary actions in paragraph (h) may
be taken:
1. Obtaining or attempting to obtain a license by
   bribery, fraud, knowing misrepresentation, or concealment of
   material fact or through an error of the department.
2. Having a license denied, revoked, suspended, or
   otherwise acted against in another jurisdiction.
3. Being convicted or found guilty of, or entering a
   plea of nolo contendere to, regardless of adjudication, a
   crime in any jurisdiction which relates to the practice of, or
   the ability to practice, the profession of medical physics.
4. Willfully failing to file a report or record
   required for medical physics or willfully impeding or
   obstructing the filing of a report or record required by this
   section or inducing another person to do so.
5. Making misleading, deceptive, or fraudulent
   representations in or related to the practice of medical
   physics.
6. Willfully failing to report any known violation of
   this section or any rule adopted thereunder.
7. Willfully or repeatedly violating a rule adopted under this section or an order of the department.

7. Failing to perform any statutory or legal obligation placed upon a licensee.

8. Aiding, assisting, procuring, employing, or advising any unlicensed person to practice medical physics contrary to this section or any rule adopted thereunder.

9. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

10. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

11. Gross or repeated malpractice or the inability to practice medical physics with reasonable skill and safety.


13. Being unable to practice medical physics with reasonable skill and safety because of a mental or physical condition or illness or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

a. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and the licensee's failure to submit to such an examination constitutes an admission of the allegations against the licensee, consequent upon which a default and a final order may be entered without

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the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control.

b. A licensee who is disciplined under this subparagraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that the licensee can resume the practice of medical physics with reasonable skill and safety.

c. With respect to any proceeding under this subparagraph, the record of proceedings or the orders entered by the department may not be used against a licensee in any other proceeding.

14. Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(h) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the department finds any person guilty of any of the grounds set forth in paragraph (g), including conduct that would constitute a substantial violation of paragraph (g) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

1. Deny the application for licensure.
2. Revoke or suspend the license.
3. Impose an administrative fine for each count or separate offense.
4. Place the licensee on probation for a specified time and subject the licensee to such conditions as the department determines necessary, including requiring
treatment, continuing education courses, or working under the
monitoring or supervision of another licensee.

5. Restrict a licensee's practice.

6. Issue a reprimand to the licensee.

(i) The department may not issue or reinstate a
license to a person it has deemed unqualified until it is
satisfied that such person has complied with the terms and
conditions of the final order and that the licensee can safely
practice medical physics.

(j) Upon receipt of a complete application and the fee
set forth by rule, the department may issue a
physicist-in-training certificate to a person qualified to
practice medical physics under direct supervision. The
department may establish by rule requirements for initial
certification and renewal of a physicist-in-training
certificate.

Section 49. Subsections (1) and (2) of section
484.014, Florida Statutes, are amended to read:

484.014 Disciplinary actions.--

(1) The following acts constitute relating to the
practice of opticianry shall be grounds for denial of a
license or disciplinary action, as specified in s. 456.072(2)
both disciplinary action against an optician as set forth in
this section and cease and desist or other related action by
the department as set forth in s. 456.065 against any person
operating an optical establishment who engages in, aids, or
abets any such violation:

(a) Procuring or attempting to procure a license by
misrepresentation, bribery, or fraud or through an error of
the department or the board.

CODING: Words stricken are deletions; words underlined are additions.
(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which the person is required to make or file as an optician.

(d) Failing to make fee or price information readily available by providing such information upon request or upon the presentation of a prescription.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Fraud or deceit, or negligence, incompetency, or misconduct, in the authorized practice of opticianry.

(g) Violation or repeated violation of this part or of chapter 456 or any rules promulgated pursuant thereto.

(h) Practicing with a revoked, suspended, inactive, or delinquent license.

(i) Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(j) Violation of any provision of s. 484.012.

(k) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

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(k) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(l) Failing to keep written prescription files.

(m) Willfully failing to report any person who the licensee knows is in violation of this part or of rules of the department or the board.

(n) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(o) Gross or repeated malpractice.

(p) Permitting any person not licensed as an optician in this state to fit or dispense any lenses, spectacles, eyeglasses, or other optical devices which are part of the practice of opticianry.

(q) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, in a court of this state or other jurisdiction, a crime which relates to the ability to practice opticianry or to the practice of opticianry.

(r) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida law or rules regulating opticianry.

(s) Being unable to practice opticianry with reasonable skill and safety by reason of illness or use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An optician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of opticianry with reasonable skill and safety to her or his customers.

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(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the optician on probation for a period of time and subject to such conditions as the board may specify, including requiring the optician to submit to treatment or to work under the supervision of another optician.

Section 50. Subsections (1) and (2) of section 484.056, Florida Statutes, are amended to read:

484.056 Disciplinary proceedings.--

(1) The following acts constitute relating to the practice of dispensing hearing aids shall be grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid

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establishment who engages in, aids, or abets any such violation:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

(b) Attempting to procure a license to dispense hearing aids by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(c) Having a license to dispense hearing aids revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dispensing hearing aids or the ability to practice dispensing hearing aids, including violations of any federal laws or regulations regarding hearing aids.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those reports or records which are signed in one's capacity as a licensed hearing aid specialist.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Proof that the licensee is guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of dispensing hearing aids.

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(h) Violation or repeated violation of this part or of chapter 456, or any rules promulgated pursuant thereto.

(h) (i) Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failure to comply with a lawfully issued subpoena of the board or department.

(i) (j) Practicing with a revoked, suspended, inactive, or delinquent license.

(j) (k) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(k) (l) Showing or demonstrating, or, in the event of sale, delivery of, a product unusable or impractical for the purpose represented or implied by such action.

(l) (m) Misrepresentation of professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or use of the terms "doctor," "clinic," "clinical," "medical audiologist," "clinical audiologist," "research audiologist," or "audiologic" or any other term or title which might connote the availability of professional services when such use is not accurate.

(m) (n) Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(n) (o) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified...
features, such as the absence of anything in the ear or
leading to the ear, or the like, without disclosing clearly
and conspicuously that the instrument operates on the bone
conduction principle and that in many cases of hearing loss
this type of instrument may not be suitable.

(o) Making any predictions or prognostications as
to the future course of a hearing impairment, either in
general terms or with reference to an individual person.

(p) Stating or implying that the use of any hearing
aid will improve or preserve hearing or prevent or retard the
progression of a hearing impairment or that it will have any
similar or opposite effect.

(q) Making any statement regarding the cure of the
cause of a hearing impairment by the use of a hearing aid.

(r) Representing or implying that a hearing aid is
or will be "custom-made," "made to order," or
"prescription-made" or in any other sense specially fabricated
for an individual person when such is not the case.

(s) Canvassing from house to house or by telephone
either in person or by an agent for the purpose of selling a
hearing aid, except that contacting persons who have evidenced
an interest in hearing aids, or have been referred as in need
of hearing aids, shall not be considered canvassing.

(t) Failure to submit to the board on an annual
basis, or such other basis as may be provided by rule,
certification of testing and calibration of audiometric
testing equipment on the form approved by the board.

(u) Failing to provide all information as described
in s. 484.051(1).

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(v) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2)(a) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). Except as provided in paragraph (b), when the board finds any hearing aid specialist to be guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

1. Denial of an application for licensure.

2. Revocation or suspension of a license.

3. Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

4. Issuance of a reprimand.

5. Placing the hearing aid specialist on probation for a period of time and subject to such conditions as the board may specify, including requiring the hearing aid specialist to attend continuing education courses or to work under the supervision of another hearing aid specialist.

6. Restricting the authorized scope of practice.

(b) The board shall revoke the license of any hearing aid specialist found guilty of canvassing as described in this section.

Section 51. Subsections (1) and (2) of section 486.125, Florida Statutes, are amended to read:

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486.125 Refusal, revocation, or suspension of license; administrative fines and other disciplinary measures.—

(1) The following acts shall constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which the disciplinary actions specified in subsection (2) may be taken:

(a) Being unable to practice physical therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice physical therapy due to the reasons stated in this paragraph, the department shall have the authority to compel a physical therapist or physical therapist assistant to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a physical therapy practitioner. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011.

2. A physical therapist or physical therapist assistant whose license is suspended or revoked pursuant to this subsection shall, at reasonable intervals, be given an opportunity to demonstrate that she or he can resume the
competent practice of physical therapy with reasonable skill and safety to patients.

3. Neither the record of proceeding nor the orders entered by the board in any proceeding under this subsection may be used against a physical therapist or physical therapist assistant in any other proceeding.

(b) Having committed fraud in the practice of physical therapy or deceit in obtaining a license as a physical therapist or as a physical therapist assistant.

(c) Being convicted or found guilty regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of physical therapy or to the ability to practice physical therapy. The entry of any plea of nolo contendere shall be considered a conviction for purpose of this chapter.

(d) Having treated or undertaken to treat human ailments by means other than by physical therapy, as defined in this chapter.

(e) Failing to maintain acceptable standards of physical therapy practice as set forth by the board in rules adopted pursuant to this chapter.

(f) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or having been found to profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this chapter shall be construed to prohibit the members of any regularly and properly organized business entity which is comprised of physical therapists and which is recognized under

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the laws of this state from making any division of their total fees among themselves as they determine necessary.

(g) Having a license revoked or suspended; having had other disciplinary action taken against her or him; or having had her or his application for a license refused, revoked, or suspended by the licensing authority of another state, territory, or country.

(h) Violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing.

(i) Making or filing a report or record which the licensee knows to be false. Such reports or records shall include only those which are signed in the capacity of a physical therapist.

(j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform, including, but not limited to, specific spinal manipulation.

(k) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.
(b) Revocation or suspension of a license.
(c) Restriction of practice.
(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.
(e) Issuance of a reprimand.
(f) Placement of the physical therapist or physical therapist assistant on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physical therapist or physical therapist assistant to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physical therapist.
(g) Recovery of actual costs of investigation and prosecution.

Section 52. Section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.--
(1) When the department or, in the case of psychologists, the board finds that an applicant, provisional licensee, or licensee whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:
   (a) Denial of an application for licensure, either temporarily or permanently.
   (b) Revocation of an application for licensure, either temporarily or permanently.
   (c) Suspension for a period of up to 5 years or revocation of a license, after hearing.
(d) Immediate suspension of a license pursuant to s. 120.60(6).
(e) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.
(f) Issuance of a public reprimand.
(g) Placement of an applicant or licensee on probation for a period of time and subject to conditions specified by the department or, in the case of psychologists, by the board, including, but not limited to, requiring the applicant or licensee to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee.
(h) Restriction of practice.

The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which the disciplinary actions listed in subsection (1) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.
(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.
(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the

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underlying criminal charges. However, the board shall allow
the person who is the subject of the disciplinary proceeding
to present any evidence relevant to the underlying charges and
circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or
obtaining a fee or other thing of value on the representation
that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice
under a name other than one's own.

(f) Maintaining a professional association with any
person who the applicant or licensee knows, or has reason to
believe, is in violation of this chapter or of a rule of the
department or, in the case of psychologists, of the department
or the board.

(g) Knowingly aiding, assisting, procuring, or
advising any nonlicensed person to hold himself or herself out
as licensed under this chapter.

(h) Failing to perform any statutory or legal
obligation placed upon a person licensed under this chapter.

(i) Willfully making or filing a false report or
record; failing to file a report or record required by state
or federal law; willfully impeding or obstructing the filing
of a report or record; or inducing another person to make or
file a false report or record or to impede or obstruct the
filing of a report or record. Such report or record includes
only a report or record which requires the signature of a
person licensed under this chapter.

(j) Paying a kickback, rebate, bonus, or other
remuneration for receiving a patient or client, or receiving a
kickback, rebate, bonus, or other remuneration for referring a
patient or client to another provider of mental health care

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services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in s. 490.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of test results, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department concerning any investigation by the department or to make available any relevant records with respect to any investigation about the licensee's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the

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secretary's designee, or the board that probable cause exists
to believe that the licensee is unable to practice the
profession because of the reasons stated in this paragraph,
the department shall have the authority to compel a licensee
to submit to a mental or physical examination by psychologists
or physicians designated by the department or board. If the
licensee refuses to comply with the department's order, the
department may file a petition for enforcement in the circuit
court of the circuit in which the licensee resides or does
business. The licensee shall not be named or identified by
initials in the petition or in any other public court records
or documents, and the enforcement proceedings shall be closed
to the public. The department shall be entitled to the
summary procedure provided in s. 51.011. A licensee affected
under this paragraph shall be afforded an opportunity at
reasonable intervals to demonstrate that he or she can resume
the competent practice for which he or she is licensed with
reasonable skill and safety to patients.

(q) Violating provisions of this chapter, or of
chapter 456, or any rules adopted pursuant thereto.

(q) Performing any treatment or prescribing any
therapy which, by the prevailing standards of the mental
health professions in the community, would constitute
experimentation on human subjects, without first obtaining
full, informed, and written consent.

(r) Failing to meet the minimum standards of
performance in professional activities when measured against
generally prevailing peer performance, including the
undertaking of activities for which the licensee is not
qualified by training or experience.

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Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 53. Section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.--

When the department or the board finds that an applicant, licensee, provisional licensee, registered intern, or certificateholder whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:
(a) Denial of an application for licensure, registration, or certification, either temporarily or permanently.
(b) Revocation of an application for licensure, registration, or certification, either temporarily or permanently.
(c) Suspension for a period of up to 5 years or revocation of a license, registration, or certificate, after hearing.
(d) Immediate suspension of a license, registration, or certificate pursuant to s. 120.60(6).
(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.
(f) Issuance of a public reprimand.
(g) Placement of an applicant, licensee, registered intern, or certificateholder on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the applicant, licensee, registered intern, or certificateholder to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee or certificateholder.
(h) Restriction of practice.
(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) which the disciplinary actions listed in subsection (1) may be taken:
(a) Attempting to obtain, obtaining, or renewing a license, registration, or certificate under this chapter by...
bribery or fraudulent misrepresentation or through an error of
the board or the department.

(b) Having a license, registration, or certificate to
practice a comparable profession revoked, suspended, or
otherwise acted against, including the denial of certification
or licensure by another state, territory, or country.

(c) Being convicted or found guilty of, regardless of
adjudication, or having entered a plea of nolo contendere to,
a crime in any jurisdiction which directly relates to the
practice of his or her profession or the ability to practice
his or her profession. However, in the case of a plea of nolo
contendere, the board shall allow the person who is the
subject of the disciplinary proceeding to present evidence in
mitigation relevant to the underlying charges and
circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or
obtaining a fee or other thing of value on the representation
that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice
under a name other than one's own.

(f) Maintaining a professional association with any
person who the applicant, licensee, registered intern, or
certificateholder knows, or has reason to believe, is in
violation of this chapter or of a rule of the department or
the board.

(g) Knowingly aiding, assisting, procuring, or
advising any nonlicensed, nonregistered, or noncertified
person to hold himself or herself out as licensed, registered,
or certified under this chapter.
(h) Failing to perform any statutory or legal obligation placed upon a person licensed, registered, or certified under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed, registered, or certified under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 491.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed, registered, or certified under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.
(n) Failing to make available to a patient or client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee, registered intern, or certificateholder which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department or the board concerning any investigation by the department or the board, or failing to make available any relevant records with respect to any investigation about the licensee's, registered intern's, or certificateholder's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed, registered, or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's designee, or the board that probable cause exists to believe that the licensee, registered intern, or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee, registered intern, or certificateholder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the department or board. If the licensee, registered intern, or certificateholder refuses to comply with such order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee, registered intern, or certificateholder resides or does business. The licensee,
registered intern, or certificateholder against whom the
petition is filed shall not be named or identified by initials
in any public court records or documents, and the proceedings
shall be closed to the public. The department shall be
entitled to the summary procedure provided in s. 51.011. A
licensee, registered intern, or certificateholder affected
under this paragraph shall at reasonable intervals be afforded
an opportunity to demonstrate that he or she can resume the
competent practice for which he or she is licensed,
registered, or certified with reasonable skill and safety to
patients.

(q) Violating provisions of this chapter, or of
chapter 456, or any rules adopted pursuant thereto.

(g)(r) Performing any treatment or prescribing any
therapy which, by the prevailing standards of the mental
health professions in the community, would constitute
experimentation on human subjects, without first obtaining
full, informed, and written consent.

(r)(s) Failing to meet the minimum standards of
performance in professional activities when measured against
generally prevailing peer performance, including the
undertaking of activities for which the licensee, registered
intern, or certificateholder is not qualified by training or
experience.

(s)(t) Delegating professional responsibilities to a
person whom the licensee, registered intern, or
certificateholder knows or has reason to know is not qualified
by training or experience to perform such responsibilities.

(t)(u) Violating a rule relating to the regulation of
the profession or a lawful order of the department or the
board previously entered in a disciplinary hearing.

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Failure of the licensee, registered intern, or certificateholder to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 491.0147.

Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 54. Subsection (3) of section 456.065, Florida Statutes, is amended to read:

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.--

Because all enforcement costs should be covered by professions regulated by the department, the department shall impose, upon initial licensure and each licensure renewal, a special fee of $5 per licensee to fund efforts to combat unlicensed activity. Such fee shall be in addition to all other fees collected from each licensee. The board, with concurrence of the department, or the department when there is no board, may earmark $5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash
The department shall make direct charges to the Medical Quality Assurance Trust Fund by profession. The department shall seek board advice regarding enforcement methods and strategies. The department shall directly credit the Medical Quality Assurance Trust Fund, by profession, with the revenues received from the department's efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 456.025. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession. The department shall also use these funds to inform and educate consumers generally on the importance of using licensed health care practitioners.

Section 55. Effective October 1, 2001, paragraphs (e) and (f) of subsection (4) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.--
(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--
(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must inform the patient that the

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patient has the right to see the physician prior to any
prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the
department of his or her intent to delegate, on a
department-approved form, before delegating such authority and
notify the department of any change in prescriptive privileges
of the physician assistant.

3. The physician assistant must file with the
department, before commencing to prescribe, evidence that he
or she has completed a continuing medical education course of
at least 3 classroom hours in prescriptive practice, conducted
by an accredited program approved by the boards, which course
covers the limitations, responsibilities, and privileges
involved in prescribing medicinal drugs, or evidence that he
or she has received education comparable to the continuing
education course as part of an accredited physician assistant
training program.

4. The physician assistant must file with the
department, before commencing to prescribe, evidence that the
physician assistant has a minimum of 3 months of clinical
experience in the specialty area of the supervising physician.

5. The physician assistant must file with the
department a signed affidavit that he or she has completed a
minimum of 10 continuing medical education hours in the
specialty practice in which the physician assistant has
prescriptive privileges with each licensure renewal
application.

6. The department shall issue a license and a
prescriber number to the physician assistant granting
authority for the prescribing of medicinal drugs authorized
within this paragraph upon completion of the foregoing
requirements.

7. The prescription must be written in a form that
complies with chapter 499 and must contain, in addition to the
supervisory physician's name, address, and telephone number,
the physician assistant's prescriber number. Unless it is a
drug sample dispensed by the physician assistant, the
prescription must be filled in a pharmacy permitted under
chapter 465 and must be dispensed in that pharmacy by a
pharmacist licensed under chapter 465. The appearance of the
prescriber number creates a presumption that the physician
assistant is authorized to prescribe the medicinal drug and
the prescription is valid.

8. The physician assistant must note the prescription
in the appropriate medical record, and the supervisory
physician must review and sign each notation. For dispensing
purposes only, the failure of the supervisory physician to
comply with these requirements does not affect the validity of
the prescription.

9. This paragraph does not prohibit a supervisory
physician from delegating to a physician assistant the
authority to order medication for a hospitalized patient of
the supervisory physician.

This paragraph does not apply to facilities licensed pursuant
to chapter 395.

(f)1. There is created a five-member committee
appointed by the Secretary of Health. The committee must be
composed of one fully licensed physician assistant licensed
pursuant to this section or s. 459.022, two physicians
licensed pursuant to this chapter, one of whom supervises a

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fully licensed physician assistant, one osteopathic physician
licensed pursuant to chapter 459, and one pharmacist licensed
pursuant to chapter 465 who is not licensed pursuant to this
chapter or chapter 459. The council committee shall establish
a formulary of medicinal drugs that for which a fully licensed
physician assistant, licensed under this section or s.
459.022, may not prescribe. The formulary must not include
controlled substances as defined in chapter 893,
antineoplastics, antipsychotics, radiopharmaceuticals, general
anesthetics and or radiographic contrast materials, and all or
any parenteral preparations except insulin and epinephrine.
2. In establishing the formulary, the council shall
consult with a pharmacist licensed under chapter 465, but not
licensed under this chapter or chapter 459, who shall be
selected by the Secretary of Health.
3. Only the council committee shall add to, delete
from, or modify the formulary. Any person who requests an
addition, deletion, or modification of a medicinal drug listed
on such formulary has the burden of proof to show cause why
such addition, deletion, or modification should be made.
4. The boards shall adopt the formulary required by
this paragraph, and each addition, deletion, or modification
to the formulary, by rule. Notwithstanding any provision of
chapter 120 to the contrary, the formulary rule shall be
effective 60 days after the date it is filed with the
Secretary of State. Upon adoption of the formulary, the
department shall mail a copy of such formulary to each fully
licensed physician assistant, licensed under this section or
s. 459.022, and to each pharmacy licensed by the state. The
boards shall establish, by rule, a fee not to exceed $200 to
fund the provisions of this paragraph and paragraph (e).

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Section 56. Effective October 1, 2001, subsection (4) and paragraph (c) of subsection (9) of section 459.022, Florida Statutes, are amended to read:

459.022 Physician assistants.--
(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.--
(a) The boards shall adopt, by rule, the general principles that supervising physicians must use in developing the scope of practice of a physician assistant under direct supervision and under indirect supervision. These principles shall recognize the diversity of both specialty and practice settings in which physician assistants are used.
(b) This chapter does not prevent third-party payors from reimbursing employers of physician assistants for covered services rendered by licensed physician assistants.
(c) Licensed physician assistants may not be denied clinical hospital privileges, except for cause, so long as the supervising physician is a staff member in good standing.
(d) A supervisory physician may delegate to a licensed physician assistant, pursuant to a written protocol, the authority to act according to s. 154.04(1)(c). Such delegated authority is limited to the supervising physician's practice in connection with a county health department as defined and established pursuant to chapter 154. The boards shall adopt rules governing the supervision of physician assistants by physicians in county health departments.
(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to s. 458.347. A fully licensed physician assistant may only prescribe such medication under the following circumstances:

CODING: Words stricken are deletions; words underlined are additions.
1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant.

3. The physician assistant must file with the department, before commencing to prescribe, evidence that she or he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that she or he has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the department, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

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6. The department shall issue a license and a
prescriber number to the physician assistant granting
authority for the prescribing of medicinal drugs authorized
within this paragraph upon completion of the foregoing
requirements.

7. The prescription must be written in a form that
complies with chapter 499 and must contain, in addition to the
supervisory physician's name, address, and telephone number,
the physician assistant's prescriber number. Unless it is a
drug sample dispensed by the physician assistant, the
prescription must be filled in a pharmacy permitted under
chapter 465, and must be dispensed in that pharmacy by a
pharmacist licensed under chapter 465. The appearance of the
prescriber number creates a presumption that the physician
assistant is authorized to prescribe the medicinal drug and
the prescription is valid.

8. The physician assistant must note the prescription
in the appropriate medical record, and the supervisory
physician must review and sign each notation. For dispensing
purposes only, the failure of the supervisory physician to
comply with these requirements does not affect the validity of
the prescription.

9. This paragraph does not prohibit a supervisory
physician from delegating to a physician assistant the
authority to order medication for a hospitalized patient of
the supervisory physician.

This paragraph does not apply to facilities licensed pursuant
to chapter 395.

(f)1. There is created a five-member committee
appointed by the Secretary of Health. The committee must be
composed of one fully licensed physician assistant licensed pursuant to this section or s. 458.347, two physicians licensed pursuant to chapter 458, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to this chapter, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 458. The committee shall establish a formulary of medicinal drugs for which a fully licensed physician assistant may prescribe. The formulary may not include controlled substances as defined in chapter 893, antineoplastics, antipsychotics, radiopharmaceuticals, general anesthetics or radiographic contrast materials, or any parenteral preparations except insulin and epinephrine.

2. Only the committee shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

3. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

(9) COUNCIL ON PHYSICIAN ASSISTANTS.--The Council on Physician Assistants is created within the department.

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(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under chapter 458 and this chapter, except for rules relating to the formulary developed under s. 458.347(4)(f). The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of licensed physician assistants.

Section 57. Subsections (6) is added to section 456.003, Florida Statutes, to read:

456.003 Legislative intent; requirements.--

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(6) Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the enlargement, modification, or contravention of the lawful scope of practice of the profession regulated by the boards. This subsection shall not prohibit the boards, or the department when there is no board, from taking disciplinary action or issuing a declaratory statement.

Section 58. (1)(a) The Agency for Health Care Administration shall create an Organ Transplant Task Force within the Agency for Health Care Administration, which task force must be funded by existing agency funds.

(b) Task force participants shall be responsible for only the expenses that they generate individually through participation. The agency shall be responsible for expenses incidental to the production of any required data or reports.

(2) The task force shall consist of up to 15 members. The task force chairperson shall be selected by majority vote of a quorum present. Eight members shall constitute a quorum. The membership shall include, but not be limited to, a balance of members representing the Agency for Health Care Administration, health care facilities that have existing organ transplantation programs, individual organ transplant health care practitioners, pediatric organ transplantation programs, organ procurement agencies, and organ transplant recipients or family members.

(3) The task force shall meet for the purpose of studying and making recommendations regarding current and future supply of organs in relation to the number of existing organ transplantation programs and the future necessity of the issuance of a certificate of need for proposed organ transplantation programs. At a minimum, the task force shall

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submit a report to the Legislature which includes a summary of the method of allocation and distribution of organs; a list of facilities performing multiple organ transplants and the number being performed; the number of Medicaid and charity care patients who have received organ transplants by existing organ transplant programs; suggested mechanisms for funding organ transplants, which shall include, but need not limited to, an organ transplant trust fund for the treatment of Medicaid and charity patients; the impact of trends in health care delivery and financing on organ transplantation; and the number of certificates of need applications reviewed by the Agency for Health Care Administration in the last 5 years, including the number approved or denied and the number litigated.

(4) The task force shall meet at the call of the chairperson. The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2002. The task force is abolished effective December 31, 2002.

Section 59. Section 409.9205, Florida Statutes, is amended to read:

409.9205 Medicaid Fraud Control Unit, law enforcement officers.--

(1) Except as provided in s. 110.205, all positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs are hereby transferred to the Career Service System.

(2) All investigators employed by the Medicaid Fraud Control Unit who have been certified under s. 943.1395 are law enforcement officers of the state. Such investigators have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search

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warrants, arrest warrants, capias, and other process throughout the state pertaining to Medicaid fraud as described in this chapter. The Attorney General shall provide reasonable notice of criminal investigations conducted by the Medicaid Fraud Control Unit to, and coordinate those investigations with, the sheriffs of the respective counties. Investigators employed by the Medicaid Fraud Control Unit are not eligible for membership in the Special Risk Class of the Florida Retirement System under s. 121.0515.

Section 60. Subsection (1) of section 483.245, Florida Statutes, is amended to read:

483.245 Rebates prohibited; penalties.--

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any dialysis facility, physician, surgeon, organization, agency, or person, either directly or indirectly, for patients referred to a clinical laboratory licensed under this part.

Section 61. Subsection (3) of section 232.435, Florida Statutes, is amended to read:

232.435 Extracurricular athletic activities; athletic trainers.--

(3) To the extent practicable, a school district program should include the following employment classification and advancement scheme:

1. First responder.--To qualify as a first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 231.17, be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in courses such as care and prevention of athletic injuries, anatomy, physiology, nutrition,
counseling, and other similar courses approved by the Commissioner of Education. This person may only administer first aid and similar care.

Teacher apprentice trainer I.--To qualify as a teacher apprentice trainer I, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 231.17, be certified in first aid and cardiopulmonary resuscitation, and have earned a minimum of 6 semester hours or the equivalent number of inservice education points in the basic prevention and care of athletic injuries.

2. Teacher apprentice trainer II.--To qualify as a teacher apprentice trainer II, a person must meet the requirements of teacher apprentice trainer I and also have earned a minimum of 15 additional semester hours or the equivalent number of inservice education points in such courses as anatomy, physiology, use of modalities, nutrition, counseling, and other courses approved by the Commissioner of Education.

Teacher athletic trainer.--To qualify as a teacher athletic trainer, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 232.17, and be licensed as required by part XIII of chapter 468. He or she must meet the requirements of teacher apprentice trainer II, be certified by the Department of Education or a nationally recognized athletic trainer association, and perform one or more of the following functions: preventing athletic injuries; recognizing, evaluating, managing, treating, and rehabilitating athletic injuries; administering an athletic training program; and educating and counseling athletes.

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(b) If a school district uses the services of an athletic trainer who is not a teacher athletic trainer or a teacher apprentice trainer within the requirements of this section, such athletic trainer must be licensed as required by part XIII of chapter 468.

Section 62. Paragraph (b) of subsection (1) of section 383.14, Florida Statutes, is amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.--

(1) SCREENING REQUIREMENTS.--To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all infants born in Florida for phenylketonuria and other metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all infants born in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management.

Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county

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health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(b) Postnatal screening.--A risk factor analysis using the department's designated risk assessment instrument shall also be conducted as part of the medical screening process upon the birth of a child and submitted to the department's Office of Vital Statistics for recording and other purposes provided for in this chapter. The department's screening process for risk assessment shall include a scoring mechanism and procedures that establish thresholds for notification, further assessment, referral, and eligibility for services by professionals or paraprofessionals consistent with the level of risk. Procedures for developing and using the screening instrument, notification, referral, and care coordination services, reporting requirements, management information, and maintenance of a computer-driven registry in the Office of Vital Statistics which ensures privacy safeguards must be consistent with the provisions and plans established under chapter 411, Pub. L. No. 99-457, and this chapter. Procedures established for reporting information and maintaining a confidential registry must include a mechanism for a centralized information depository at the state and county levels. The department shall coordinate with existing risk assessment systems and information registries. The department must ensure, to the maximum extent possible, that the screening information registry is integrated with the department's automated data systems, including the Florida On-line Recipient Integrated Data Access (FLORIDA) system. Tests and screenings must be performed by the State Public Health Laboratory, in coordination with Children's Medical Health Laboratory, in coordination with Children's Medical

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Services, at such times and in such manner as is prescribed by
the department after consultation with the Genetics and Infant
Screening Advisory Council and the State Coordinating Council
for School Readiness Programs.

Section 63. Section 395.0197, Florida Statutes, is
amended to read:

395.0197 Internal risk management program.--
(1) Every licensed facility shall, as a part of its
administrative functions, establish an internal risk
management program that includes all of the following
components:
(a) The investigation and analysis of the frequency
and causes of general categories and specific types of adverse
incidents to patients.
(b) The development of appropriate measures to
minimize the risk of adverse incidents to patients, including,
but not limited to:
1. Risk management and risk prevention education and
training of all nonphysician personnel as follows:
   a. Such education and training of all nonphysician
      personnel as part of their initial orientation; and
   b. At least 1 hour of such education and training
      annually for all nonphysician personnel of the licensed
      facility working in clinical areas and providing patient care,
      except those persons licensed as health care practitioners who
      are required to complete continuing education coursework
      pursuant to chapter 456 or the respective practice act.
2. A prohibition, except when emergency circumstances
   require otherwise, against a staff member of the licensed
   facility attending a patient in the recovery room, unless the
   staff member is authorized to attend the patient in the

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recovery room and is in the company of at least one other person. However, a licensed facility is exempt from the two-person requirement if it has:

a. Live visual observation;

b. Electronic observation; or

c. Any other reasonable measure taken to ensure patient protection and privacy.

3. A prohibition against an unlicensed person from assisting or participating in any surgical procedure unless the facility has authorized the person to do so following a competency assessment, and such assistance or participation is done under the direct and immediate supervision of a licensed physician and is not otherwise an activity that may only be performed by a licensed health care practitioner.

4. Development, implementation, and ongoing evaluation of procedures, protocols, and systems to accurately identify patients, planned procedures, and the correct site of the planned procedure so as to minimize the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition.

(c) The analysis of patient grievances that relate to patient care and the quality of medical services.

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.

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(2) The internal risk management program is the responsibility of the governing board of the health care facility. Each licensed facility shall hire a risk manager, licensed under s. 395.10974 part IX of chapter 626, who is responsible for implementation and oversight of such facility's internal risk management program as required by this section. A risk manager must not be made responsible for more than four internal risk management programs in separate licensed facilities, unless the facilities are under one corporate ownership or the risk management programs are in rural hospitals.

(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of medical malpractice and patient injury claims shall be encouraged and their implementation and operation facilitated. Such additional approaches may include extending internal risk management programs to health care providers' offices and the assuming of provider liability by a licensed health care facility for acts or omissions occurring within the licensed facility.

(4) The agency shall, after consulting with the Department of Insurance, adopt rules governing the establishment of internal risk management programs to meet the needs of individual licensed facilities. Each internal risk management program shall include the use of incident reports to be filed with an individual of responsibility who is competent in risk management techniques in the employ of each licensed facility, such as an insurance coordinator, or who is retained by the licensed facility as a consultant. The individual responsible for the risk management program shall have free access to all medical records of the licensed

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facility. The incident reports are part of the workpapers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency pursuant to this section, the term "adverse incident" means an event over which health care personnel could exercise control and which is associated in whole or in part with medical intervention, rather than the condition for which such intervention occurred, and which:

(a) Results in one of the following injuries:

1. Death;
2. Brain or spinal damage;
3. Permanent disfigurement;
4. Fracture or dislocation of bones or joints;
5. A resulting limitation of neurological, physical, or sensory function which continues after discharge from the facility;
6. Any condition that required specialized medical attention or surgical intervention resulting from nonemergency medical intervention, other than an emergency medical condition, to which the patient has not given his or her informed consent; or
7. Any condition that required the transfer of the patient, within or outside the facility, to a unit providing a

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more acute level of care due to the adverse incident, rather
than the patient's condition prior to the adverse incident;
(b) Was the performance of a surgical procedure on the
wrong patient, a wrong surgical procedure, a wrong-site
surgical procedure, or a surgical procedure otherwise
unrelated to the patient's diagnosis or medical condition;
(c) Required the surgical repair of damage resulting
to a patient from a planned surgical procedure, where the
damage was not a recognized specific risk, as disclosed to the
patient and documented through the informed-consent process;
or
(d) Was a procedure to remove unplanned foreign
objects remaining from a surgical procedure.
(6)(a) Each licensed facility subject to this section
shall submit an annual report to the agency summarizing the
incident reports that have been filed in the facility for that
year. The report shall include:

1. The total number of adverse incidents.
2. A listing, by category, of the types of operations,
diagnostic or treatment procedures, or other actions causing
the injuries, and the number of incidents occurring within
each category.
3. A listing, by category, of the types of injuries
carried and the number of incidents occurring within each
category.
4. A code number using the health care professional's
licensure number and a separate code number identifying all
other individuals directly involved in adverse incidents to
patients, the relationship of the individual to the licensed
facility, and the number of incidents in which each individual
has been directly involved. Each licensed facility shall

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maintain names of the health care professionals and
individuals identified by code numbers for purposes of this
section.

5. A description of all malpractice claims filed
against the licensed facility, including the total number of
pending and closed claims and the nature of the incident which
led to, the persons involved in, and the status and
disposition of each claim. Each report shall update status and
disposition for all prior reports.

(b) The information reported to the agency pursuant to
paragraph (a) which relates to persons licensed under chapter
458, chapter 459, chapter 461, or chapter 466 shall be
reviewed by the agency. The agency shall determine whether
any of the incidents potentially involved conduct by a health
care professional who is subject to disciplinary action, in
which case the provisions of s. 456.073 shall apply.

(c) The report submitted to the agency shall also
contain the name and license number of the risk manager of the
licensed facility, a copy of its policy and procedures which
govern the measures taken by the facility and its risk manager
to reduce the risk of injuries and adverse incidents, and the
results of such measures. The annual report is confidential
and is not available to the public pursuant to s. 119.07(1) or
any other law providing access to public records. The annual
report is not discoverable or admissible in any civil or
administrative action, except in disciplinary proceedings by
the agency or the appropriate regulatory board. The annual
report is not available to the public as part of the record of
investigation for and prosecution in disciplinary proceedings
made available to the public by the agency or the appropriate
regulatory board. However, the agency or the appropriate
regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(7) The licensed facility shall notify the agency no later than 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d) and can determine within 1 business day that any of the following adverse incidents has occurred, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility:

(a) The death of a patient;
(b) Brain or spinal damage to a patient;
(c) The performance of a surgical procedure on the wrong patient;
(d) The performance of a wrong-site surgical procedure; or
(e) The performance of a wrong surgical procedure.

The notification must be made in writing and be provided by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected patient, the type of adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to other patients.

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

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(a) The death of a patient;
(b) Brain or spinal damage to a patient;
(c) The performance of a surgical procedure on the wrong patient;
(d) The performance of a wrong-site surgical procedure;
(e) The performance of a wrong surgical procedure;
(f) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition;
(g) The surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage is not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or
(h) The performance of procedures to remove unplanned foreign objects remaining from a surgical procedure.

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

However, the agency or the appropriate regulatory board shall make available, upon written request by a health care

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professional against whom probable cause has been found, any
such records which form the basis of the determination of
probable cause. The agency may investigate, as it deems
appropriate, any such incident and prescribe measures that
must or may be taken in response to the incident. The agency
shall review each incident and determine whether it
potentially involved conduct by the health care professional
who is subject to disciplinary action, in which case the
provisions of s. 456.073 shall apply.
(9) The agency shall publish on the agency's website,
no less than quarterly, a summary and trend analysis of
adverse incident reports received pursuant to this section,
which shall not include information that would identify the
patient, the reporting facility, or the health care
practitioners involved. The agency shall publish on the
agency's website an annual summary and trend analysis of all
adverse incident reports and malpractice claims information
provided by facilities in their annual reports, which shall
not include information that would identify the patient, the
reporting facility, or the practitioners involved. The
purpose of the publication of the summary and trend analysis
is to promote the rapid dissemination of information relating
to adverse incidents and malpractice claims to assist in
avoidance of similar incidents and reduce morbidity and
mortality.
(10) The internal risk manager of each licensed
facility shall:
(a) Investigate every allegation of sexual misconduct
which is made against a member of the facility's personnel who
has direct patient contact, when the allegation is that the

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sexual misconduct occurred at the facility or on the grounds of the facility.\text{and}

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility.

(c) Notify the family or guardian of the victim, if a minor, that an allegation of sexual misconduct has been made and that an investigation is being conducted.\text{and}

(d) Report to the Department of Health every allegation of sexual misconduct, as defined in chapter 456 and the respective practice act, by a licensed health care practitioner that involves a patient.

\text{(11)\text{+10}} Any witness who witnessed or who possesses actual knowledge of the act that is the basis of an allegation of sexual abuse shall:

(a) Notify the local police; and

(b) Notify the hospital risk manager and the administrator.

For purposes of this subsection, "sexual abuse" means acts of a sexual nature committed for the sexual gratification of anyone upon, or in the presence of, a vulnerable adult, without the vulnerable adult's informed consent, or a minor. "Sexual abuse" includes, but is not limited to, the acts defined in s. 794.011(1)(h), fondling, exposure of a vulnerable adult's or minor's sexual organs, or the use of the vulnerable adult or minor to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act which may reasonably be construed to be a normal caregiving action.

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A person who, with malice or with intent to discredit or harm a licensed facility or any person, makes a false allegation of sexual misconduct against a member of a licensed facility's personnel is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

In addition to any penalty imposed pursuant to this section, the agency shall require a written plan of correction from the facility. For a single incident or series of isolated incidents that are nonwillful violations of the reporting requirements of this section, the agency shall first seek to obtain corrective action by the facility. If the correction is not demonstrated within the timeframe established by the agency or if there is a pattern of nonwillful violations of this section, the agency may impose an administrative fine, not to exceed $5,000 for any violation of the reporting requirements of this section. The administrative fine for repeated nonwillful violations shall not exceed $10,000 for any violation. The administrative fine for each intentional and willful violation may not exceed $25,000 per violation, per day. The fine for an intentional and willful violation of this section may not exceed $250,000.

In determining the amount of fine to be levied, the agency shall be guided by s. 395.1065(2)(b). This subsection does not apply to the notice requirements under subsection (7).

The agency shall have access to all licensed facility records necessary to carry out the provisions of this section. The records obtained by the agency under subsection (6), subsection (8), or subsection (10) are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative CODING: Words stricken are deletions; words underlined are additions.
action, except in disciplinary proceedings by the agency or
the appropriate regulatory board, nor shall records obtained
pursuant to s. 456.071 be available to the public as part of
the record of investigation for and prosecution in
disciplinary proceedings made available to the public by the
agency or the appropriate regulatory board. However, the
agency or the appropriate regulatory board shall make
available, upon written request by a health care professional
against whom probable cause has been found, any such records
which form the basis of the determination of probable cause,
except that, with respect to medical review committee records,
s. 766.101 controls.

(15) The meetings of the committees and governing
board of a licensed facility held solely for the purpose of
achieving the objectives of risk management as provided by
this section shall not be open to the public under the
provisions of chapter 286. The records of such meetings are
confidential and exempt from s. 119.07(1), except as provided
in subsection(14).

(16) The agency shall review, as part of its
licensure inspection process, the internal risk management
program at each licensed facility regulated by this section to
determine whether the program meets standards established in
statutes and rules, whether the program is being conducted in
a manner designed to reduce adverse incidents, and whether the
program is appropriately reporting incidents under this
section subsections (5), (6), (7), and (8).

(17) There shall be no monetary liability on the
part of, and no cause of action for damages shall arise
against, any risk manager, licensed under s. 395.10974 part IX
of chapter 626, for the implementation and oversight of the

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internal risk management program in a facility licensed under
this chapter or chapter 390 as required by this section, for
any act or proceeding undertaken or performed within the scope
of the functions of such internal risk management program if
the risk manager acts without intentional fraud.

(18) A privilege against civil liability is hereby
granted to any licensed risk manager or licensed facility with
regard to information furnished pursuant to this chapter,
unless the licensed risk manager or facility acted in bad
faith or with malice in providing such information.

(19) If the agency, through its receipt of any
reports required under this section the annual reports
prescribed in subsection (6) or through any investigation, has
a reasonable belief that conduct by a staff member or employee
of a licensed facility is grounds for disciplinary action by
the appropriate regulatory board, the agency shall report this
fact to such regulatory board.

(18) The agency shall annually publish a report
summarizing the information contained in the annual incident
reports submitted by licensed facilities pursuant to
subsection (6) and disciplinary actions reported to the agency
pursuant to s. 395.0193. The report must, at a minimum,
summarize:

(a) Adverse incidents, by category of reported
incident, and by type of professional involved.

(b) Types of malpractice claims filed, by type of
professional involved.

(c) Disciplinary actions taken against professionals,
by type of professional involved.

(20) It shall be unlawful for any person to coerce,
imimplify, or preclude a risk manager from lawfully executing

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his or her reporting obligations pursuant to this chapter. Such unlawful action shall be subject to civil monetary penalties not to exceed $10,000 per violation.

Section 64. Section 395.10972, Florida Statutes, is amended to read:

395.10972 Health Care Risk Manager Advisory Council.--The Secretary of Health Care Administration may appoint a seven-member advisory council to advise the agency on matters pertaining to health care risk managers. The members of the council shall serve at the pleasure of the secretary. The council shall designate a chair. The council shall meet at the call of the secretary or at those times as may be required by rule of the agency. The members of the advisory council shall receive no compensation for their services, but shall be reimbursed for travel expenses as provided in s. 112.061. The council shall consist of individuals representing the following areas:

(1) Two shall be active health care risk managers, including one risk manager who is recommended by and a member of the Florida Society of Healthcare Risk Management.

(2) One shall be an active hospital administrator.

(3) One shall be an employee of an insurer or self-insurer of medical malpractice coverage.

(4) One shall be a representative of the health-care-consuming public.

(5) Two shall be licensed health care practitioners, one of whom shall be licensed as a physician under chapter 458 or chapter 459.

Section 65. Paragraph (b) of subsection (2) of section 395.701, Florida Statutes, is amended to read:

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395.701 Annual assessments on net operating revenues for inpatient and outpatient services to fund public medical assistance; administrative fines for failure to pay assessments when due; exemption.--

(2)

(b) There is imposed upon each hospital an assessment in an amount equal to 1 percent of the annual net operating revenue for outpatient services for each hospital, such revenue to be determined by the agency, based on the actual experience of the hospital as reported to the agency. While prior year report worksheets may be reconciled to the hospital's audited financial statements, no additional audited financial components may be required for the purposes of determining the amount of the assessment imposed pursuant to this section other than those in effect on July 1, 2000.

Within 6 months after the end of each hospital fiscal year, the agency shall certify the amount of the assessment for each hospital. The assessment shall be payable to and collected by the agency in equal quarterly amounts, on or before the first day of each calendar quarter, beginning with the first full calendar quarter that occurs after the agency certifies the amount of the assessment for each hospital. All moneys collected pursuant to this subsection shall be deposited into the Public Medical Assistance Trust Fund.

Section 66. Section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.--The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services

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were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(1) ADVANCED REGISTERED NURSE PRACTITIONER SERVICES.--The agency shall pay for services provided to a recipient by a licensed advanced registered nurse practitioner who has a valid collaboration agreement with a licensed physician on file with the Department of Health or who provides anesthesia services in accordance with established protocol required by state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides the same services, unless otherwise provided for in the General Appropriations Act.

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.--The agency shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and provide treatment to correct or ameliorate these problems and conditions. These services include all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems, including

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personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

(3) FAMILY PLANNING SERVICES.--The agency shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information; education; counseling regarding the availability, benefits, and risks of each method of pregnancy prevention; drugs and supplies; and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

(4) HOME HEALTH CARE SERVICES.--The agency shall pay for nursing and home health aide services, supplies, appliances, and durable medical equipment, necessary to assist a recipient living at home. An entity that provides services pursuant to this subsection shall be licensed under part IV of chapter 400 or part II of chapter 499, if appropriate. These services, equipment, and supplies, or reimbursement therefor, may be limited as provided in the General Appropriations Act and do not include services, equipment, or supplies provided to a person residing in a hospital or nursing facility. In providing home health care services, the agency may require prior authorization of care based on diagnosis.

(5) HOSPITAL INPATIENT SERVICES.--The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid

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recipient 21 years of age or older to 45 days or the number of
days necessary to comply with the General Appropriations Act.

(a) The agency is authorized to implement
reimbursement and utilization management reforms in order to
comply with any limitations or directions in the General
 Appropriations Act, which may include, but are not limited to:
prior authorization for inpatient psychiatric days; enhanced
utilization and concurrent review programs for highly utilized
services; reduction or elimination of covered days of service;
adjusting reimbursement ceilings for variable costs; adjusting
reimbursement ceilings for fixed and property costs; and
implementing target rates of increase.

(b) A licensed hospital maintained primarily for the
care and treatment of patients having mental disorders or
mental diseases is not eligible to participate in the hospital
inpatient portion of the Medicaid program except as provided
in federal law. However, the department shall apply for a
waiver, within 9 months after June 5, 1991, designed to
provide hospitalization services for mental health reasons to
children and adults in the most cost-effective and lowest cost
setting possible. Such waiver shall include a request for the
opportunity to pay for care in hospitals known under federal
law as "institutions for mental disease" or "IMD's." The
waiver proposal shall propose no additional aggregate cost to
the state or Federal Government, and shall be conducted in
Hillsborough County, Highlands County, Hardee County, Manatee
County, and Polk County. The waiver proposal may incorporate
competitive bidding for hospital services, comprehensive
brokering, prepaid capitated arrangements, or other mechanisms
deemed by the department to show promise in reducing the cost
of acute care and increasing the effectiveness of preventive
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care. When developing the waiver proposal, the department shall take into account price, quality, accessibility, linkages of the hospital to community services and family support programs, plans of the hospital to ensure the earliest discharge possible, and the comprehensiveness of the mental health and other health care services offered by participating providers.

   (c) Agency for Health Care Administration shall adjust a hospital's current inpatient per diem rate to reflect the cost of serving the Medicaid population at that institution if:

   1. The hospital experiences an increase in Medicaid caseload by more than 25 percent in any year, primarily resulting from the closure of a hospital in the same service area occurring after July 1, 1995; or

   2. The hospital's Medicaid per diem rate is at least 25 percent below the Medicaid per patient cost for that year.

No later than November 1, 2000, the agency must provide estimated costs for any adjustment in a hospital inpatient per diem pursuant to this paragraph to the Executive Office of the Governor, the House of Representatives General Appropriations Committee, and the Senate Budget Committee. Before the agency implements a change in a hospital's inpatient per diem rate pursuant to this paragraph, the Legislature must have specifically appropriated sufficient funds in the 2001-2002 General Appropriations Act to support the increase in cost as estimated by the agency. This paragraph is repealed on July 1, 2001.

(6) HOSPITAL OUTPATIENT SERVICES.--The agency shall pay for preventive, diagnostic, therapeutic, or palliative

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1  care and other services provided to a recipient in the
2  outpatient portion of a hospital licensed under part I of
3  chapter 395, and provided under the direction of a licensed
4  physician or licensed dentist, except that payment for such
5  care and services is limited to $1,500 per state fiscal year
6  per recipient, unless an exception has been made by the
7  agency, and with the exception of a Medicaid recipient under
8  age 21, in which case the only limitation is medical
9  necessity.
10
11  (7) INDEPENDENT LABORATORY SERVICES.--The agency shall
12  pay for medically necessary diagnostic laboratory procedures
13  ordered by a licensed physician or other licensed practitioner
14  of the healing arts which are provided for a recipient in a
15  laboratory that meets the requirements for Medicare
16  participation and is licensed under chapter 483, if required.
17
18  (8) NURSING FACILITY SERVICES.--The agency shall pay
19  for 24-hour-a-day nursing and rehabilitative services for a
20  recipient in a nursing facility licensed under part II of
21  chapter 400 or in a rural hospital, as defined in s. 395.602,
22  or in a Medicare certified skilled nursing facility operated
23  by a hospital, as defined by s. 395.002(11), that is licensed
24  under part I of chapter 395, and in accordance with provisions
25  set forth in s. 409.908(2)(a), which services are ordered by
26  and provided under the direction of a licensed physician.
27  However, if a nursing facility has been destroyed or otherwise
28  made uninhabitable by natural disaster or other emergency and
29  another nursing facility is not available, the agency must pay
30  for similar services temporarily in a hospital licensed under
31  part I of chapter 395 provided federal funding is approved and

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(9) PHYSICIAN SERVICES.--The agency shall pay for covered services and procedures rendered to a recipient by, or under the personal supervision of, a person licensed under state law to practice medicine or osteopathic medicine. These services may be furnished in the physician's office, the Medicaid recipient's home, a hospital, a nursing facility, or elsewhere, but shall be medically necessary for the treatment of an injury, illness, or disease within the scope of the practice of medicine or osteopathic medicine as defined by state law. The agency shall not pay for services that are clinically unproven, experimental, or for purely cosmetic purposes.

(10) PORTABLE X-RAY SERVICES.--The agency shall pay for professional and technical portable radiological services ordered by a licensed physician or other licensed practitioner of the healing arts which are provided by a licensed professional in a setting other than a hospital, clinic, or office of a physician or practitioner of the healing arts, on behalf of a recipient.

(11) RURAL HEALTH CLINIC SERVICES.--The agency shall pay for outpatient primary health care services for a recipient provided by a clinic certified by and participating in the Medicare program which is located in a federally designated, rural, medically underserved area and has on its staff one or more licensed primary care nurse practitioners or physician assistants, and a licensed staff supervising physician or a consulting supervising physician.

(12) TRANSPORTATION SERVICES.--The agency shall ensure that appropriate transportation services are available for a Medicaid recipient in need of transport to a qualified Medicaid provider for medically necessary and

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Medicaid-compensable services, provided a client's ability to choose a specific transportation provider shall be limited to those options resulting from policies established by the agency to meet the fiscal limitations of the General Appropriations Act. The agency may pay for transportation and other related travel expenses as necessary only if these services are not otherwise available.

Section 67. Section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.--Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service.

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known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(1) ADULT DENTURE SERVICES.--The agency may pay for dentures, the procedures required to seat dentures, and the repair and reline of dentures, provided by or under the direction of a licensed dentist, for a recipient who is age 21 or older. However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(2) ADULT HEALTH SCREENING SERVICES.--The agency may pay for an annual routine physical examination, conducted by or under the direction of a licensed physician, for a recipient age 21 or older, without regard to medical necessity, in order to detect and prevent disease, disability, or other health condition or its progression.

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(3) AMBULATORY SURGICAL CENTER SERVICES.--The agency may pay for services provided to a recipient in an ambulatory surgical center licensed under part I of chapter 395, by or under the direction of a licensed physician or dentist.

(4) BIRTH CENTER SERVICES.--The agency may pay for examinations and delivery, recovery, and newborn assessment, and related services, provided in a licensed birth center staffed with licensed physicians, certified nurse midwives, and midwives licensed in accordance with chapter 467, to a recipient expected to experience a low-risk pregnancy and delivery.

(5) CASE MANAGEMENT SERVICES.--The agency may pay for primary care case management services rendered to a recipient pursuant to a federally approved waiver, and targeted case management services for specific groups of targeted recipients, for which funding has been provided and which are rendered pursuant to federal guidelines. The agency is authorized to limit reimbursement for targeted case management services in order to comply with any limitations or directions provided for in the General Appropriations Act. Notwithstanding s. 216.292, the Department of Children and Family Services may transfer general funds to the Agency for Health Care Administration to fund state match requirements exceeding the amount specified in the General Appropriations Act for targeted case management services.

(6) CHILDREN'S DENTAL SERVICES.--The agency may pay for diagnostic, preventive, or corrective procedures, including orthodontia in severe cases, provided to a recipient under age 21, by or under the supervision of a licensed dentist. Services provided under this program include treatment of the teeth and associated structures of the oral CODING:Words stricken are deletions; words underlined are additions.
cavity, as well as treatment of disease, injury, or impairment that may affect the oral or general health of the individual. However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(7) CHIROPRACTIC SERVICES.--The agency may pay for manual manipulation of the spine and initial services, screening, and X rays provided to a recipient by a licensed chiropractic physician.

(8) COMMUNITY MENTAL HEALTH SERVICES.--The agency may pay for rehabilitative services provided to a recipient by a mental health or substance abuse provider licensed by the agency and under contract with the agency or the Department of Children and Family Services to provide such services. Those services which are psychiatric in nature shall be rendered or recommended by a psychiatrist, and those services which are

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medical in nature shall be rendered or recommended by a
physician or psychiatrist. The agency must develop a provider
enrollment process for community mental health providers which
bases provider enrollment on an assessment of service need.
The provider enrollment process shall be designed to control
costs, prevent fraud and abuse, consider provider expertise
and capacity, and assess provider success in managing
utilization of care and measuring treatment outcomes.
Providers will be selected through a competitive procurement
or selective contracting process. In addition to other
community mental health providers, the agency shall consider
for enrollment mental health programs licensed under chapter
395 and group practices licensed under chapter 458, chapter
459, chapter 490, or chapter 491. The agency is also
authorized to continue operation of its behavioral health
utilization management program and may develop new services if
these actions are necessary to ensure savings from the
implementation of the utilization management system. The
agency shall coordinate the implementation of this enrollment
process with the Department of Children and Family Services
and the Department of Juvenile Justice. The agency is
authorized to utilize diagnostic criteria in setting
reimbursement rates, to preauthorize certain high-cost or
highly utilized services, to limit or eliminate coverage for
certain services, or to make any other adjustments necessary
to comply with any limitations or directions provided for in
the General Appropriations Act.

(9) DIALYSIS FACILITY SERVICES.--Subject to specific
appropriations being provided for this purpose, the agency may
pay a dialysis facility that is approved as a dialysis
facility in accordance with Title XVIII of the Social Security

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Act, for dialysis services that are provided to a Medicaid recipient under the direction of a physician licensed to practice medicine or osteopathic medicine in this state, including dialysis services provided in the recipient's home by a hospital-based or freestanding dialysis facility.

(10) DURABLE MEDICAL EQUIPMENT.--The agency may authorize and pay for certain durable medical equipment and supplies provided to a Medicaid recipient as medically necessary.

(11) HEALTHY START SERVICES.--The agency may pay for a continuum of risk-appropriate medical and psychosocial services for the Healthy Start program in accordance with a federal waiver. The agency may not implement the federal waiver unless the waiver permits the state to limit enrollment or the amount, duration, and scope of services to ensure that expenditures will not exceed funds appropriated by the Legislature or available from local sources. If the Health Care Financing Administration does not approve a federal waiver for Healthy Start services, the agency, in consultation with the Department of Health and the Florida Association of Healthy Start Coalitions, is authorized to establish a Medicaid certified-match program for Healthy Start services. Participation in the Healthy Start certified-match program shall be voluntary, and reimbursement shall be limited to the federal Medicaid share to Medicaid-enrolled Healthy Start coalitions for services provided to Medicaid recipients. The agency shall take no action to implement a certified-match program without ensuring that the amendment and review requirements of ss. 216.177 and 216.181 have been met.

(12) HEARING SERVICES.--The agency may pay for hearing and related services, including hearing evaluations, hearing

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aid devices, dispensing of the hearing aid, and related repairs, if provided to a recipient by a licensed hearing aid specialist, otolaryngologist, otologist, audiologist, or physician.

(13) HOME AND COMMUNITY-BASED SERVICES.--The agency may pay for home-based or community-based services that are rendered to a recipient in accordance with a federally approved waiver program.

(14) HOSPICE CARE SERVICES.--The agency may pay for all reasonable and necessary services for the palliation or management of a recipient's terminal illness, if the services are provided by a hospice that is licensed under part VI of chapter 400 and meets Medicare certification requirements.

(15) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED SERVICES.--The agency may pay for health-related care and services provided on a 24-hour-a-day basis by a facility licensed and certified as a Medicaid Intermediate Care Facility for the Developmentally Disabled, for a recipient who needs such care because of a developmental disability.

(16) INTERMEDIATE CARE SERVICES.--The agency may pay for 24-hour-a-day intermediate care nursing and rehabilitation services rendered to a recipient in a nursing facility licensed under part II of chapter 400, if the services are ordered by and provided under the direction of a physician.

(17) OPTOMETRIC SERVICES.--The agency may pay for services provided to a recipient, including examination, diagnosis, treatment, and management, related to ocular pathology, if the services are provided by a licensed optometrist or physician.

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(18) PHYSICIAN ASSISTANT SERVICES.--The agency may pay for all services provided to a recipient by a physician assistant licensed under s. 458.347 or s. 459.022. Reimbursement for such services must be not less than 80 percent of the reimbursement that would be paid to a physician who provided the same services.

(19) PODIATRIC SERVICES.--The agency may pay for services, including diagnosis and medical, surgical, palliative, and mechanical treatment, related to ailments of the human foot and lower leg, if provided to a recipient by a podiatric physician licensed under state law.

(20) PRESCRIBED DRUG SERVICES.--The agency may pay for medications that are prescribed for a recipient by a physician or other licensed practitioner of the healing arts authorized to prescribe medications and that are dispensed to the recipient by a licensed pharmacist or physician in accordance with applicable state and federal law.

(21) REGISTERED NURSE FIRST ASSISTANT SERVICES.--The agency may pay for all services provided to a recipient by a registered nurse first assistant as described in s. 464.027. Reimbursement for such services may not be less than 80 percent of the reimbursement that would be paid to a physician providing the same services.

(22) STATE HOSPITAL SERVICES.--The agency may pay for all-inclusive psychiatric inpatient hospital care provided to a recipient age 65 or older in a state mental hospital.

(23) VISUAL SERVICES.--The agency may pay for visual examinations, eyeglasses, and eyeglass repairs for a recipient, if they are prescribed by a licensed physician specializing in diseases of the eye or by a licensed optometrist.
(24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The Agency for Health Care Administration, in consultation with the Department of Children and Family Services, may establish a targeted case-management pilot project in those counties identified by the Department of Children and Family Services and for the community-based child welfare project in Sarasota and Manatee counties, as authorized under s. 409.1671. These projects shall be established for the purpose of determining the impact of targeted case management on the child welfare program and the earnings from the child welfare program. Results of the pilot projects shall be reported to the Child Welfare Estimating Conference and the Social Services Estimating Conference established under s. 216.136. The number of projects may not be increased until requested by the Department of Children and Family Services, recommended by the Child Welfare Estimating Conference and the Social Services Estimating Conference, and approved by the Legislature. The covered group of individuals who are eligible to receive targeted case management include children who are eligible for Medicaid; who are between the ages of birth through 21; and who are under protective supervision or postplacement supervision, under foster-care supervision, or in shelter care or foster care. The number of individuals who are eligible to receive targeted case management shall be limited to the number for whom the Department of Children and Family Services has available matching funds to cover the costs. The general revenue funds required to match the funds for services provided by the community-based child welfare projects are limited to funds available for services described under s. 409.1671. The Department of Children and Family Services may

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section 456.013, Florida Statutes, are renumbered as
subsections (8) through (12), respectively, and a new
subsection (7) is added to that section to read:

456.013 Department; general licensing provisions.--

(7) The boards, or the department when there is no
board, shall require the completion of a 2-hour course
relating to prevention of medical errors as part of the
licensure and renewal process. The 2-hour course shall count
towards the total number of continuing education hours
required for the profession. The course shall be approved by
the board or department, as appropriate, and shall include a
study of root-cause analysis, error reduction and prevention,
and patient safety. If the course is being offered by a
facility licensed pursuant to chapter 395 for its employees,
the board may approve up to 1 hour of the 2-hour course to be
specifically related to error reduction and prevention methods
used in that facility.

Section 69. Subsection (19) is added to section
456.057, Florida Statutes, to read:

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

(19) The board, or department when there is no board,
may temporarily or permanently appoint a person or entity as a
custodian of medical records in the event of the death of a
practitioner, the mental or physical incapacitation of the
practitioner, or the abandonment of medical records by a
practitioner. The custodian appointed shall comply with all

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provisions of this section, including the release of patient
records.

Section 70. Subsection (3) is added to section
456.063, Florida Statutes, to read:
456.063 Sexual misconduct; disqualification for
license, certificate, or registration.--
(3) Licensed health care practitioners shall report
allegations of sexual misconduct to the department, regardless
of the practice setting in which the alleged sexual misconduct
occurred.

Section 71. Paragraphs (c) and (q) of subsection (1)
of section 456.072, Florida Statutes, are amended, paragraphs
(aa), (bb), and (cc) are added to that subsection, paragraphs
(c), (d), and (e) of subsection (2) and subsection (4) are
amended, and paragraphs (i) and (j) are added to subsection
(2) of that section, to read:
456.072 Grounds for discipline; penalties;
enforcement.--
(1) The following acts shall constitute grounds for
which the disciplinary actions specified in subsection (2) may
be taken:
(c) Being convicted or found guilty of, or entering a
plea of guilty or nolo contendere to, regardless of
adjudication, a crime in any jurisdiction which relates to the
practice of, or the ability to practice, a licensee's
profession.
(q) Violating any provision of this chapter, the
applicable professional practice act, a rule of the department
or the board, or a lawful order of the department or the
board, or failing to comply with a lawfully issued subpoena of
the department.

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(aa) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(bb) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(cc) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

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

(c) Restriction of practice or license, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and

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administrative services, restricting the licensee from
practicing more than a designated number of hours, or any
other restriction found to be necessary for the protection of
the public health, safety, and welfare.

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

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

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

(j) Requirement that the practitioner undergo remedial
education.

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

(4) In addition to any other discipline imposed
through final order, or citation, entered on or after July 1, 2001,
pursuant to this section or discipline imposed through
final order, or citation, entered on or after July 1, 2001,
for a violation of any practice act, the board, or the
department when there is no board, may assess costs
related to the investigation and prosecution of the case. In
any case where the board or the department imposes a fine or

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assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Section 72. Paragraphs (a) and (c) of subsection (9) of section 456.073, Florida Statutes, are amended, and, effective upon this act becoming a law, subsection (13) is added to that section, to read:

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

(9)(a) The department shall periodically notify the person who filed the complaint, as well as the patient or the patient's legal representative, of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(c) In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the department probable cause panel which may be relevant to the decision. To facilitate the provision of additional information, the person who filed the complaint may receive, upon request, a copy of the department's expert report that supported the recommendation for closure, if such a report was relied upon by the department. In no way does this require the department to procure an expert opinion or report if none was
used. Additionally, the identity of the expert shall remain confidential. In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(13) Notwithstanding any provision of law to the contrary, an administrative complaint against a licensee shall be filed within 6 years after the time of the incident or occurrence giving rise to the complaint against the licensee. If such incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee, this subsection does not apply to bar initiation of an investigation or filing of an administrative complaint beyond the 6-year timeframe. In those cases covered by this subsection in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the violation of law, the period of limitations is extended forward, but in no event to exceed 12 years after the time of the incident or occurrence.

Section 73. Subsection (1) of section 456.074, Florida Statutes, is amended to read:

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

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or

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Chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

Section 74. Subsections (2) and (6) of section 456.077, Florida Statutes, are amended to read:

456.077 Authority to issue citations.--

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

(6) A board created on or after January 1, 1992, has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

Section 75. Section 456.081, Florida Statutes, is amended to read:

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456.081 Publication of information.--The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department or the board determines is of interest to the industry. The department and the boards shall maintain a website which contains copies of the newsletter; information relating to adverse incident reports without identifying the patient, practitioner, or facility in which the adverse incident occurred until 10 days after probable cause is found, at which time the name of the practitioner and facility shall become public as part of the investigative file; information about error prevention and safety strategies; and information concerning best practices. Unless otherwise prohibited by law, the department and the boards shall publish on the website a summary of final orders entered after July 1, 2001, resulting in disciplinary action fines, suspensions, or revocations, and any other information the department or the board determines is of interest to the public. In order to provide useful and timely information at minimal cost, the department and boards may consult with, and include information provided by, professional associations and national organizations.

Section 76. Subsection (9) of section 458.331, Florida Statutes, is amended to read:

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

(9) When an investigation of a physician is undertaken, the department shall promptly furnish to the physician or the physician's attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such

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

Section 77. Subsection (9) of section 459.015, Florida Statutes, is amended to read:

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

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

Section 78. Effective January 1, 2002, subsection (4) of section 641.51, Florida Statutes, is amended to read:

641.51 Quality assurance program; second medical opinion requirement.--

(4) The organization shall ensure that only a physician licensed under chapter 458 or chapter 459, or an allopathic or osteopathic physician with an active, unencumbered license in another state with similar licensing requirements may render an adverse determination regarding a service provided by a physician licensed in this state. The organization shall submit to the treating provider and the subscriber written

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notification regarding the organization's adverse
determination within 2 working days after the subscriber or
provider is notified of the adverse determination. The written
notification must include the utilization review criteria or
benefits provisions used in the adverse determination,
identify the physician who rendered the adverse determination,
and be signed by an authorized representative of the
organization or the physician who rendered the adverse
determination. The organization must include with the
notification of an adverse determination information
concerning the appeal process for adverse determinations. This
provision does not create authority for the Board of Medicine
or Board of Osteopathic Medicine to regulate the organization;
however, the Board of Medicine and the Board of Osteopathic
Medicine continue to have jurisdiction over licensees of their
respective boards.

Section 79. Subsection (5) of section 465.019, Florida
Statutes, is amended to read:

465.019 Institutional pharmacies; permits.--
(5) All institutional pharmacies shall be under the
professional supervision of a consultant pharmacist, and the
compounding and dispensing of medicinal drugs shall be done
only by a licensed pharmacist. Every institutional pharmacy
that employs or otherwise utilizes pharmacy technicians shall
have a written policy and procedures manual specifying those
duties, tasks, and functions which a pharmacy technician is
allowed to perform.

Section 80. Section 465.0196, Florida Statutes, is
amended to read:

465.0196 Special pharmacy permits.--Any person
desiring a permit to operate a pharmacy which does not fall

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within the definitions set forth in s. 465.003(11)(a)1., 2., and 3. shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties. Every permittee that employs or otherwise utilizes pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions which a pharmacy technician is allowed to perform.

Section 81. Effective upon this act becoming a law and operating retroactively to July 1, 2000, section 22 of Chapter 2000-256, Laws of Florida, is amended to read:

Section 22. The amendments to ss. 395.701 and 395.7015, Florida Statutes, by this act shall take effect July 1, 2000 only upon the Agency for Health Care Administration receiving written confirmation from the federal Health Care Financing Administration that the changes contained in such amendments will not adversely affect the use of the remaining assessments as state match for the state's Medicaid program.

Section 82. The Department of Health and the Agency for Health Care Administration shall conduct a review of all statutorily imposed reporting requirements for health care

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practitioners and health facilities. The department and the agency shall report back to the Legislature on or before November 1, 2001, with recommendations and suggested statutory changes to streamline reporting requirements to avoid duplicative, overlapping, and unnecessary reports or data elements.

Section 83. Paragraph (r) is added to subsection (1) of section 468.1755, Florida Statutes, and, for the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of that section is reenacted, to read:

468.1755 Disciplinary proceedings.--
(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:
(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).
(r) Failing to implement an ongoing quality assurance program directed by an interdisciplinary team that meets at least every other month.
(2) When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:
(a) Denial of an application for licensure.
(b) Revocation or suspension of a license.
(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.
(d) Issuance of a reprimand.
(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education.

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education courses or to work under the supervision of another licensee.

(f) Restriction of the authorized scope of practice.

Section 84. For the purpose of incorporating the amendment to section 468.1755(1), Florida Statutes, in reference thereto, subsection (3) of section 468.1695, Florida Statutes, and section 468.1735, Florida Statutes, are reenacted to read:

468.1695 Licensure by examination.--

(3) The department shall issue a license to practice nursing home administration to any applicant who successfully completes the examination in accordance with this section and otherwise meets the requirements of this part. The department shall not issue a license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply.

468.1735 Provisional license.--The board may establish by rule requirements for issuance of a provisional license. A provisional license shall be issued only to fill a position of nursing home administrator that unexpectedly becomes vacant due to illness, sudden death of the administrator, or abandonment of position and shall be issued for one single period as provided by rule not to exceed 6 months. The department shall not issue a provisional license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply. The provisional license may be issued to a person who does not

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meet all of the licensing requirements established by this part, but the board shall by rule establish minimal requirements to ensure protection of the public health, safety, and welfare. The provisional license shall be issued to the person who is designated as the responsible person next in command in the event of the administrator's departure. The board may set an application fee not to exceed $500 for a provisional license.

Section 85. For the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 484.056, Florida Statutes, is reenacted to read:

484.056 Disciplinary proceedings.--
        (1) The following acts relating to the practice of dispensing hearing aids shall be grounds for both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

Section 86. Paragraph (a) of subsection (1), paragraph (a) of subsection (7), and subsection (8) of section 766.101, Florida Statutes, are amended to read:

766.101 Medical review committee, immunity from liability.--
        (1) As used in this section:

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

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1. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,
   b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,
   c. A committee of a state or local professional society of health care providers,
   d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,
   e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,
   f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,
   g. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,
   h. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to

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the guidelines which have been approved by the governing board of the agency,

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

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

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

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

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

(7)(a) It is the intent of the Legislature to encourage medical review committees to contribute further to the quality of health care in this state by reviewing complaints against physicians in the manner described in this paragraph. Accordingly, the Department of Health Business and Professional Regulation may enter into a letter of agreement with a professional society of physicians licensed under chapter 458 or chapter 459, under which agreement the medical or peer review committees of the professional society will conduct a review of any complaint or case referred to the

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society by the department which involves a question as to whether a physician's actions represented a breach of the prevailing professional standard of care. The prevailing professional standard of care is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers. The letter of agreement must specify that the professional society will submit an advisory report to the department within a reasonable time following the department's written and appropriately supported request to the professional society. The advisory report, which is not binding upon the department, constitutes the professional opinion of the medical review committee and must include:

1. A statement of relevant factual findings.
2. The judgment of the committee as to whether the physician's actions represented a breach of the prevailing professional standard of care.

(8) No cause of action of any nature by a person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 shall arise against another person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 for furnishing information to a duly appointed medical review committee, to an internal risk management program established under s. 395.0197, to the Department of Health or the Agency for Health Care Administration Business and Professional Regulation, or to the appropriate regulatory board if the information furnished concerns patient care at a facility licensed pursuant to part I of chapter 395 where both persons provide

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health care services, if the information is not intentionally fraudulent, and if the information is within the scope of the functions of the committee, department, or board. However, if such information is otherwise available from original sources, it is not immune from discovery or use in a civil action merely because it was presented during a proceeding of the committee, department, or board.

Section 87. For the purpose of incorporating the amendment to section 766.101(1)(a), Florida Statutes, in references thereto, paragraph (a) of subsection (1) of section 440.105, Florida Statutes, and subsection (6) of section 626.989, Florida Statutes, are reenacted to read:

440.105 Prohibited activities; reports; penalties; limitations.--

(1)(a) Any insurance carrier, any individual self-insured, any commercial or group self-insurance fund, any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 766.101, any private medical review committee, and any insurer, agent, or other person licensed under the insurance code, or any employee thereof, having knowledge or who believes that a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this chapter is being or has been committed shall send to the Division of Insurance Fraud, Bureau of Workers' Compensation Fraud, a report or information pertinent to such knowledge or belief and such additional information relative thereto as the bureau may require. The bureau shall review such information or reports and select such information or reports as, in its judgment, may require further

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investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under this chapter is being committed. The bureau shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violations of this chapter. If prosecution by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the bureau's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the bureau of the reasons for the lack of prosecution.

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.--

(6) Any person, other than an insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed may send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may request. Any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 386.
766.101, any private medical review committee, and any
insurer, agent, or other person licensed under the code, or an
employee thereof, having knowledge or who believes that a
fraudulent insurance act or any other act or practice which,
upon conviction, constitutes a felony or a misdemeanor under
the code, or under s. 817.234, is being or has been committed
shall send to the Division of Insurance Fraud a report or
information pertinent to such knowledge or belief and such
additional information relative thereto as the department may
require. The Division of Insurance Fraud shall review such
information or reports and select such information or reports
as, in its judgment, may require further investigation. It
shall then cause an independent examination of the facts
surrounding such information or report to be made to determine
the extent, if any, to which a fraudulent insurance act or any
other act or practice which, upon conviction, constitutes a
felony or a misdemeanor under the code, or under s. 817.234,
is being committed. The Division of Insurance Fraud shall
report any alleged violations of law which its investigations
disclose to the appropriate licensing agency and state
attorney or other prosecuting agency having jurisdiction with
respect to any such violation, as provided in s. 624.310. If
prosecution by the state attorney or other prosecuting agency
having jurisdiction with respect to such violation is not
begun within 60 days of the division's report, the state
attorney or other prosecuting agency having jurisdiction with
respect to such violation shall inform the division of the
reasons for the lack of prosecution.

Section 88. Paragraph (c) of subsection (4) of section
766.1115, Florida Statutes, is amended to read:

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766.1115 Health care providers; creation of agency relationship with governmental contractors.--

(4) CONTRACT REQUIREMENTS.--A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(9), while acting within the scope of duties pursuant to the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider under contract with the state may not be named as a defendant in any action arising out of the medical care or treatment provided on or after April 17, 1992, pursuant to contracts entered into under this section. The contract must provide that:

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if such incidents and information pertain to a patient treated pursuant to the contract. The health care provider shall annually submit an adverse incident report that includes all information required by s. 395.0197(6)(a), unless the adverse incident involves a result described by s. 395.0197(8), in which case it shall be reported within 15 days after the occurrence of such incident. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to

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disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities pursuant to this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 89. Section 456.047, Florida Statutes, is amended to read:

456.047 Standardized credentialing for health care practitioners.--

(1) INTENT.--The Legislature recognizes that an efficient and effective health care practitioner credentialing program helps to ensure access to quality health care and also recognizes that health care practitioner credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. Moreover, the resulting duplication of health care practitioner credentialing activities is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. Therefore, it is the intent of this section that a credentials collection program be established which provides that, once a health care practitioner's core credentials data are collected, they need not be collected again, except for corrections, updates, and modifications thereto. Furthermore, it is the intent of the Legislature that the department and all entities and practitioners work cooperatively to ensure the integrity and accuracy of the program. Participation under this section shall include those individuals licensed under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012. However, the department shall, with the approval of the applicable

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board, include other professions under the jurisdiction of the
Division of Medical Quality Assurance in this program,
provided they meet the requirements of s. 456.039 or s.
456.0391.

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

(a) "Certified" or "accredited," as applicable, means
approved by a quality assessment program, from the National
Committee for Quality Assurance, the Joint Commission on
Accreditation of Healthcare Organizations, the American
Accreditation HealthCare Commission/URAC, or any such other
nationally recognized and accepted organization authorized by
the department, used to assess and certify any credentials
verification program, entity, or organization that verifies
the credentials of any health care practitioner.

(b) "Core credentials data" means data that is primary
source verified and includes the following data: current name,
any former name, and any alias, any professional education,
professional training, licensure, current Drug Enforcement
Administration certification, social security number,
specialty board certification, Educational Commission for
Foreign Medical Graduates certification, and hospital or other
institutional affiliations, evidence of professional liability
coverage or evidence of financial responsibility as required
by s. 458.320, s. 459.0085, or s. 456.048, history of claims,
suits, judgments, or settlements, final disciplinary action
reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8.
The department may by rule designate additional core
credentials data elements, and Medicare or Medicaid sanctions.

(c) "Credential" or "credentialing" means the process
of assessing and verifying the qualifications of a licensed
health care practitioner or applicant for licensure as a health care practitioner.

(d) "Credentials verification organization" means any organization certified or accredited as a credentials verification organization.

(e) "Department" means the Department of Health, Division of Medical Quality Assurance.

(f) "Designated credentials verification organization" means the credentials verification organization which is selected by the health care practitioner, if the health care practitioner chooses to make such a designation.

(g) "Drug Enforcement Administration certification" means certification issued by the Drug Enforcement Administration for purposes of administration or prescription of controlled substances. Submission of such certification under this section must include evidence that the certification is current and must also include all current addresses to which the certificate is issued.

(h) "Health care entity" means:

1. Any health care facility or other health care organization licensed or certified to provide approved medical and allied health services in this state;

2. Any entity licensed by the Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers or similar

organization licensed under chapter 627, chapter 636, chapter 641, or chapter 651; or

3. Any accredited medical school in this state.

(i) "Health care practitioner" means any person licensed, or, for credentialing purposes only, any person

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applying for licensure, under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012 or any person licensed or applying for licensure under a chapter subsequently made subject to this section by the department with the approval of the applicable board, except a person registered or applying for registration pursuant to s. 458.345 or s. 459.021.

(j) "Hospital or other institutional affiliations" means each hospital or other institution for which the health care practitioner or applicant has provided medical services. Submission of such information under this section must include, for each hospital or other institution, the name and address of the hospital or institution, the staff status of the health care practitioner or applicant at that hospital or institution, and the dates of affiliation with that hospital or institution.

(j) "National accrediting organization" means an organization that awards accreditation or certification to hospitals, managed care organizations, credentials verification organizations, or other health care organizations, including, but not limited to, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC, and the National Committee for Quality Assurance.

(k) "Primary source verification" means verification of professional qualifications based on evidence obtained directly from the issuing source of the applicable qualification or from any other source deemed as a primary source for such verification by the department or an accrediting body approved by the department.
(l) "Professional training" means any internship, residency, or fellowship relating to the profession for which the health care practitioner is licensed or seeking licensure.

(m) "Specialty board certification" means certification in a specialty issued by a specialty board recognized by the board in this state that regulates the profession for which the health care practitioner is licensed or seeking licensure.

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

(a) Every health care practitioner shall:

1. Report all core credentials data to the department which is not already on file with the department, either by designating a credentials verification organization to submit the data or by submitting the data directly.

2. Notify the department within 45 days of any corrections, updates, or modifications to the core credentials data either through his or her designated credentials verification organization or by submitting the data directly. Corrections, updates, and modifications to the core credentials data provided the department under this section shall comply with the updating requirements of s. 456.039(3) or s. 456.0391(3) related to profiling.

(b) The department shall:

1. Maintain a complete, current file of applicable core credentials data on each health care practitioner, which shall include data provided in accordance with subparagraph (a)1. and all updates provided in accordance with subparagraph (a)2.

2. Release the core credentials data that is otherwise confidential or exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and any

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corrections, updates, and modifications thereto, if authorized
by the health care practitioner.

3. Charge a fee to access the core credentials data,
which may not exceed the actual cost, including prorated setup
and operating costs, pursuant to the requirements of chapter
119.

4. Develop standardized forms to be used by the health
care practitioner or designated credentials verification
organization for the initial reporting of core credentials
data, for the health care practitioner to authorize the
release of core credentials data, and for the subsequent
reporting of corrections, updates, and modifications thereto.

(c) A registered credentials verification organization
may be designated by a health care practitioner to assist the
health care practitioner to comply with the requirements of
subparagraph (a)2. A designated credentials verification
organization shall:

1. Timely comply with the requirements of subparagraph
(a)2., pursuant to rules adopted by the department.

2. Not provide the health care practitioner's core
credentials data, including all corrections, updates, and
modifications, without the authorization of the practitioner.

(d) This section shall not be construed to restrict in
any way the authority of the health care entity to credential
and to approve or deny an application for hospital staff
membership, clinical privileges, or managed care network
participation.

(4) DUPLICATION OF DATA PROHIBITED.--

(a) A health care entity or credentials verification
organization is prohibited from collecting or attempting to
collect duplicate core credentials data from any health care

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practitioner if the information is available from the
department. This section shall not be construed to restrict
the right of any health care entity or credentials
verification organization to collect additional information
from the health care practitioner which is not included in the
core credentials data file. This section shall not be
construed to prohibit a health care entity or credentials
verification organization from obtaining all necessary
attestation and release form signatures and dates.

(b) Effective July 1, 2002, a state agency in this
state which credentials health care practitioners may not
collect or attempt to collect duplicate core credentials data
from any individual health care practitioner if the
information is already available from the department. This
section shall not be construed to restrict the right of any
such state agency to request additional information not
included in the core credentials data file, but
which is deemed necessary for the agency's specific
credentialing purposes.

(5) STANDARDS AND REGISTRATION.--Any credentials
verification organization that does business in this state
must be fully accredited or certified as a credentials
verification organization by a national accrediting
organization as specified in paragraph (2)(a) and must
register with the department. The department may charge a
reasonable registration fee, not to exceed an amount
sufficient to cover its actual expenses in providing and
enforcing such registration. The department shall establish by
rule for biennial renewal of such registration. Failure by a
registered credentials verification organization to maintain
full accreditation or certification, to provide data as

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authorized by the health care practitioner, to report to the
department changes, updates, and modifications to a health
care practitioner's records within the time period specified
in subparagraph (3)(a)2., or to comply with the prohibition
against collection of duplicate core credentials data from a
practitioner may result in denial of an application for
renewal of registration or in revocation or suspension of a
registration.

(6) PRIMARY SOURCE VERIFIED DATA.--Health care
entities and credentials verification organizations may rely
upon any data that has been primary source verified by the
department or its designee to meet primary source verification
requirements of national accrediting organizations.

(7) LIABILITY.--No civil, criminal, or
administrative action may be instituted, and there shall be no
liability, against any registered credentials verification
organization or health care entity on account of its reliance
on any data obtained directly from the department.

(8) LIABILITY INSURANCE REQUIREMENTS.--Each
credentials verification organization doing business in this
state shall maintain liability insurance appropriate to meet
the certification or accreditation requirements established in
this section.

(9) RULES.--The department shall adopt rules
necessary to develop and implement the standardized core
credentials data collection program established by this
section.

Section 90. Section 232.61, Florida Statutes, is
amended to read:

232.61 Governing organization for athletics; adoption
of bylaws.--

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(1) The organization shall adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in its member schools. The bylaws governing residence and transfer shall allow the student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in any member school. The student shall be eligible in that school so long as he or she remains enrolled in that school. Subsequent eligibility shall be determined and enforced through the organization's bylaws.

(2) The organization shall also adopt bylaws that specifically prohibit the recruiting of students for athletic purposes. The bylaws shall prescribe penalties and an appeals process for athletic recruiting violations.

(3) The organization shall adopt bylaws that require all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year prior to participating in interscholastic athletic competition or engaging in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team. Such medical evaluation can only be administered by a practitioner licensed under the provisions of chapter 458, chapter 459, chapter 460, or s. 464.012, and in good standing with the practitioner's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this subsection, which shall include minimum standards for the physical capabilities.

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necessary for participation in interscholastic athletic
competition as contained in a uniform preparticipation
physical evaluation form. The evaluation form shall provide
place for the signature of the practitioner performing the
evaluation with an attestation that each examination procedure
listed on the form was performed by the practitioner or by
someone under the direct supervision of the practitioner. The
form shall also contain a place for the practitioner to
indicate if a referral to another practitioner was made in
lieu of completion of a certain examination procedure. The
form shall provide a place for the practitioner to whom the
student was referred to complete the remaining sections and
attest to that portion of the examination. Practitioners
administering medical evaluations pursuant to this section
must know the minimum standards established by the
organization and certify that the student meets the standards.
If the practitioner determines that there are any abnormal
findings in the cardiovascular system, the student may not
participate unless a subsequent EKG or other cardiovascular
assessment indicates that the abnormality will not place the
student at risk during such participation. Results of such
medical evaluation must be provided to the school. No student
shall be eligible to participate in any interscholastic
athletic competition or engage in any practice, tryout,
workout, or other physical activity associated with the
student’s candidacy for an interscholastic athletic team until
the results of the medical evaluation verifying that the
student has satisfactorily passed the evaluation have been
received and approved by the school.

(4) Notwithstanding the provisions of subsection (3),
a student may participate in interscholastic athletic

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competition or be a candidate for an interscholastic athletic
team if the parent or guardian of the student objects in
writing to the student undergoing a medical evaluation because
such evaluation is contrary to his or her religious tenets or
practices, provided that no person or entity shall be held
liable for any injury or other damages suffered by such
student.

Section 91. Section 240.4075, Florida Statutes, is
amended to read:

240.4075 Nursing Student Loan Forgiveness Program.--
(1) To encourage qualified personnel to seek
employment in areas of this state in which critical nursing
shortages exist, there is established the Nursing Student Loan
Forgiveness Program. The primary function of the program is
to increase employment and retention of registered nurses and
licensed practical nurses in nursing homes and hospitals in
the state and in state-operated medical and health care
facilities, public schools, birth centers, and federally
sponsored community health centers and teaching hospitals by
making repayments toward loans received by students from
federal or state programs or commercial lending institutions
for the support of postsecondary study in accredited or
approved nursing programs.

(2) To be eligible, a candidate must have graduated
from an accredited or approved nursing program and have
received a Florida license as a licensed practical nurse or a
registered nurse or a Florida certificate as an advanced
registered nurse practitioner.

(3) Only loans to pay the costs of tuition, books, and
living expenses shall be covered, at an amount not to exceed
$4,000 for each year of education towards the degree obtained.

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(4) Receipt of funds pursuant to this program shall be contingent upon continued proof of employment in the designated facilities in this state. Loan principal payments shall be made by the Department of Health Education directly to the federal or state programs or commercial lending institutions holding the loan as follows:

(a) Twenty-five percent of the loan principal and accrued interest shall be retired after the first year of nursing;

(b) Fifty percent of the loan principal and accrued interest shall be retired after the second year of nursing;

(c) Seventy-five percent of the loan principal and accrued interest shall be retired after the third year of nursing; and

(d) The remaining loan principal and accrued interest shall be retired after the fourth year of nursing.

In no case may payment for any nurse exceed $4,000 in any 12-month period.

(5) There is created the Nursing Student Loan Forgiveness Trust Fund to be administered by the Department of Health Education pursuant to this section and s. 240.4076 and department rules. The Comptroller shall authorize expenditures from the trust fund upon receipt of vouchers approved by the Department of Health Education. All moneys collected from the private health care industry and other private sources for the purposes of this section shall be deposited into the Nursing Student Loan Forgiveness Trust Fund. Any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section and s. 240.4076.
(6) In addition to licensing fees imposed under part I of chapter 464, there is hereby levied and imposed an additional fee of $5, which fee shall be paid upon licensure or renewal of nursing licensure. Revenues collected from the fee imposed in this subsection shall be deposited in the Nursing Student Loan Forgiveness Trust Fund of the Department of Health Education and will be used solely for the purpose of carrying out the provisions of this section and s. 240.4076. Up to 50 percent of the revenues appropriated to implement this subsection may be used for the nursing scholarship program established pursuant to s. 240.4076.

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions, except that this provision shall not apply to state-operated medical and health care facilities, public schools, county health departments, federally sponsored community health centers, or teaching hospitals as defined in s. 408.07, family practice teaching hospitals as defined in s. 395.805, or specialty hospitals for children as used in s. 409.9119. If in any given fiscal quarter there are insufficient funds in the trust fund to grant all eligible applicant requests, awards shall be based on the following priority of employer: county health departments; federally sponsored community health centers; state-operated medical and health care facilities; public schools; teaching hospitals as defined in s. 408.07; family practice teaching hospitals as defined in s. 395.805; specialty hospitals for children as
used in s. 409.9119; and other hospitals, birth centers, and nursing homes.

(b) All Nursing Student Loan Forgiveness Trust Fund moneys shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness and scholarships. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.

(8) The Department of Health may solicit technical assistance relating to the conduct of this program from the Department of Education.

(9) The Department of Health is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the Nursing Student Loan Forgiveness Program.

(10) The Department of Health may adopt rules necessary to administer this program.

(11) This section shall be implemented only as specifically funded.

Section 92. Section 240.4076, Florida Statutes, is amended to read:

240.4076 Nursing scholarship program.--

(1) There is established within the Department of Health a scholarship program for the purpose of attracting capable and promising students to the nursing profession.

(2) A scholarship applicant shall be enrolled as a full-time or part-time student in the upper division of an approved nursing program leading to the award of a baccalaureate degree or graduate degree to qualify for a
nursing faculty position or as any advanced registered nurse practitioner degree or be enrolled as a full-time or part-time student in an approved program leading to the award of an associate degree in nursing or a diploma in nursing.

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed $8,000 per year. However, registered nurses pursuing a graduate degree for a faculty position or to practice as an advanced registered nurse practitioner degree may receive up to $12,000 per year.

Beginning July 1, 1998, these amounts shall be adjusted by the amount of increase or decrease in the consumer price index for urban consumers published by the United States Department of Commerce.

(4) Credit for repayment of a scholarship shall be as follows:

(a) For each full year of scholarship assistance, the recipient agrees to work for 12 months in a faculty position in a college of nursing or community college nursing program in this state or at a health care facility in a medically underserved area as approved by the Department of Health Education. Scholarship recipients who attend school on a part-time basis shall have their employment service obligation prorated in proportion to the amount of scholarship payments received.

(b) Eligible health care facilities include nursing homes and hospitals in this state, state-operated medical or health care facilities, public schools, county health departments, federally sponsored community health centers, colleges of nursing in universities in this state, and community college nursing programs in this state or teaching hospitals as defined in s. 408.07. The recipient shall be

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encouraged to complete the service obligation at a single employment site. If continuous employment at the same site is not feasible, the recipient may apply to the department for a transfer to another approved health care facility.

(c) Any recipient who does not complete an appropriate program of studies or who does not become licensed shall repay to the Department of Health Education, on a schedule to be determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the scholarship payment. Moneys repaid shall be deposited into the Nursing Student Loan Forgiveness Trust Fund established in s. 240.4075. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(d) Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance received shall repay to the Department of Health Education an amount equal to two times the entire amount of the scholarship plus interest accruing from the date of the scholarship payment at the maximum allowable interest rate permitted by law. Repayment shall be made within 1 year of notice that the recipient is considered to be in default. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(5) Scholarship payments shall be transmitted to the recipient upon receipt of documentation that the recipient is enrolled in an approved nursing program. The Department of
Health Education shall develop a formula to prorate payments to scholarship recipients so as not to exceed the maximum amount per academic year.

(6) The Department of Health Education shall adopt rules, including rules to address extraordinary circumstances that may cause a recipient to default on either the school enrollment or employment contractual agreement, to implement this section and may solicit technical assistance relating to the conduct of this program from the Department of Health.

(7) The Department of Health Education is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the nursing scholarship program.

Section 93. All powers, duties, and functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Education relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Health.

Section 94. Effective July 1, 2003, section 464.005, Florida Statutes, is amended to read:

464.005 Board headquarters.--The board shall maintain its official headquarters in Tallahassee the city in which it has been domiciled for the past 5 years.

Section 95. Subsections (1) and (2) of section 464.008, Florida Statutes, are amended to read:

464.008 Licensure by examination.--

(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the
department to take the licensure examination. The department shall examine each applicant who:

(a) Has completed the application form and remitted a fee set by the board not to exceed $150 and has remitted an examination fee set by the board not to exceed $75 plus the actual per applicant cost to the department for purchase of the examination from the National Council of State Boards of Nursing or a similar national organization.

(b) Has provided sufficient information on or after October 1, 1989, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

(c) Is in good mental and physical health, is a recipient of a high school diploma or the equivalent, and has completed the requirements for graduation from an approved program, or its equivalent as determined by the board, for the preparation of registered nurses or licensed practical nurses, whichever is applicable. Courses successfully completed in a professional nursing program which are at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.

(d) Has the ability to communicate in the English language, which may be determined by an examination given by the department.

(2) Each applicant who passes the examination and provides proof of meeting the educational requirements specified in subsection (1) shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

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Section 96. Section 464.009, Florida Statutes, is amended to read:

464.009 Licensure by endorsement.--

(1) The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department and remitting a fee set by the board not to exceed $100, demonstrates to the board that he or she:

(a) Holds a valid license to practice professional or practical nursing in another state of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time; or

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department.

(2) Such examinations and requirements from other states shall be presumed to be substantially equivalent to or more stringent than those in this state. Such presumption shall not arise until January 1, 1980. However, the board may, by rule, specify states the examinations and requirements of which shall not be presumed to be substantially equivalent to those of this state.

(3) The applicant must submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant. The Department of Health shall submit the fingerprints provided by the applicant to the

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Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The Department of Health shall review the results of the criminal history check, issue a license to an applicant who has met all of the other requirements for licensure and has no criminal history, and shall refer all applicants with criminal histories back to the board for determination as to whether a license should be issued and under what conditions.

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for an act which would constitute a violation of this part or chapter 456 until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

(5) The department shall develop an electronic applicant notification process and provide electronic notification when the application has been received and when background screenings have been completed, and shall issue a license within 30 days after completion of all required data collection and verification. This 30-day period to issue a license shall be tolled if the applicant must appear before the board due to information provided on the application or obtained through screening and data collection and verification procedures.

Section 97. Section 464.0195, Florida Statutes, is created to read:

464.0195 Florida Center for Nursing; goals.--There is established the Florida Center for Nursing to address issues of supply and demand for nursing, including issues of

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recruitment, retention, and utilization of nurse workforce resources. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing. The primary goals for the center shall be to:

1. Develop a strategic statewide plan for nursing manpower in this state by:
   a. Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand, and future projections; and
   b. Selecting from the plan priorities to be addressed.

2. Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:
   a. Review and comment on data analysis prepared for the center;
   b. Recommend systemic changes, including strategies for implementation of recommended changes; and
   c. Evaluate and report the results of these efforts to the Legislature and others.

3. Enhance and promote recognition, reward, and renewal activities for nurses in the state by:
   a. Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center;
   b. Proposing and creating additional reward, recognition, and renewal activities for nurses; and
   c. Promoting media and positive image-building efforts for nursing.

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Section 98. Section 464.0196, Florida Statutes, is created to read:

464.0196 Florida Center for Nursing; board of directors.--

(1) The Florida Center for Nursing shall be governed by a policy-setting board of directors. The board shall consist of 16 members, with a simple majority of the board being nurses representative of various practice areas. Other members shall include representatives of other health care professions, business and industry, health care providers, and consumers. The members of the board shall be appointed by the Governor as follows:

(a) Four members recommended by the President of the Senate, at least one of whom shall be a registered nurse recommended by the Florida Organization of Nurse Executives and at least one other representative of the hospital industry recommended by the Florida Hospital Association;

(b) Four members recommended by the Speaker of the House of Representatives, at least one of whom shall be a registered nurse recommended by the Florida Nurses Association and at least one other representative of the long-term care industry;

(c) Four members recommended by the Governor, two of whom shall be registered nurses; and

(d) Four nurse educators recommended by the State Board of Education, one of whom shall be a dean of a College of Nursing at a state university, one other shall be a director of a nursing program in a state community college.

(2) The initial terms of the members shall be as follows:

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(a) Of the members appointed pursuant to paragraph (1)(a), two shall be appointed for terms expiring June 30, 2005, one for a term expiring June 30, 2004, and one for a term expiring June 30, 2003.

(b) Of the members appointed pursuant to paragraph (1)(b), one shall be appointed for a term expiring June 30, 2005, two for terms expiring June 30, 2004, and one for a term expiring June 20, 2003.

(c) Of the members appointed pursuant to paragraph (1)(c), one shall be appointed for a term expiring June 30, 2005, one for a term expiring June 30, 2004, and two for terms expiring June 30, 2003.

(d) Of the members appointed pursuant to paragraph (1)(d), the terms of two members recommended by the State Board of Education shall expire June 30, 2005; the term of the member who is a dean of a College of Nursing at a state university shall expire June 30, 2004; and the term of the member who is a director of a state community college nursing program shall expire June 30, 2003.

After the initial appointments expire, the terms of all the members shall be for 3 years, with no member serving more than two consecutive terms.

(3) The board shall have the following powers and duties:

(a) To employ an executive director.

(b) To determine operational policy.

(c) To elect a chair and officers, to serve 2-year terms. The chair and officers may not succeed themselves.

(d) To establish committees of the board as needed.
(e) To appoint a multidisciplinary advisory council for input and advice on policy matters.

(f) To implement the major functions of the center as established in the goals set out in s. 464.0195.

(g) To seek and accept nonstate funds for sustaining the center and carrying out center policy.

(4) The members of the board are entitled to receive per diem and allowances prescribed by law for state boards and commissions.

Section 99. Section 464.0197, Florida Statutes, is created to read:

464.0197 Florida Center for Nursing; state budget support.--The Legislature finds that it is imperative that the state protect its investment and progress made in nursing efforts to date. The Legislature finds that the Florida Center for Nursing is the appropriate means to do so. The center shall have state budget support for its operations so that it may have adequate resources for the tasks the Legislature has set out in s. 464.0195.

Section 100. The Board of Nursing within the Department of Health shall hold in abeyance until July 1, 2002, the development of any rule pursuant to s. 464.019(2), Florida Statutes, which relates to the establishment of faculty/student clinical ratios. The Board of Nursing and the Department of Education shall submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such proposed rule change.

Section 101. Subsection (1) of section 464.0205, Florida Statutes, is amended to read:

464.0205 Retired volunteer nurse certificate.--
(1) Any retired practical or registered nurse desiring
to serve indigent, underserved, or critical need populations
in this state may apply to the department for a retired
volunteer nurse certificate by providing:
   (a) A complete application.
   (b) An application and processing fee of $25.
       (c) Verification that the applicant had been
licensed to practice nursing in any jurisdiction in the United
States for at least 10 years, had retired or plans to retire,
intends to practice nursing only pursuant to the limitations
provided by the retired volunteer nurse certificate, and has
not committed any act that would constitute a violation under
s. 464.018(1).
   (c) Proof that the applicant meets the requirements
for licensure under s. 464.008 or s. 464.009.

Section 102. The Florida Legislature's Office of
Program Policy Analysis and Government Accountability shall
study the feasibility of maintaining the entire Medical
Quality Assurance function, including enforcement, within one
department, as recommended by the Auditor General in
Operational Report Number 01-063. The study shall be completed
and a report issued to the Legislature on or before November

Section 103. Effective October 1, 2001, section
456.0375, Florida Statutes, is created to read:

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

(1)(a) As used in this section, the term "clinic"
means a business operating in a single structure or facility,
or in a group of adjacent structures or facilities operating
under the same business name or management, at which health
care services are provided to individuals and which tender charges for reimbursement for such services.

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

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

2. Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

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

(2)(a) Every clinic, as defined in paragraph (1)(a), must register, and must at all times maintain a valid registration, with the Department of Health. Each clinic location shall be registered separately even though operated under the same business name or management, and each clinic shall appoint a medical director or clinical director.
(b) The department shall adopt rules necessary to implement the registration program, including rules establishing the specific registration procedures, forms, and fees. Registration fees must be reasonably calculated to cover the cost of registration and must be of such amount that the total fees collected do not exceed the cost of administering and enforcing compliance with this section. Registration may be conducted electronically. The registration program must require:

1. The clinic to file the registration form with the department within 60 days after the effective date of this section or prior to the inception of operation. The registration expires automatically 2 years after its date of issuance and must be renewed biennially.

2. The registration form to contain the name, residence and business address, phone number, and license number of the medical director or clinical director for the clinic.

3. The clinic to display the registration certificate in a conspicuous location within the clinic readily visible to all patients.

3(a) Each clinic must employ or contract with a physician maintaining a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461 to serve as the medical director. However, if the clinic is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a health care practitioner licensed under that chapter to serve as a clinical director who is responsible for the clinic's

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activities. A health care practitioner may not serve as the clinical director if the services provided at the clinic are beyond the scope of that practitioner's license.

(b) The medical director or clinical director shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinical director shall:

1. Have signs identifying the medical director or clinical director posted in a conspicuous location within the clinic readily visible to all patients.

2. Ensure that all practitioners providing health care services or supplies to patients maintain a current active and unencumbered Florida license.

3. Review any patient referral contracts or agreements executed by the clinic.

4. Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

5. Serve as the clinic records holder as defined in s. 456.057.

6. Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and rules adopted thereunder.

7. Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director shall take immediate corrective action.

(c) Any contract to serve as a medical director or a clinical director entered into or renewed by a physician or a licensed health care practitioner in violation of this section

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is void as contrary to public policy. This section shall
apply to contracts entered into or renewed on or after October
1, 2001.

(d) The department, in consultation with the boards,
shall adopt rules specifying limitations on the number of
registered clinics and licensees for which a medical director
or a clinical director may assume responsibility for purposes
of this section. In determining the quality of supervision a
medical director or a clinical director can provide, the
department shall consider the number of clinic employees,
clinic location, and services provided by the clinic.

(4)(a) All charges or reimbursement claims made by or
on behalf of a clinic that is required to be registered under
this section, but that is not so registered, are unlawful
charges and therefore are noncompensable and unenforceable.

(b) Any person establishing, operating, or managing an
unregistered clinic otherwise required to be registered under
this section commits a felony of the third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any licensed health care practitioner who violates
this section is subject to discipline in accordance with
chapter 456 and the respective practice act.

(d) The department shall revoke the registration of
any clinic registered under this section for operating in
violation of the requirements of this section or the rules
adopted by the department.

(e) The department shall investigate allegations of
noncompliance with this section and the rules adopted pursuant
to this section.

Section 104. The sum of $100,000 is appropriated from
the registration fees collected from clinics pursuant to s.
456.0375, Florida Statutes, and one-half of one full-time
equivalent position is authorized, to the Department of Health
for the purposes of regulating medical clinics pursuant to s.
456.0375, Florida Statutes. The appropriated funds shall be
deposited into the Medical Quality Assurance Trust Fund.

Section 105. Subsection (3) of section 456.031, Florida Statutes, is amended to read:

        456.031  Requirement for instruction on domestic
violence.--

    (3)(a) In lieu of completing a course as required in
subsection (1), a licensee or certificateholder may complete a
course in end-of-life care and palliative health care, if the
licensee or certificateholder has completed an approved
domestic violence course in the immediately preceding
biennium.

    (b) In lieu of completing a course as required by
subsection (1), a person licensed under chapter 466 who has
completed an approved domestic-violence education course in
the immediately preceding 2 years may complete a course
approved by the Board of Dentistry.

Section 106. Subsection (9) of section 456.033, Florida Statutes, is amended to read:

        456.033  Requirement for instruction for certain
licensees on human immunodeficiency virus and acquired immune
deficiency syndrome.--

    (9)(a) In lieu of completing a course as required in
subsection (1), the licensee may complete a course in
end-of-life care and palliative health care, so long as the
licensee completed an approved AIDS/HIV course in the
immediately preceding biennium.
(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved AIDS/HIV course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

Section 107. (1) Subsection (9) is added to section 627.419, Florida Statutes, to read:

627.419 Construction of policies.—
(9) With respect to any group or individual insurer covering dental services, each claimant, or dentist acting for a claimant, who has had a claim denied as not medically or dentally necessary or who has had a claim payment based on an alternate dental service in accordance with accepted dental standards for adequate and appropriate care must be provided an opportunity for an appeal to the insurer's licensed dentist who is responsible for the medical necessity reviews under the plan or is a member of the plan's peer review group. The appeal may be by telephone, and the insurer's dentist must respond within a reasonable time, not to exceed 15 business days.

(2) This section shall apply to policies issued or renewed on or after July 1, 2001.

Section 108. Paragraph (d) of subsection (3) of section 468.302, Florida Statutes, is amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—
(3)
(d) A person holding a certificate as a general radiographer may not perform nuclear medicine and radiation therapy procedures, except as provided in this paragraph. A person who is a general radiographer certified pursuant to 269

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this part who receives additional training and skills in radiation therapy technology procedures as referenced in this paragraph may assist with managing patients undergoing radiation therapy treatments if that assistance is provided to a person registered with the American Registry of Radiologic Technologists in radiation therapy who is also certified pursuant to this part as a radiation therapy technologist. Both the general radiographer and the radiation therapy technologist must perform these radiation therapy services under the general supervision of a physician licensed under chapter 458 or chapter 459 who is trained and skilled in performing radiation therapy treatments. The radiation therapy technologist identified under this paragraph may not delegate any function to the general radiographer which could reasonably be expected to create an unnecessary danger to a patient's life, health, or safety. The general radiographer identified under this section may not, however, perform the following services while assisting the radiation therapy technologist: radiation treatment planning, calculation of radiation therapy doses, or any of the duties of a medical physicist. The general radiographer identified under this section must successfully complete a training program in the following areas before assisting with radiation therapy technology duties:

1. Principles of radiation therapy treatment;
2. Biological effects of radiation;
3. Radiation exposure and monitoring;
4. Radiation safety and protection;
5. Evaluation and handling of radiographic treatment equipment and accessories; and

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In addition, a general radiographer may participate in additional approved programs as provided by rule of the department.

Section 109. Subsections (8) and (9) of section 468.352, Florida Statutes, are amended to read:

468.352 Definitions.--As used in this part, unless the context otherwise requires, the term:

(8) "Registered respiratory therapist" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) "Certified respiratory therapist" or "respiratory care practitioner" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board.

Section 110. Subsections (1) and (2) of section 468.355, Florida Statutes, are amended to read:

468.355 Eligibility for licensure; temporary licensure.--

CODING: Words stricken are deletions; words underlined are additions.
(1) To be eligible for licensure by the board as a certified respiratory therapist respiratory care practitioner, an applicant must:
   (a) Be at least 18 years old.
   (b) Possess a high school diploma or a graduate equivalency diploma.
   (c) Meet at least one of the following criteria:
   1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.
   2. The applicant is currently a "Certified Respiratory Therapy Technician" certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.
   3. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for licensure by the board as a registered respiratory therapist, an applicant must:
   (a) Be at least 18 years old.
   (b) Possess a high school diploma or a graduate equivalency diploma.

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(c) Meet at least one of the following criteria:
   1. The applicant has successfully completed a training program for registered respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.
   2. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

Section 111. Section 468.357, Florida Statutes, is amended to read:

468.357 Licensure by examination.--
   (1) A person who desires to be licensed as a certified respiratory therapist may submit an application to take the examination, in accordance with board rule.
   (a) Each applicant may take the examination who is determined by the board to have:
      1. Completed the application form and remitted the applicable fee set by the board;
      2. Submitted required documentation as required in s. 468.355; and
      3. Remitted an examination fee set by the examination provider.

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(b) Examinations for licensure of certified respiratory therapist respiratory care practitioners must be conducted no less than two times a year in such geographical locations or by such methods as are deemed advantageous to the majority of the applicants.

(c) The examination given for certified respiratory therapist respiratory care practitioners shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory therapists therapy technicians. However, an equivalent examination may be accepted by the board in lieu of that examination.

(2) Each applicant who passes the examination shall be entitled to licensure as a certified respiratory therapist respiratory care practitioner, and the department shall issue a license pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such an offense, the applicable provisions of s. 468.365 will apply.

Section 112. Subsections (1) and (2) of section 468.358, Florida Statutes, are amended to read:

468.358 Licensure by endorsement.--

(1) Licensure as a certified respiratory therapist respiratory care practitioner shall be granted by endorsement to an individual who holds the "Certified Respiratory Therapist Therapy Technician" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this
(2) Licensure as a registered respiratory therapist shall be granted by endorsement to an individual who holds the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

Section 113. Section 468.359, Florida Statutes, is amended to read:

468.359 Assumption of title and use of abbreviations.--

(1) Only persons who are licensed pursuant to this part as respiratory care practitioners have the right to use the title "Respiratory Care Practitioner" and the abbreviation "RCP."

(2) Only persons who are licensed pursuant to this part as registered respiratory therapists have the right to use the title "Registered Respiratory Therapist" and the abbreviation "RRT" when delivering services pursuant to this part provided such persons have passed the Registry Examination for Respiratory Therapists given by the National Board for Respiratory Care.

(3) Only persons who are licensed pursuant to this part as certified respiratory therapists have the right to use the title "Certified Respiratory Therapist" and the abbreviation "CRT" when delivering services pursuant to this part. Graduates of board-approved programs for respiratory

CODING: Words stricken are deletions; words underlined are additions.
care practitioners may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."

(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."

(4)-(5) No person in this state shall deliver respiratory care services; advertise as, or assume the title of, respiratory care practitioner, certified respiratory therapist, or registered respiratory therapist; or use the abbreviation "RCP," "CRT," or "RRT" that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed; or take any other action that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed.

Section 114. Subsections (2), (3), and (4) of section 468.1155, Florida Statutes, are amended to read:

468.1155 Provisional license; requirements.--

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Received a master's degree or is currently enrolled in a doctoral degree program with a major emphasis in speech-language pathology from an institution of higher learning which is, or at the time the applicant was enrolled and graduated, was accredited by an accrediting agency recognized by the Council for Higher Education Commission on Recognition of Postsecondary Accreditation or from an institution which is publicly recognized as a member in good

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standing with the Association of Universities and Colleges of Canada. An applicant who graduated from or is currently enrolled in a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the Council for Higher Education Accreditation on Recognition of Postsecondary Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in audiology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in speech-language pathology.

   (c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of speech-language pathology or completed the number of clock hours required by an accredited institution meeting national certification standards. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

   (3) The department shall issue a provisional license to practice audiology to each applicant who the board certifies has:

   (a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

   (b) Received a master's degree or is currently enrolled in a doctoral degree program with a major emphasis in

CODING: Words stricken are deletions; words underlined are additions.
audiology from an institution of higher learning which is, or at the time the applicant was enrolled and graduated was, accredited by an accrediting agency recognized by the Council for Higher Education Commission on Recognition of Postsecondary Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from or is currently enrolled in a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the Council for Higher Education Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in speech-language pathology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in audiology.

(c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of audiology or completed the number of clock hours required by an accredited institution meeting national certification standards. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

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(4) An applicant for a provisional license who has received a master's degree or is currently enrolled in a doctoral degree program with a major emphasis in speech-language pathology as provided in subsection (2), or audiology as provided in subsection (3), and who seeks licensure in the area in which the applicant is not currently licensed, must have completed 30 semester hours in courses acceptable toward a graduate degree and 200 supervised clinical clock hours in the second discipline from an accredited institution.

Section 115. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 468.1215, Florida Statutes, are amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.--

(1) The department shall issue a certificate as a speech-language pathology assistant to each applicant who the board certifies has:

(b) Earned a bachelor's degree from a college or university accredited by a regional association of colleges and schools recognized by the Department of Education which includes at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Council for Higher Education Commission on Recognition of Postsecondary Accreditation.

(2) The department shall issue a certificate as an audiology assistant to each applicant who the board certifies has:

(b) Completed at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Council for Higher Education.
Education Commission on Recognition of Postsecondary Accreditation.

Section 116. Subsection (3) of section 480.033, Florida Statutes, is amended to read:

480.033 Definitions.--As used in this act:
(3) "Massage" means the manipulation of the superficial tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

Section 117. Subsection (3) of section 484.002, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

484.002 Definitions.--As used in this part:
(3) "Opticianry" means the preparation and dispensing of lenses, spectacles, eyeglasses, contact lenses, and other optical devices to the intended user or agent thereof, upon the written prescription of a licensed allopathic or osteopathic physician or optometrist who is duly licensed to practice or upon presentation of a duplicate prescription. The selection of frame designs, the actual sales transaction, and the transfer of physical possession of lenses, spectacles, eyeglasses, contact lenses, and other optical devices subsequent to performance of all services of the optician shall not be considered the practice of opticianry; however, such physical possession shall not be transferred until the optician has completed the fitting of the optical device upon the customer. The practice of opticianry also includes the duplication of lenses accurately.

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as to power, without prescription. A board-certified optician qualified and operating under rules established by the board may fill, fit, adapt, or dispense any soft contact lens prescription. Such optician may fill, fit, adapt, or dispense any extended wear or hard contact lens prescription to the extent authorized to do so by the prescribing allopathic or osteopathic physician medical doctor or optometrist.

(8) "Contact lenses" means a prescribed medical device intended to be worn directly against the cornea of the eye to correct vision conditions, act as a therapeutic device, or provide a cosmetic effect.

(9) "Optical Dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer, duplicating lenses, accurately as to power without a prescription and duplicating nonprescription eyewear and parts of eyewear. "Optical Dispensing" does not include selecting frames, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

Section 118. Subsection (2) of section 484.006, Florida Statutes, is amended to read:

484.006 Certain rules prohibited.--

(2) No rule or policy of the board shall prohibit any optician from practicing jointly with optometrists or allopathic or osteopathic physicians medical doctors licensed in this state.

Section 119. Subsections (1) and (2) of section 484.012, Florida Statutes, are amended to read:

CODING: Words stricken are deletions; words underlined are additions.
484.012 Prescriptions; filing; duplication of prescriptions; duplication of lenses.--

(1) Any prescription written by a duly licensed allopathic or osteopathic physician medical doctor or optometrist for any lenses, spectacles, eyeglasses, contact lenses, or other optical devices shall be kept on file for a period of 2 years with the optical establishment that fills such prescription. However, the licensed optician may maintain a copy of the prescription.

(2) Upon request by the intended user of the prescribed lenses, spectacles, eyeglasses, contact lenses, or other optical devices, or by an agent of the intended user, the optician who fills the original prescription shall duplicate, on a form prescribed by rule of the board, the original prescription. However, for medical reasons only, the prescribing allopathic or osteopathic physician medical doctor or optometrist may, upon the original prescription, prohibit its duplication. Any duplication shall be considered a valid prescription to be filled for a period of 5 years from the date of the original prescription, except that a contact lens prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.

Section 120. Section 484.013, Florida Statutes, is amended to read:

484.013 Violations and penalties.--

(1) It is unlawful for any person:

(a) To make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.
(b) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices when such person is not licensed as an optician in this state.

(c) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices without first being furnished with a prescription as provided for in s. 484.012.

(2) It is unlawful for any person other than an optician licensed under this part to use the title "optician" or otherwise lead the public to believe that she or he is engaged in the practice of opticianry.

(3) It is unlawful for any optician to engage in the diagnosis of the human eyes, attempt to determine the refractive powers of the human eyes, or, in any manner, attempt to prescribe for or treat diseases or ailments of human beings.

(4) It is unlawful for any person to open or operate, either alone or with any other person or persons, an optical establishment which does not have the permit required by this part.

(5)(a) Except as otherwise provided in paragraph (b), any person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who knowingly violates paragraph (1)(c) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 121. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.--

CODING: Words stricken are deletions; words underlined are additions.
(3) OFFENSE SEVERITY RANKING CHART

<table>
<thead>
<tr>
<th>Florida Statute</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>316.193(3)(c)</td>
<td>3rd</td>
<td>DUI resulting in serious bodily injury.</td>
</tr>
<tr>
<td>327.35(3)(c)</td>
<td>3rd</td>
<td>Vessel BUI resulting in serious bodily injury.</td>
</tr>
<tr>
<td>402.319</td>
<td>2nd</td>
<td>Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.</td>
</tr>
<tr>
<td>409.920</td>
<td>3rd</td>
<td>Medicaid provider fraud.</td>
</tr>
<tr>
<td>456.065</td>
<td>3rd</td>
<td>Practicing a health care profession without a license.</td>
</tr>
<tr>
<td>456.065</td>
<td>2nd</td>
<td>Practicing a health care profession without a license which results in serious bodily injury.</td>
</tr>
<tr>
<td>458.327</td>
<td>3rd</td>
<td>Practicing medicine without a license.</td>
</tr>
<tr>
<td>459.013</td>
<td>3rd</td>
<td>Practicing osteopathic medicine without a license.</td>
</tr>
<tr>
<td>460.411</td>
<td>3rd</td>
<td>Practicing chiropractic medicine without a license.</td>
</tr>
<tr>
<td>461.012</td>
<td>3rd</td>
<td>Practicing podiatric medicine without a license.</td>
</tr>
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</table>

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<thead>
<tr>
<th>Statute</th>
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<tr>
<td>462.17</td>
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<tr>
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<tr>
<td>Practicing naturopathy without a license.</td>
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<tr>
<td>463.015(1)</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Practicing optometry without a license.</td>
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<tr>
<td>464.016(1)</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Practicing nursing without a license.</td>
</tr>
<tr>
<td>465.015(2)</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Practicing pharmacy without a license.</td>
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<tr>
<td>466.026(1)</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Practicing dentistry or dental hygiene without a license.</td>
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<td>467.201</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Practicing midwifery without a license.</td>
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<tr>
<td>468.366</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Delivering respiratory care services without a license.</td>
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<td>483.828(1)</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Practicing as clinical laboratory personnel without a license.</td>
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<td>483.901(9)</td>
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<tr>
<td>Practicing medical physics without a license.</td>
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<td>484.013(1)(c)</td>
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<tr>
<td>3rd</td>
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<tr>
<td>Preparing or dispensing optical devices without a prescription.</td>
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<td>484.053</td>
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<td>3rd</td>
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<tr>
<td>494.0018(2)</td>
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<tr>
<td>1st</td>
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<tr>
<td>Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
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<tbody>
<tr>
<td>560.123(8)(b)1</td>
<td>3rd</td>
<td>Failure to report currency or payment instruments exceeding $300 but less than $20,000 by money transmitter.</td>
</tr>
<tr>
<td>560.125(5)(a)</td>
<td>3rd</td>
<td>Money transmitter business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.</td>
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<td>655.50(10)(b)1</td>
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<td>Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.</td>
</tr>
<tr>
<td>782.051(3)</td>
<td>2nd</td>
<td>Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.</td>
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<tr>
<td>782.07(1)</td>
<td>2nd</td>
<td>Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).</td>
</tr>
<tr>
<td>782.071</td>
<td>2nd</td>
<td>Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).</td>
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<tr>
<td>782.072</td>
<td>2nd</td>
<td>Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).</td>
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<td>784.045(1)(a)1</td>
<td>2nd</td>
<td>Aggravated battery; intentionally causing great bodily harm or disfigurement.</td>
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<table>
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<tr>
<th>Section</th>
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<th>Description</th>
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<tbody>
<tr>
<td>784.045(1)(a)2</td>
<td>2nd</td>
<td>Aggravated battery; using deadly weapon.</td>
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<tr>
<td>784.045(1)(b)</td>
<td>2nd</td>
<td>Aggravated battery; perpetrator aware victim pregnant.</td>
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<td>784.048(4)</td>
<td>3rd</td>
<td>Aggravated stalking; violation of injunction or court order.</td>
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<td>784.07(2)(d)</td>
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<td>Aggravated battery on law enforcement officer.</td>
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<td>784.08(2)(a)</td>
<td>1st</td>
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<td>784.081(1)</td>
<td>1st</td>
<td>Aggravated battery on specified official or employee.</td>
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<tr>
<td>784.082(1)</td>
<td>1st</td>
<td>Aggravated battery by detained person on visitor or other detainee.</td>
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<tr>
<td>790.07(4)</td>
<td>1st</td>
<td>Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).</td>
</tr>
<tr>
<td>790.16(1)</td>
<td>1st</td>
<td>Discharge of a machine gun under specified circumstances.</td>
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<tr>
<td>790.166(3)</td>
<td>2nd</td>
<td>Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.</td>
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<td>796.03</td>
<td>2nd</td>
<td>Procuring any person under 16 years for prostitution.</td>
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<td>800.04(5)(c)1.</td>
<td>2nd</td>
<td>Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.</td>
</tr>
<tr>
<td>Section</td>
<td>Degree</td>
<td>Description</td>
</tr>
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</tr>
<tr>
<td>800.04(5)(c)2</td>
<td>2nd</td>
<td>Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.</td>
</tr>
<tr>
<td>806.01(2)</td>
<td>2nd</td>
<td>Maliciously damage structure by fire or explosive.</td>
</tr>
<tr>
<td>810.02(3)(a)</td>
<td>2nd</td>
<td>Burglary of occupied dwelling; unarmed; no assault or battery.</td>
</tr>
<tr>
<td>810.02(3)(b)</td>
<td>2nd</td>
<td>Burglary of unoccupied dwelling; unarmed; no assault or battery.</td>
</tr>
<tr>
<td>810.02(3)(d)</td>
<td>2nd</td>
<td>Burglary of occupied conveyance; unarmed; no assault or battery.</td>
</tr>
<tr>
<td>812.014(2)(a)</td>
<td>1st</td>
<td>Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.</td>
</tr>
<tr>
<td>812.019(2)</td>
<td>1st</td>
<td>Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.</td>
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<tr>
<td>812.131(2)(a)</td>
<td>2nd</td>
<td>Robbery by sudden snatching.</td>
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<tr>
<td>812.133(2)(b)</td>
<td>1st</td>
<td>Carjacking; no firearm, deadly weapon, or other weapon.</td>
</tr>
<tr>
<td>825.102(3)(b)</td>
<td>2nd</td>
<td>Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.</td>
</tr>
<tr>
<td>825.1025(2)</td>
<td>2nd</td>
<td>Lewd or lascivious battery upon an elderly person or disabled adult.</td>
</tr>
</tbody>
</table>

**CODING:** Words _stricken_ are deletions; words _underlined_ are additions.
| 1 | 825.103(2)(b) | 2nd | Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000. |
| 2 | 827.03(3)(b) | 2nd | Neglect of a child causing great bodily harm, disability, or disfigurement. |
| 3 | 827.04(3) | 3rd | Impregnation of a child under 16 years of age by person 21 years of age or older. |
| 4 | 837.05(2) | 3rd | Giving false information about alleged capital felony to a law enforcement officer. |
| 5 | 872.06 | 2nd | Abuse of a dead human body. |
| 6 | 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school. |
| 7 | 893.13(1)(e)1. | 1st | Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site. |

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1  893.13(4)(a)  1st  Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
2  893.135(1)(a)1.  1st  Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
3  893.135  1st  Trafficking in cocaine, more than 28 grams, less than 200 grams.
4  893.135  1st  Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
5  893.135  1st  Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
6  893.135(1)(e)1.  1st  Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
7  893.135(1)(f)1.  1st  Trafficking in amphetamine, more than 14 grams, less than 28 grams.
8  893.135  1st  Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

CODING: Words **stricken** are deletions; words **underlined** are additions.
ENROLLED
2001 Legislature                 CS for SB 1558, 2nd Engrossed

1  893.135
2   (1)(h)1.a.  1st      Trafficking in
3       gamma-hydroxybutyric acid (GHB),
4       1 kilogram or more, less than 5
5       kilograms.
6  893.135
7   (1)(i)1.a.  1st      Trafficking in 1,4-Butanediol, 1
8       kilogram or more, less then 5
9       kilograms.
10  893.135
11   (1)(j)2.a.  1st      Trafficking in Phenethylamines,
12       10 grams or more, less than 200
13       grams.
14  896.101(5)(a)  3rd      Money laundering, financial
15       transactions exceeding $300 but
16       less than $20,000.
17  896.104(4)(a)1.  3rd      Structuring transactions to evade
18       reporting or registration
19       requirements, financial
20       transactions exceeding $300 but
21       less than $20,000.

Section 122.  Section 484.015, Florida Statutes, is
amended to read:

        484.015 Authority to inspect.--Duly authorized agents
        and employees of the department shall have the power to
        inspect in a lawful manner at all reasonable hours an any
        establishment of any kind in the state in which lenses,
        spectacles, eyeglasses, contact lenses, and any other optical
        devices are prepared or and dispensed, for the purposes of:
        (1) Determining if any provision of this part, or any
        rule promulgated under its authority, is being violated;

CODING: Words stricken are deletions; words underlined are additions.
(2) Securing samples or specimens of any lenses, spectacles, eyeglasses, contact lenses, or other optical devices, after paying or offering to pay for such sample or specimen; or

(3) Securing such other evidence as may be needed for prosecution under this part.

Section 123. Subsection (1) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.--

(1) The board shall establish by rule a training program for a minimum not to exceed 6 months in length, which may include a board-approved home study course. Upon submitting to the department the registration fee, the applicant may register and enter the training program. Upon completion of the training program, the trainee shall take the first available written and practical examinations offered by the department. The department shall administer the written and practical examinations as prescribed by board rule. If the trainee fails either the written or the practical examination, she or he may repeat the training program one time and retake the failed examination, provided she or he takes the next available examination. No person may remain in trainee status or further perform any services authorized for a trainee if she or he fails either the written or the practical examination twice; but, a trainee may continue to function as a trainee until she or he has received the results of the examinations. Any applicant who has failed an examination twice and is no longer functioning as a trainee shall be eligible for reexamination as provided in s. 484.045(2).
Section 124. Section 484.045, Florida Statutes, is amended to read:

484.045 Licensure by examination.--

(1) Any person desiring to be licensed as a hearing aid specialist shall apply to the department on a form approved by the department to take the licensure examination, which shall include a clinical practical component.

(2) The department shall license each applicant who the board certifies:

(a) Has completed the application form and remitted the required fees applicable fee to the board and has paid the examination fee;

(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; and

(e)1. Has met the requirements of the training program set forth in s. 484.0445; 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. Persons qualifying under this sub-subparagraph need not take the written or practical examination, but must take and pass a test on Florida laws and rules relating to the fitting and dispensing of hearing aids.

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

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(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 hearing aids.

(3) A person who fails the examination may make application for reexamination to the appropriate examining entity, as prescribed by board rule.

(2) On or after October 1, 1990, every applicant who is qualified to take the examination shall be allowed to take the examination three times. If, after October 1, 1990, an applicant fails the examination three times, the applicant shall no longer be eligible to take the examination.

(3) The department shall issue a license to practice dispensing hearing aids to any applicant who successfully completes the examination in accordance with this section.

Section 125. Effective January 1, 2002, subsection (1) of section 490.012, Florida Statutes, is amended to read:

490.012 Violations; penalties; injunction.--

(1)(a) No person shall hold herself or himself out by any professional title, name, or description incorporating the word "psychologist" unless such person holds a valid, active license as a psychologist under this chapter.

(b) No person shall hold herself or himself out by any professional title, name, or description incorporating the words "school psychologist" unless such person holds a valid, active license as a school psychologist under this chapter or is certified as a school psychologist by the Department of Education.

(c)(1)(a) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychologist," "psychology," "psychological," "psychodiagnostic," or "school psychologist,"

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or describe any test or report as psychological, unless such
person holds a valid, active license under this chapter or is
exempt from the provisions of this chapter.

(d) No person shall hold herself or himself out by
any title or description incorporating the word, or a
permutation of the word, "psychotherapy" unless such person
holds a valid, active license under chapter 458, chapter 459,
chapter 490, or chapter 491, or such person is certified as an
advanced registered nurse practitioner, pursuant to s.
464.012, who has been determined by the Board of Nursing as a
specialist in psychiatric mental health.

(e) No person licensed or provisionally licensed
pursuant to this chapter shall hold herself or himself out by
any title or description which indicates licensure other than
that which has been granted to her or him.

Section 126. Effective January 1, 2002, Florida Statutes, is amended to read:

490.014 Exemptions.--

(1)(a) No provision of this chapter shall be construed
to limit the practice of physicians licensed pursuant to
chapter 458 or chapter 459 so long as they do not hold
themselves out to the public as psychologists or use a
professional title protected by this chapter.

(b) No provision of this chapter shall be construed to
limit the practice of nursing, clinical social work, marriage
and family therapy, mental health counseling, or other
recognized businesses or professions, or to prevent qualified
members of other professions from doing work of a nature
consistent with their training, so long as they do not hold
themselves out to the public as psychologists or use a title
or description protected by this chapter. Nothing in this

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subsection shall be construed to exempt any person from the
provisions of s. 490.012.

(2) No person shall be required to be licensed or
 provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency;
developmental services program, mental health, alcohol, or
drug abuse facility operating pursuant to chapter 393, chapter
394, or chapter 397; subsidized child care program, subsidized
child care case management program, or child care resource and
referral program operating pursuant to chapter 402;
child-placing or child-caring agency licensed pursuant to
chapter 409; domestic violence center certified pursuant to
chapter 39; accredited academic institution; or research
institute, if such employee is performing duties for which
he or she was trained and hired solely within the confines of
such agency, facility, or institution, so long as the employee
is not held out to the public as a psychologist pursuant to s.
490.012(1)(a).

(b) Is a salaried employee of a private, nonprofit
organization providing counseling services to children, youth,
and families, if such services are provided for no charge, if
such employee is performing duties for which he or she was
trained and hired, so long as the employee is not held out to
the public as a psychologist pursuant to s. 490.012(1)(a).

(c) Is a student who is pursuing a course of study
which leads to a degree in medicine or a profession regulated
by this chapter who is providing services in a training
setting, provided such activities or services constitute part
of a supervised course of study, or is a graduate accumulating
the experience required for any licensure under this chapter,
provided such graduate or student is designated by a title

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such as "intern" or "trainee" which clearly indicates the
in-training status of the student.

(d) Is certified in school psychology by the
Department of Education and is performing psychological
services as an employee of a public or private educational
institution. Such exemption shall not be construed to
authorize any unlicensed practice which is not performed as a
direct employee of an educational institution.

(e) Is not a resident of the state but offers services
in this state, provided:

1. Such services are performed for no more than 5 days
in any month and no more than 15 days in any calendar year;

and

2. Such nonresident is licensed or certified by a
state or territory of the United States, or by a foreign
country or province, the standards of which were, at the date
of his or her licensure or certification, equivalent to or
higher than the requirements of this chapter in the opinion of
the department or, in the case of psychologists, in the
opinion of the board.

(f) Is a rabbi, priest, minister, or member of the
clergy of any religious denomination or sect when engaging in
activities which are within the scope of the performance of
his or her regular or specialized ministerial duties and for
which no separate charge is made, or when such activities are
performed, with or without charge, for or under the auspices
or sponsorship, individually or in conjunction with others, of
an established and legally cognizable church, denomination, or
sect, and when the person rendering service remains
accountable to the established authority thereof.

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(3) No provision of this chapter shall be construed to
limit the practice of any individual who solely engages in
behavior analysis so long as he or she does not hold himself
or herself out to the public as possessing a license issued
pursuant to this chapter or use a title or description
protected by this chapter.

(4) Nothing in this section shall exempt any person
from the provisions of s. 490.012(1)(a)-(b).

(5) Except as stipulated by the board, the exemptions
contained in this section do not apply to any person licensed
under this chapter whose license has been suspended or revoked
by the board or another jurisdiction.

Section 127. Effective January 1, 2002, paragraphs
(i), (j), and (k) of subsection (1) of section 491.012,
Florida Statutes, are amended to read:

491.012 Violations; penalty; injunction.--

(1) It is unlawful and a violation of this chapter for
any person to:

(i) Practice clinical social work in this state, as
the practice is defined in s. 491.003(7), for compensation,
unless the person holds a valid, active license to practice
clinical social work issued pursuant to this chapter or is an
intern registered pursuant to s. 491.0045.

(j) Practice marriage and family therapy in this
state, as the practice is defined in s. 491.003(8), for
compensation, unless the person holds a valid, active license
to practice marriage and family therapy issued pursuant to
this chapter or is an intern registered pursuant to s.
491.0045.

(k) Practice mental health counseling in this state,
as the practice is defined in s. 491.003(9), for compensation,

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unless the person holds a valid, active license to practice
mental health counseling issued pursuant to this chapter or is
an intern registered pursuant to s. 491.0045.

Section 128. Effective January 1, 2002, paragraphs (a)
and (b) of subsection (4) of section 491.014, Florida
Statutes, are amended to read:

491.014 Exemptions.--

(4) No person shall be required to be licensed,
 provisionally licensed, registered, or certified under this
chapter who:

(a) Is a salaried employee of a government agency;
developmental services program, mental health, alcohol, or
drug abuse facility operating pursuant to chapter 393, chapter
394, or chapter 397; subsidized child care program, subsidized
child care case management program, or child care resource and
referral program operating pursuant to chapter 402;
child-placing or child-caring agency licensed pursuant to
chapter 409; domestic violence center certified pursuant to
chapter 39; accredited academic institution; or research
institution, if such employee is performing duties for which
he or she was trained and hired solely within the confines of
such agency, facility, or institution, so long as the employee
is not held out to the public as a clinical social worker,
mental health counselor, or marriage and family therapist.

(b) Is a salaried employee of a private, nonprofit
organization providing counseling services to children, youth,
and families, if such services are provided for no charge, if
such employee is performing duties for which he or she was
trained and hired, so long as the employee is not held out to
the public as a clinical social worker, mental health
counselor, or marriage and family therapist.
Section 129. Subsection (4) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.--

(4) Notwithstanding the provisions of s. 456.033, a physician may complete continuing education on end-of-life care and palliative health care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 130. Subsection (5) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.--

(5) Notwithstanding the provisions of s. 456.033, an osteopathic physician may complete continuing education on end-of-life and palliative health care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 131. Subsection (4) of section 765.101, Florida Statutes, is amended to read:

765.101 Definitions.--As used in this chapter:

(4) "End-stage condition" means an irreversible condition that is caused by injury, disease, or illness which has resulted in progressively severe and permanent deterioration, indicated by incapacity and complete physical dependency and for which, to a reasonable degree of medical probability certainty, treatment of the irreversible condition would be medically ineffective.

Section 132. Subsection (4) of section 765.102, Florida Statutes, is amended to read:

765.102 Legislative findings and intent.--

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(4) The Legislature recognizes the need for all health care professionals to rapidly increase their understanding of end-of-life and palliative care. Therefore, the Legislature encourages the professional regulatory boards to adopt appropriate standards and guidelines regarding end-of-life care and pain management and encourages educational institutions established to train health care professionals and allied health professionals to implement curricula to train such professionals to provide end-of-life care, including pain management and palliative care.

Section 133. Section 765.1025, Florida Statutes, is created to read:

    765.1025  Palliative care.--For purposes of this chapter:
    (1) Palliative care is the comprehensive management of the physical, psychological, social, spiritual, and existential needs of patients. Palliative care is especially suited to the care of persons who have incurable, progressive illness.
    (2) Palliative care must include:
    (a) An opportunity to discuss and plan for end-of-life care.
    (b) Assurance that physical and mental suffering will be carefully attended to.
    (c) Assurance that preferences for withholding and withdrawing life-sustaining interventions will be honored.
    (d) Assurance that the personal goals of the dying person will be addressed.
    (e) Assurance that the dignity of the dying person will be a priority.

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(f) Assurance that health care providers will not abandon the dying person.

(g) Assurance that the burden to family and others will be addressed.

(h) Assurance that advance directives for care will be respected regardless of the location of care.

(i) Assurance that organizational mechanisms are in place to evaluate the availability and quality of end-of-life, palliative, and hospice care services, including the evaluation of administrative and regulatory barriers.

(j) Assurance that necessary health care services will be provided and that relevant reimbursement policies are available.

(k) Assurance that the goals expressed in paragraphs (a)-(j) will be accomplished in a culturally appropriate manner.

Section 134. Subsection (2) of section 765.1103, Florida Statutes, is amended to read:

765.1103 Pain management and palliative care.—

(2) Health care providers and practitioners regulated under chapter 458, chapter 459, or chapter 464 must, as appropriate, comply with a request for pain management or palliative care from a patient under their care or, for an incapacitated patient under their care, from a surrogate, proxy, guardian, or other representative permitted to make health care decisions for the incapacitated patient. Facilities regulated under chapter 400 or chapter 395 must comply with the pain management or palliative care measures ordered by the patient's physician. When the patient is receiving care as an admitted patient of a facility or a provider or is a subscriber of a health care facility, health

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care provider, or health care practitioner regulated under chapter 395, chapter 400, chapter 458, chapter 459, chapter 464, or chapter 641, such facility, provider, or practitioner must, when appropriate, comply with a request for pain management or palliative care from a capacitated patient or an incapacitated patient's health care surrogate or proxy, court-appointed guardian as provided in chapter 744, or attorney in fact as provided in chapter 709. The court-appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient.

Section 135. Paragraph (b) of subsection (1) of section 765.205, Florida Statutes, is amended to read:

765.205 Responsibility of the surrogate.--
(1) The surrogate, in accordance with the principal's instructions, unless such authority has been expressly limited by the principal, shall:
(b) Consult expeditiously with appropriate health care providers to provide informed consent, and make only health care decisions for the principal which he or she believes the principal would have made under the circumstances if the principal were capable of making such decisions. If there is no indication of what the principal would have chosen, the surrogate may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.

Section 136. Subsections (2) and (3) of section 765.401, Florida Statutes, are amended to read:

765.401 The proxy.--
(2) Any health care decision made under this part must be based on the proxy's informed consent and on the decision CODING: Words strucken are deletions; words underlined are additions.
the proxy reasonably believes the patient would have made
under the circumstances. If there is no indication of what the
patient would have chosen, the proxy may consider the
patient's best interest in deciding that proposed treatments
are to be withheld or that treatments currently in effect are
to be withdrawn.

(3) Before exercising the incapacitated patient's
rights to select or decline health care, the proxy must comply
with the provisions of ss. 765.205 and 765.305, except that a
proxy's decision to withhold or withdraw life-prolonging
procedures must be supported by clear and convincing evidence
that the decision would have been the one the patient would
have chosen had the patient been competent or, if there is no
indication of what the patient would have chosen, that the
decision is in the patient's best interest.

Section 137. The Legislature finds that the area of
specialty training is of great importance to the citizens of
this state and that specialty training and certification
creates a higher level of proficiency for the practitioner and
improves the delivery of health care to Floridians. Because
much confusion exists among the patient population and
practitioners as to the requirements for board certification,
the Legislature directs the Department of Health to conduct a
study of the area of specialty certification relating to the
Board of Medicine, the Board of Osteopathic Medicine, and the
Board of Dentistry. The study should review current statutes
and rules to determine if any barriers exist in board
recognition of certifying organizations and if restrictions
placed on a licensee's speech both target an identifiable harm
and mitigate against such harm in a direct and effective
manner. A final report shall be provided no later than January

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Section 138. Paragraph (d) of subsection (2) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.--

(2) The following types of wholesaler permits are established:

(d) A retail pharmacy wholesaler's permit. A retail pharmacy wholesaler is a retail pharmacy engaged in wholesale distribution of prescription drugs within this state under the following conditions:

1. The pharmacy must obtain a retail pharmacy wholesaler's permit pursuant to ss. 499.001-499.081 and the rules adopted under those sections.

2. The wholesale distribution activity does not exceed 30 percent of the total annual purchases of prescription drugs. If the wholesale distribution activity exceeds the 30-percent maximum, the pharmacy must obtain a prescription drug wholesaler's permit.

3. The transfer of prescription drugs that appear in any schedule contained in chapter 893 is subject to chapter 893 and the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

4. The transfer is between a retail pharmacy and another retail pharmacy, a Modified Class II institutional pharmacy, or a health care practitioner licensed in this state and authorized by law to dispense or prescribe prescription drugs.

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5. All records of sales of prescription drugs subject to this section must be maintained separate and distinct from other records and comply with the recordkeeping requirements of ss. 499.001-499.081.

Section 139. The Legislature finds that personal identifying information, name, age, diagnosis, address, bank account numbers, and debit and credit card numbers contained in the records relating to an individual's personal health or eligibility for health-related services made or received by the individual's physician and public or private health facility should be held confidential. Furthermore, the Legislature finds that every person has an expectation of and a right to privacy in all matters concerning her or his personal health when medical services are provided. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private sectors. For these reasons, it is the express intent of the Legislature to protect confidential information and the individual's expectations of the right to privacy in all matters regarding her or his personal health and not to have such information exploited for purposes of solicitation or marketing the sale of goods and services.

Section 140. Subsection (5) of section 456.057, Florida Statutes, is amended to read:

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

(5)(a) Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed

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with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization under the following circumstances:

1. To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

2. When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff.

3. In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records.

4. For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

Section 141. Subsection (7) of section 395.3025, Florida Statutes is amended to read:

395.3025 Patient and personnel records; copies; examination.--
(7)(a) If the content of any record of patient treatment is provided under this section, the recipient, if other than the patient or the patient's representative, may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

Section 142. Subsection (1) of section 400.1415, Florida Statutes, is amended to read:

400.1415 Patient records; penalties for alteration.--
(1) Any person who fraudulently alters, defaces, or falsifies any medical record or releases medical records for the purposes of solicitation or marketing the sale of goods or services absent a specific written release or authorization permitting utilization of patient information, or other nursing home record, or causes or procures any of these offenses to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 143. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.--The department shall adopt rules consistent with other provisions of the Florida Insurance Code to govern the use of a consumer's nonpublic personal financial

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and health information. These rules must be based on, consistent with, and not more restrictive than the Privacy of Consumer Financial and Health Information Regulation, adopted September 26, 2000, by the National Association of Insurance Commissioners; however, the rules must permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research, in accordance with federal law. In addition, these rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102. If the department determines that a health insurer or health maintenance organization is in compliance with, or is actively undertaking compliance with, the consumer privacy protection rules adopted by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, that health insurer or health maintenance organization is in compliance with this section.

Section 144. Effective upon becoming law, subsections (14), (15), and (16) are added to section 400.141, Florida Statutes, to read:

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

(14) Before November 30 of each year, subject to the availability of an adequate supply of the necessary vaccine, provide for immunizations against influenza viruses to all its consenting residents in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Subject to these exemptions, any consenting

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person who becomes a resident of the facility after November 30 but before March 31 of the following year must be immunized within 5 working days after becoming a resident. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(15) Assess all residents for eligibility for pneumococcal polysaccharide vaccination (PPV) and vaccinate residents when indicated within 60 days after the effective date of this act in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Residents admitted after the effective date of this act shall be assessed within 5 working days of admission and, when indicated, vaccinated within 60 days in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contradictions and religious or personal beliefs. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to

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the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(16) Annually encourage and promote to its employees the benefits associated with immunizations against influenza viruses in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

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

Section 145. There is established the Office of Community Partners within the Department of Health for the purpose of receiving, coordinating, and dispensing federal funds set aside to expand the delivery of social services through eligible private community organizations and programs. The office shall provide policy direction and promote civic initiatives which seek to preserve and strengthen families and communities. The Department of Health, the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Corrections may request transfer of general revenue funds between agencies, as approved by the Legislative Budget Commission, as necessary to match federal funds received by the Office of Community Partners for these initiatives.

Section 146. Section 458.3147, Florida Statutes, is created to read:

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458.3147 Medical school eligibility of military academy students or graduates.--Any Florida resident who is a student at or a graduate of any of the United States military academies who has command approval to apply to medical school prior to assignment to the medical corps of the United States military shall be admitted to any medical school in the State University System. Each medical school in the State University System shall admit two such applicants each academic year.

Section 147. Section 409.91188, Florida Statutes, is amended to read:

409.91188 Specialty prepaid health plans for Medicaid recipients with HIV or AIDS.--The Agency for Health Care Administration is authorized to contract with specialty prepaid health plans and pay them on a prepaid capitated basis to provide Medicaid benefits to Medicaid-eligible recipients who have human immunodeficiency syndrome (HIV) or acquired immunodeficiency syndrome (AIDS). The agency shall apply for and is authorized to implement federal waivers or other necessary federal authorization to implement the prepaid health plans authorized by this section. The agency shall procure the specialty prepaid health plans through a competitive procurement. In awarding a contract to a managed care plan, the agency shall take into account price, quality, accessibility, linkages to community-based organizations, and the comprehensiveness of the benefit package offered by the plan. The agency may bid the HIV/AIDS specialty plans on a county, regional, or statewide basis. Qualified plans must be licensed under chapter 641. The agency shall monitor and evaluate the implementation of this waiver program if it is approved by the Federal Government and shall report on its status to the President of the Senate and the Speaker of the

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House of Representatives by February 1, 2001. To improve
coordination of medical care delivery and to increase
cost-efficiency for the Medicaid program in treating HIV
disease, the Agency for Healthcare Administration shall seek
all necessary federal waivers to allow participation in the
Medipass HIV disease management program for Medicare
beneficiaries who test positive for HIV infection and who also
qualify for Medicaid benefits such as prescription medications
not covered by Medicare.

Section 148. Effective June 1, 2001, subsection (1) of
section 71 of chapter 98-171, Laws of Florida, is repealed.

Section 149. Effective July 1, 2001, and applicable to
births occurring on or after that date, subsection (2) of
section 766.302, Florida Statutes, is amended to read:

766.302 Definitions; ss. 766.301-766.316.--As used in
ss. 766.301-766.316, the term:

(2) "Birth-related neurological injury" means injury
to the brain or spinal cord of a live infant weighing at least
2,500 grams for a single gestation or, in the case of a
multiple gestation, a live infant weighing at least 2,000
grams at birth caused by oxygen deprivation or mechanical
injury occurring in the course of labor, delivery, or
resuscitation in the immediate postdelivery period in a
hospital, which renders the infant permanently and
substantially mentally and physically impaired. This
definition shall apply to live births only and shall not
include disability or death caused by genetic or congenital
abnormality.

Section 150. Effective July 1, 2001, and applicable to
births occurring on or after that date, paragraph (b) of

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subsection (1) of section 766.31, Florida Statutes, is amended to read:

766.31 Administrative law judge awards for birth-related neurological injuries; notice of award.--

(1) Upon determining that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth, the administrative law judge shall make an award providing compensation for the following items relative to such injury:

(b)1. Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which award shall not exceed $100,000. However, at the discretion of the administrative law judge, such award may be made in a lump sum.

2. Payment for funeral expenses not to exceed $1,500.

Section 151. Section 766.308, Florida Statutes, is repealed.

Section 152. Section 468.805, Florida Statutes, is amended to read:

468.805 Grandfathering.--

(1)(a) A person who has practiced orthotics, prosthetics, or pedorthics in this state for the required period since July 1, 1990, and March 1, 1998, who, before March 1, 1998, applied to the department for a license to practice orthotics, prosthetics, or pedorthics, and who received certification in orthotics, prosthetics, or pedorthics from a national certifying body and had his or her application fully approved by the board before October 1, 2000, may be licensed as a prosthetist, an orthotist, a

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prosthetist-orthotist, an orthotic fitter, an orthotic fitter assistant, or a pedorthist, as applicable determined from the person's experience, certification, and educational preparation, without meeting the educational requirements set forth in s. 468.803, upon receipt of the application fee and licensing fee and after the board has completed an investigation into the applicant's background and experience. The board shall require an application fee not to exceed $500, which shall be nonrefundable. The board shall complete its investigation within 6 months after receipt of the completed application.

(b) The period of experience required for licensure under this subsection section is 5 years for a prosthetist or an orthotist and 2 years for an orthotic fitter, an orthotic fitter assistant, or a pedorthist. Each applicant shall document experience in the profession applied for as defined under s. 468.80(7).

(2)(a) An applicant for licensure as an orthotist, a prosthetist, or a prosthetist-orthotist who cannot demonstrate 5 years of experience as required by subsection (1), but who has practiced as an orthotist, a prosthetist, or a prosthetist-orthotist in this state for at least 2 years between July 1, 1990, and March 1, 1998, and a person who has received certification as an orthotist, a prosthetist, or a prosthetist-orthotist from a national certifying body before July 1, 1998, and who has practiced orthotics or prosthetics in this state for at least 2 years but less than 5 years is eligible for a provisional license.

(b) An applicant for provisional licensure shall submit proof that he or she has been actively practicing as a

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nationally certified orthotist, prosthetist, or
prosthetist-orthotist, an application fee, and a provisional
license fee.

(b)(c) A provisional licensee is required to practice
under supervision of a fully licensed orthotist, prosthetist,
or prosthetist-orthotist for up to 3 years in order to meet
the 5-year experience requirement of subsection (1) to be
licensed as an orthotist, a prosthetist, or a
prosthetist-orthotist. The provisional licensee must
demonstrate that the supervised practice includes experience
in the scope of practice of the profession as defined under s.
468.80.

(d) After appropriate investigation, the board shall
license as an orthotist, prosthetist, or prosthetist-orthotist
the provisional licensee who has successfully completed the
period of experience required and otherwise meets the
requirements of subsection (1).

(e) The board shall require an application fee, not to
exceed $500, which is nonrefundable, and a provisional
license fee, not to exceed $500.

(3) Upon receipt of the nonrefundable application fee
and the appropriate licensing fee, the board shall complete an
investigation into the applicant's background and experience.
The board shall complete its investigation within 6 months
after receipt of the completed application. The 90-day period
for approval or denial of a license required under s. 120.60
does not apply to applications for licensure or provisional
licensure under this section.

(4) The board by rule shall establish the following
fees not to exceed $500 each:

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(a) Application fee for licensure under subsection (1).
(b) Application fee for provisional licensure under subsection (2).
(c) Application fee for licensure following provisional licensure under subsection (2).
(d) Initial licensure fee.
(e) Provisional licensure fee.
(5)(3) An applicant who has received certification as an orthotist, a prosthetist, a prosthetist-orthotist, or a pedorthist from a national certifying body which requires the successful completion of an examination, may be licensed under this section without taking an additional examination. An applicant who has not received certification from a national certifying body which requires the successful completion of an examination shall be required to take an examination as determined by the board. This examination shall be designed to determine if the applicant has the minimum qualifications needed to be licensed under this section. The board may charge an examination fee and the actual per applicant cost to the department for purchase or development of the examination.
(6)(4) An applicant who successfully completed prior to March 1, 1998, at least one-half of the examination required for national certification and successfully completed the remaining portion of the examination and became certified prior to October 1, 2000 July 1, 1998, shall be considered as nationally certified by March 1, 1998, for purposes of this section.
(7)(5) This section is repealed July 1, 2002.
Section 153. Section 1 of chapter 99-158, Laws of Florida, is repealed.
Section 154. Except as otherwise provided herein, this act shall take effect July 1, 2001.

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