

CHAPTER 97-264

House Bill No. 2013

An act relating to regulation of health care professions; amending s. 468.1645, F.S.; revising an exemption from licensure as a nursing home administrator relating to persons employed to administer in facilities or institutions operated by and for persons who rely exclusively upon treatment by spiritual means through prayer; amending s. 458.3115, F.S.; revising requirements for the development of examinations administered to certain foreign-licensed physicians; prescribing eligibility requirements for certain foreign-trained physicians to take a restricted-license examination; amending s. 402.48, F.S., relating to health care services pools; increasing the period of registration; updating a definition and a provision relating to meeting financial responsibility requirements; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration, the Department of Business and Professional Regulation, or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending s. 455.2285, F.S.; revising requirements for information that is disclosed in the annual report; amending s. 457.102, F.S.; revising definitions applicable to the regulation of acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; revising fees; conforming terminology; amending s. 457.107, F.S.; revising licensure renewal fees; conforming terminology; amending s. 457.1085, F.S.; revising requirements on the adoption of rules relating to infection control and on the use of acupuncture needles; amending ss. 457.103, 457.108, 457.109, and 457.116, F.S., to conform; amending s. 458.303, F.S.; eliminating references to physician's trained assistants; amending s. 458.305, F.S.; updating the definition of "department"; amending s. 458.307, F.S.; revising provisions relating to probable cause panels of the Board of Medicine; amending s. 455.206, F.S.; conforming a cross-reference; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a specified fellowship to partially satisfy the licensing requirements; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing persons in certain training programs to take the examination under certain circumstances; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing additional requirements prior to certification of eligibility for licensure; conforming a cross-reference; eliminating a provision authorizing licensure under a period of supervision; providing conditions for reactivation of certain licenses issued by endorsement; amending s.

458.317, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of medicine; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; revising recent-practice requirements; amending s. 458.320, F.S.; conforming a cross-reference; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 458.331, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing requirements for the prescribing of medicinal drugs; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee; amending ss. 458.347 and 459.022, F.S.; revising requirements for certification as a physician assistant; updating terminology; amending s. 458.3485, F.S.; requiring medical assistants to be under the direct supervision of a licensed physician; providing for rules; amending s. 459.003, F.S.; updating the definition of "department"; providing that certain terms are equivalent; amending s. 459.021, F.S.; revising terminology relating to osteopathic medicine; revising provisions relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; authorizing resident physicians to prescribe drugs appearing on schedules of controlled substances under certain circumstances; repealing s. 460.413(1)(bb) and (cc), F.S., relating to grounds for disciplinary action; amending s. 459.0075, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of osteopathic medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of osteopathic medicine; amending s. 459.0085, F.S.; conforming a cross-reference; requiring osteopathic physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; amending ss. 240.4067, 390.011, 395.0191, 408.035, 409.905, 415.102, 415.1034, 415.504, 440.106, 440.13, 440.134,

440.15, 456.31, 459.006, 462.01, 468.301, 468.302, 476.044, 477.0135, 483.291, 621.03, 627.351, 627.357, 627.6482, 725.01, 766.101, 766.103, 766.105, 766.110, 817.234, and 945.047, F.S.; conforming and correcting terminology relating to osteopathic medicine; amending s. 460.403, F.S.; updating the definition of “department”; amending s. 460.413, F.S.; repealing ss. 460.413(1)(bb) and 460.413(1)(cc), relating to grounds for disciplinary action; revising grounds for disciplinary action; providing penalties; providing criteria for determining the applicable penalty; providing certain evidentiary standards; providing authority and procedure to enjoin a chiropractor from providing medical services under certain circumstances; reenacting ss. 320.0848(9), 455.236(4)(g), and 766.111(2), F.S., relating to parking permits for disabled persons, prohibited referrals to home health agencies, and unnecessary diagnostic testing, to incorporate the amendment to s. 460.413, F.S., in references thereto; amending s. 460.4165, F.S.; revising a provision relating to the fee accompanying applications to supervise chiropractic physician’s assistants; amending s. 461.003, F.S.; updating the definition of “department”; amending s. 461.013, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 461.018, F.S.; clarifying a provision relating to the limited practice of podiatry in designated areas of need; amending s. 464.003, F.S.; revising a definition to update authority over regulation of nursing; amending ss. 464.004, 464.008, 464.009, 464.012, 464.013, and 464.014, F.S., to conform; amending s. 464.018, F.S.; revising grounds for disciplinary action; providing penalties; conforming terminology; amending s. 464.019, F.S., relating to approval of nursing programs; providing for a program review fee; conforming terminology; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; providing an exemption from regulation relating to certain nurses accompanying and caring for patients temporarily residing in this state; amending s. 465.003, F.S.; revising the definitions of the terms “pharmacy” and “department”; amending s. 465.004, F.S.; increasing the membership of the Board of Pharmacy; revising membership qualifications; amending s. 465.0125, F.S.; providing responsibilities of consultant pharmacists and doctors of pharmacy; providing for rules; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising grounds for disciplinary actions; providing penalties; amending s. 465.0196, F.S., relating to special pharmacy permits; conforming a cross-reference; amending s. 465.026, F.S.; revising provisions relating to the filling of prescriptions transferred by electronic or other means; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; amending s. 465.186, F.S.; providing for inclusion of certain products and over-the-counter proprietary drugs in the formulary of authorized medicinal drug products and dispensing procedures; amending s. 893.03, F.S.; adding butorphanol tartrate as a Schedule IV controlled substance; reenacting ss. 316.193(5), 327.35(5),

440.102(11)(b), 458.326(3), 817.563(1), 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.08(1)(b), 893.13(1)(a), (c), and (d), (2)(a), (4)(b), and (5)(b), F.S., relating to driving under the influence, boating under the influence, drug-free workplace program requirements, authorized treatment of intractable pain, sales of substances in lieu of controlled substances, counterfeit controlled substances, open house parties, definitions applicable to regulation of controlled substances, exceptions to required prescription for distribution at retail, and prohibited acts relating to controlled substances, respectively, to incorporate the amendment to s. 893.03, F.S., in references thereto; amending s. 466.003, F.S.; updating the definition of "department"; amending s. 466.006, F.S., relating to the examination of dentists; revising prerequisites for certain applicants to take the examination; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; amending s. 466.028, F.S.; revising grounds for disciplinary action; providing penalties; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1125, F.S.; updating the definition of "department"; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing requirements for cross-discipline licensure; amending s. 468.1185, F.S.; revising licensure requirements; conforming a reference; amending s. 468.1195, F.S.; revising continuing education requirements; providing for adoption of standards of approval of continuing education providers; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; conforming a reference; amending s. 468.1245, F.S.; revising provisions relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; creating s. 468.1296, F.S.; prohibiting sexual misconduct in the practice of speech-language pathology and audiology, for which there are penalties; amending s. 468.1655, F.S.; updating the definition of "department"; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.203, F.S.; revising definitions applicable to regulation of occupational therapy; amending s. 468.205, F.S.; replacing the Occupational Therapy Council with a Board of Occupational Therapy Practice; providing for qualifications, appointments, and terms of board members; providing for the filling of vacancies on the board; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; requiring documentation of continuing education for certain applicants; amending s. 468.211, F.S.; providing a restriction on

the number of times an applicant may fail the examination and requiring remediation after a certain number; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S.; repealing s. 468.362, F.S., relating to continuing education; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; updating the definition of "department"; revising terminology; revising approval of educational programs; eliminating annual continuing education requirements for certain persons; providing penalties; amending s. 478.42, F.S.; updating the definition of "department"; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending s. 478.46, F.S.; revising requirements relating to issuance of temporary permits; conforming a cross-reference and terminology; amending s. 478.47, F.S.; revising requirements for licensure by endorsement; amending s. 478.52, F.S.; prohibiting the operation of unlicensed electrolysis facilities; providing penalties; amending s. 480.033, F.S.; revising the definition of "board"; updating the definition of "department"; amending s. 480.034, F.S.; eliminating an exemption from regulation applicable to certain skin treatments and weight-loss programs; amending s. 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.041, F.S.; eliminating provisional licensure to practice massage therapy; amending s. 480.0415, F.S.; authorizing an increase in the number of classroom hours of continuing education that may be required for renewal of a license to practice massage therapy; amending s. 480.042, F.S.; revising what examinations must measure; repealing s. 480.0425, F.S., relating to inactive status; amending s. 480.043, F.S.; revising provisions relating to the transfer of licenses; amending s. 480.044, F.S.; revising provisions relating to fees; amending s. 480.047, F.S.; prohibiting the practice of massage therapy without a license unless exempted from licensure; creating s. 480.0485, F.S.; prohibiting sexual misconduct in the practice of massage therapy, for which there are disciplinary actions; amending s. 20.43, F.S., relating to the Department of Health; conforming terminology; updating a reference; amending s. 381.81, F.S., to conform; amending s. 483.800, F.S.; revising policy and purpose relating to regulation of clinical laboratory personnel; amending s. 483.801, F.S.; providing a regulatory exemption relating to advanced registered nurse practitioners; amending s. 483.803, F.S.; updating the definition of "department"; providing definitions; amending s. 483.809, F.S.; revising licensing provisions; authorizing an alternative examination for public health laboratory scientists; creating s. 483.812, F.S.; providing for licensure of public health laboratory scientists; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; providing a period for a conditional license; amending s. 483.823, F.S.; revising provisions relating to qualifications of clinical laboratory personnel;

amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 483.828, F.S.; providing penalties for specified violations; amending s. 483.901, F.S., the "Florida Medical Physicists Act"; providing that the Advisory Council of Medical Physicists is an advisory rather than a regulatory body; increasing the number and terms of council members; clarifying initial and other appointment provisions; revising provisions relating to council meetings; revising licensure requirements; clarifying that the required continuing education hours are to be satisfied biennially and that the organizations providing such education must be approved by the Department of Health; revising and providing grounds for disciplinary action; revising and providing criminal acts; providing an administrative fine; providing penalties; eliminating a provision authorizing a licensure exception; amending s. 484.041, F.S.; updating the definition of "department"; amending s. 484.042, F.S.; updating a reference, to conform; amending s. 484.051, F.S.; updating a reference, to conform; amending s. 486.021, F.S.; updating the definition of "department"; amending s. 486.023, F.S.; changing the membership of the Board of Physical Therapy Practice; amending ss. 486.031 and 486.081, F.S.; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending s. 486.041, F.S.; revising provisions relating to applying for a license as a physical therapist and to the fee therefor; amending s. 486.051, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist; amending s. 486.102, F.S.; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.103, F.S.; revising provisions relating to applying for a license as a physical therapist assistant and to the fee therefor; amending s. 486.104, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist assistant; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; providing for recovery of the actual costs of investigation and prosecution; amending s. 641.495, F.S.; requiring a health maintenance organization to designate as medical director a state-licensed physician or osteopathic physician; amending s. 499.012, F.S.; clarifying and providing for additional wholesale distribution exceptions; requiring the Board of Medicine to establish guidelines for physicians to prescribe certain drugs used to treat obesity; requiring the Board of Osteopathic Medicine to establish guidelines for physicians to prescribe certain drugs used to treat obesity; amending s. 409.9122, F.S.; providing for chiropractic and podiatric services under the MediPass program; creating a Task Force on Exemptions from Licensure under s. 468.505(1)(k), F.S., which exempts certain persons employed by a hospital, nursing home, assisted living facility, or continuing care facility; providing for membership and meetings of the task force, including place of meetings; requiring a report to certain legislative leaders; providing responsibilities of the task force; providing for dissolution of the task force; amending s. 465.014, F.S.; amending the duties of pharmacy

technicians; increasing the number of pharmacy technicians a licensed pharmacist may supervise; amending s. 456.32, F.S.; including specified mental health professionals within the definition of "practitioner of the healing arts"; amending s. 490.003, F.S.; revising and providing definitions relating to the regulation of psychological services; amending s. 490.005, F.S.; conforming cross-references; creating s. 490.0051, F.S.; providing for provisional licensure; repealing s. 490.008, F.S., relating to inactive status; amending s. 490.009, F.S.; revising and providing grounds for disciplinary action; amending s. 490.012, F.S.; providing requirements for display of licenses and provisional licenses; eliminating a requirement relating to use of the license number on professional advertisements; providing requirements for promotional materials of provisional licensees; conforming cross-references; providing penalties; amending s. 490.014, F.S.; clarifying applicability of exemption provisions; removing an obsolete licensing exemption that required registration of certain trainees or interns; amending s. 491.003, F.S.; revising and providing definitions relating to the regulation of clinical, counseling, and psychotherapy services; creating s. 491.0045, F.S.; requiring registration of interns and providing requirements thereof; creating s. 491.0046, F.S.; providing for provisional licensure; amending s. 491.005, F.S.; revising requirements for licensure by examination; providing for additional educational requirements at a future date; creating s. 491.0057, F.S.; providing for dual licensure as a marriage and family therapist; amending s. 491.007, F.S.; providing for biennial renewal of registrations; providing for fees; amending s. 491.009, F.S.; revising and providing grounds for disciplinary action; amending s. 491.012, F.S.; prohibiting the use of certain titles under certain circumstances; providing a penalty; amending s. 491.014, F.S.; revising and clarifying exemption provisions; removing an obsolete licensing exemption that required registration of certain trainees or interns; amending s. 491.0149, F.S.; requiring display of registrations and provisional licenses and use of applicable professional titles on promotional materials; amending ss. 232.02, 394.455, F.S.; conforming cross-references; creating s. 458.3124, F.S.; providing for certain foreign-trained and licensed physicians to take certain licensure examinations; providing restrictions and establishing fees; restricting the practice of such persons; providing for eligibility for full licensure; providing for the adoption of rules; providing an effective date.

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

Section 1. Subsection (2) of section 468.1645, Florida Statutes, is amended to read:

468.1645 Administrator license required.—

(2) Nothing in this part or in the rules adopted hereunder shall require an administrator of any facility or institution operated by and a recognized church or religious denomination for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed

~~or tenets of any organized church or religious denomination, to be licensed as a nursing home administrator if the administrator who is employed only to administer in such facilities or institutions accredited by such church or denomination for the care and treatment of the sick in accordance with its teachings, to be licensed as a nursing home administrator.~~

Section 2. Effective upon this act becoming a law, paragraph (c) of subsection (1) of section 458.3115, Florida Statutes, 1996 Supplement, is amended to read:

458.3115 Restricted license; certain foreign-licensed physicians; United States Medical Licensing Examination (USMLE) or agency-developed examination; restrictions on practice; full licensure.—

(1)

(c) A person shall be eligible to take such examination for restricted licensure if the person:

1. Has taken, upon approval by the board, and completed, in November 1990 or November 1992, one of the special preparatory medical update courses authorized by the board and the University of Miami Medical School and subsequently passed the final course examination; ~~or upon approval by the board to take the course completed in 1990 or in 1992, has a certificate of successful completion of that course from the University of Miami or the Stanley H. Kaplan course; or can document to the department that he or she was one of the persons who took and successfully completed the Stanley H. Kaplan course that was approved by the Board of Medicine and supervised by the University of Miami.~~ At a minimum, the documentation must include class attendance records and the test score on the final course examination;

2. Applies to the agency and submits an application fee that is nonrefundable and equivalent to the fee required for full licensure;

3. Documents no less than 2 years of the active practice of medicine in another jurisdiction;

4. Submits an examination fee that is nonrefundable and equivalent to the fee required for full licensure plus the actual per-applicant cost to the agency to provide either examination described in this section;

5. Has not committed any act or offense in this or any other jurisdiction that would constitute a substantial basis for disciplining a physician under this chapter or chapter 455; and

6. Is not under discipline, investigation, or prosecution in this or any other jurisdiction for an act that would constitute a violation of this chapter or chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

Section 3. Paragraph (a) of subsection (1), subsection (4), and paragraph (g) of subsection (8) of section 402.48, Florida Statutes, 1996 Supplement, are amended to read:

402.48 Health care services pools.—

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

(a) “Department” means the Department of Health Business and Professional Regulation.

(4) Each registration shall be for a period of 2 years ~~1 year~~. A new registration is required upon the sale of a controlling interest in a health care services pool.

(8)

(g) Meeting the financial responsibility requirements of this section must be established at the time of issuance or renewal of a certificate of registration ~~on or after January 1, 1991~~.

Section 4. Subsections (2), (4), and (9) of section 455.225, Florida Statutes, 1996 Supplement, are amended to read:

455.225 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department or the Agency for Health Care Administration, as appropriate.

(2) The department and the Agency for Health Care Administration 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 agency, for disciplinary cases under its jurisdiction, shall 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 agency, for disciplinary cases under its jurisdiction, to comply with the time limits in 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 or the agency shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department or the agency. The report shall contain the investigative findings and the recommendations of the department or the agency concerning the existence of probable cause. At any time after legal sufficiency is found, the department or the agency may dismiss any case, or any part thereof, if the department or the agency determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department or the agency 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 or the agency

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.

(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 or the Agency for Health Care Administration, 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 or the agency. 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, willing to serve, and is authorized to do so by the board chairman. 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 privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department or the agency 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 or the agency, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department or the agency. The secretary may grant extensions of the 15-day and the 30-day time limits. ~~If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department or the agency may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists.~~ In lieu of a finding of probable cause, the probable cause panel, or the department or the agency when 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 agency, for disciplinary cases under its jurisdiction, 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 or the agency to file a formal complaint against the licensee. The department or the agency shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department or the agency shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department or the

agency may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department or the agency 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 or the agency 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 or the agency within 1 year after the filing of a complaint. The agency, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department or agency within 1 year after the filing of the complaint. Annually, the agency, for disciplinary cases under its jurisdiction, if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the agency 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 the Health Care Trust Fund or the Professional Regulation Trust Fund, as appropriate. All proceedings of the probable cause panel are exempt from s. 120.525.

(9)(a) The department or the Agency for Health Care Administration, as appropriate, shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any civil action or administrative proceeding or appeal.

(b) In any disciplinary case under the jurisdiction of the Agency for Health Care Administration for which probable cause has been found, the Agency for Health Care Administration shall provide to the person who filed the complaint a copy of the administrative complaint, including:

1. A written explanation of how an administrative complaint is resolved by the disciplinary process.

2. A written explanation of how and when the person may participate in the disciplinary process.

3. A written notice of any hearing before the Division of Administrative Hearings or the regulatory board at which final agency action is taken.

(c) In any disciplinary case for which probable cause is not found, the Agency for Health Care Administration 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 probable cause panel which may be relevant to the decision. 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.

Section 5. Present subsections (8) and (9) of section 455.2285, Florida Statutes, are redesignated as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

455.2285 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department and the Agency for Health Care Administration are each directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(8) A description of any effort by the agency, for any disciplinary cases under its jurisdiction, to reduce or otherwise close any investigation or disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this chapter.

Section 6. Section 457.102, Florida Statutes, is amended to read:

457.102 Definitions.—As used in this chapter:

(1) “Acupuncture” means a form of primary health care, based on traditional Chinese medical concepts, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body.

(2) “Acupuncturist” means any person licensed ~~certified~~ as provided in this chapter to practice acupuncture as a primary health care provider.

(3) “Board” means the Board of Acupuncture.

(4) “License Certificate” means the document of authorization issued by the department for a person to engage in the practice of acupuncture.

(5) “Department” means the Department of Health Business and Professional Regulation.

Section 7. Subsection (1) of section 457.103, Florida Statutes, is amended to read:

457.103 Board of Acupuncture; membership; appointment and terms.—

(1) The Board of Acupuncture is created within the department and shall consist of five members, to be appointed by the Governor and confirmed by the Senate. Three members of the board must be licensed ~~certified~~ Florida acupuncturists. Two members must be laypersons who are not and who have never been acupuncturists or members of any closely related profession. Members shall be appointed for 4-year terms or for the remainder of the unexpired term of a vacancy.

Section 8. Section 457.105, Florida Statutes, is amended to read:

457.105 Licensure Certification ~~qualifications and fees~~.—

(1) It is unlawful for any person to practice acupuncture in this state unless such person has been ~~licensed~~ certified by the board, is in a board-approved ~~tutorial program or~~ course of study, or is otherwise exempted by this chapter.

(2) A person may become ~~licensed~~ certified to practice acupuncture if the person applies to the department and applicant:

(a) Is 18 years of age or older and ~~meets one of the following criteria~~:

1. ~~He is a citizen of the United States;~~

2. ~~He is a permanent resident of the United States; or~~

3. ~~He is a legal alien who has resided in the United States for 6 months immediately prior to qualifying for examination;~~

(b) Has completed 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture, and has completed a 3-year course of study in acupuncture, and effective July 31, 2001, a 4-year course of study in acupuncture, which meets standards established by the board by rule, which standards include successful completion of academic courses in western anatomy, western physiology, western pathology, and western biomedical terminology. However, any person who enrolled in an authorized course of study in acupuncture before August 1, 1997, must have completed only the following:

1. a 2-year course of study which meets standards established by the board by rule, which standards ~~must~~ shall include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, and western pathology;

2. A 2-year tutorial program which meets standards established by the board by rule, which standards shall include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, and western pathology. Prior to entrance in a tutorial program, an individual shall have been approved by the board, registered with the department, and paid a registration fee not to exceed \$200 as set by rule of the board. Such tutorial program shall be of a continuous nature for not less than 2 years under the supervision of an acupuncturist certified under this chapter and shall have commenced after October 1, 1986. A person enrolled in a tutorial program approved by the board prior to October 1, 1986, may complete that program to meet the requirement for such training; or

3. At least 5 years of experience as an acupuncturist pursuant to standards and criteria established by board rule;

(c) Has successfully completed a board-approved national certification process, is actively licensed in a state that which has examination requirements that are substantially equivalent to or more stringent than those of this state, or passes an examination administered by the department, which examination tests the applicant's competency and knowledge of the practice of acupuncture. At the request of any applicant, oriental nomenclature for

the points shall be used in the examination. The examination shall include a practical examination of the knowledge and skills required to practice acupuncture, covering diagnostic and treatment techniques and procedures; and

(d) Pays the required fees set by the board by rule not to exceed the following amounts:

1. Examination fee: ~~\$500~~ \$1,000 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from ~~the National Commission for the Certification of Acupuncturists~~ or a similar national organization approved by the board.

2. Application fee: ~~\$300~~ \$750.

3. Reexamination fee: ~~\$500~~ \$1,000 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from ~~the National Commission for the Certification of Acupuncturists~~ or a similar national organization approved by the board.

4. Initial biennial licensure certification fee: \$400, if licensed in the first half of the biennium, and \$200, if licensed in the second half of the biennium ~~\$2,000~~.

Section 9. Section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses ~~certificates~~; continuing education.—

(1) The department shall renew a license ~~certificate~~ upon receipt of the renewal application and the fee set by the board by rule, not to exceed \$700 ~~\$1,000~~.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses ~~certificates~~.

(3) The board shall by rule prescribe continuing education requirements, not to exceed 30 hours biennially, as a condition for renewal of a license ~~certificate~~. The criteria for such programs or courses shall be approved by the board. In order to meet continuing education requirements, prior approval by the board of such programs or courses is required. All education programs that contribute to the advancement, extension, or enhancement of professional skills and knowledge related to the practice of acupuncture, whether conducted by a nonprofit or profitmaking entity, are eligible for approval. The board shall have the authority to set a fee, not to exceed \$100, for each continuing education provider or program submitted for approval.

Section 10. Section 457.108, Florida Statutes, is amended to read:

457.108 Inactive status; expiration; reactivation of licenses ~~certificates~~.—

(1) A license ~~certificate~~ that has become inactive may be reactivated under this section upon application to the department. The board shall

prescribe by rule continuing education requirements as a condition of reactivating a license certificate. The continuing education requirements for reactivating a license certificate must not exceed 10 classroom hours for each year the license certificate was inactive, in addition to completion of the number of hours required for renewal on the date the license certificate became inactive.

(2) The board shall adopt rules relating to application procedures for inactive status, renewal of inactive licenses certificates, and reactivation of licenses certificates. The board shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, a delinquency fee, and a fee for the reactivation of a license certificate. None of these fees may exceed the biennial renewal fee established by the board for an active license certificate.

(3) The department shall not reactivate a license certificate unless the inactive or delinquent license certificate holder has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

Section 11. Section 457.1085, Florida Statutes, is amended to read:

457.1085 Infection control.—Prior to November 1, 1986, the board shall adopt rules relating to the prevention of infection, ~~the sterilization of needles and other equipment or materials capable of transmitting possible infection,~~ the safe disposal of any potentially infectious materials, and other requirements to protect the health, safety, and welfare of the public. Beginning October 1, 1997, all acupuncture needles that are to be used on a patient must be sterile and disposable, and each needle may be used only once. Acupuncture needles shall be thoroughly cleansed with an antiseptic solution and hot water prior to sterilization by autoclave. Presterilized, prewrapped, disposable needles may be used.

Section 12. Section 457.109, Florida Statutes, is amended to read:

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

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

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

(b) Having a license certificate to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure certification, 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 certificateholder~~ knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, employing, or advising any unlicensed ~~uncertified~~ 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 ~~certified~~ acupuncturist.

(i) Making or filing a report which the ~~licensee certificateholder~~ 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 ~~certified~~ 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 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 ~~certificateholder~~ or of a third party.

(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 his designee that probable cause exists to believe that the licensee ~~certificateholder~~ 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 ~~certificateholder~~ to submit to a mental or physical examination by a physician designated by the department. If the licensee ~~certificateholder~~ 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 ~~certificateholder~~ resides or

serves as an acupuncturist. The ~~licensee certificateholder~~ 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 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 certificateholder~~ knows or has reason to know that he is not competent to perform.

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

(s) Violating any provision of this chapter, a 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.

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

(u) Fraud or deceit or gross negligence, incompetence, or misconduct in the operation of a ~~tutorial program or 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.

(2) 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 certificate.

- (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.
- (3) The department shall not reinstate the license certificate of an acupuncturist, or cause a license certificate to be issued to a person it has deemed to be unqualified, until such time as the board is satisfied that he has complied with all the terms and conditions set forth in the final order and that he is capable of safely engaging in the practice of acupuncture.

Section 13. Section 457.116, Florida Statutes, is amended to read:

457.116 Prohibited acts; penalty.—

(1) It is unlawful for any person to:

(a) Hold himself out as a certified or licensed acupuncturist unless licensed under this chapter ~~certified as provided herein~~.

(b) Practice ~~acupuncture~~ or attempt to practice acupuncture without an active license certificate ~~or as otherwise permitted by board rule established under the authority of s. 457.105(2)(b)~~ or as otherwise provided by this chapter.

(c) Obtain or attempt to obtain or obtain a license certificate to practice acupuncture by fraudulent misrepresentation.

(d) Permit an employed person to engage in the practice of acupuncture unless such person holds an active license certificate as an acupuncturist, except as otherwise provided by this chapter.

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

Section 14. Subsection (2) of section 458.303, Florida Statutes, is amended to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(2) Nothing in s. 458.301, s. 458.303, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347 shall be construed to prohibit any service rendered by a physician's trained assistant, a registered nurse, or a licensed practical nurse, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and

gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant ~~physician's trained assistant~~ in accordance with the provisions of s. 458.3485 ~~this subsection~~.

Section 15. Subsection (2) of section 458.305, Florida Statutes, is amended to read:

458.305 Definitions.—As used in this chapter:

(2) "Department" means the Department of Health Business and Professional Regulation.

Section 16. Subsections (2) and (5) of section 458.307, Florida Statutes, are amended to read:

458.307 Board of Medicine.—

(2)(a) Twelve members of the board must be licensed physicians in good standing in this state who are residents of the state and who have been engaged in the active practice or teaching of medicine for at least 4 years immediately preceding their appointment. One of the physicians must be on the full-time faculty of a medical school in this state, and one of the physicians must be in private practice and on the full-time staff of a statutory teaching hospital in this state as defined in s. 408.07. At least one of the physicians must be a graduate of a foreign medical school. The remaining three members must be residents of the state who are not, and never have been, licensed health care practitioners. One member must be a hospital risk manager certified under part IX of chapter 626. At least one member of the board must be 60 years of age or older.

~~(b) The board shall establish at least one, but not more than two, probable cause panels to meet the responsibilities set out in s. 455.225(4). Each probable cause panel shall be composed of three members, one of whom shall be a lay member. One physician member may, if provided for in administrative rule, be a past board member who is not currently appointed to the board.~~

(5) During the time members are appointed to a probable cause panel, they shall attempt to complete their work on every case presented to them. In the event that consideration of a case is begun but not completed during the term of those members on the panel, they may reconvene as a probable cause panel, ~~in addition to the panels established under paragraph (2)(b),~~ for the purpose of completing their deliberations on that case.

Section 17. Section 455.206, Florida Statutes, is amended to read:

455.206 Board members.—Notwithstanding any provision of law to the contrary, any person who otherwise meets the requirements of law for board membership and who is connected in any way with any medical college, dental college, or community college may be appointed to any board so long as that connection does not result in a relationship wherein such college represents the person's principal source of income. However, this section

shall not apply to the physicians required by s. 458.307(2)(a) to be on the faculty of a medical school in this state or on the full-time staff of a teaching hospital in this state.

Section 18. Paragraph (f) of subsection (1) and subsection (2) of section 458.311, Florida Statutes, 1996 Supplement, are amended, and subsection (10) is added to said section, to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician shall apply to the department to take the licensure examination. The department shall examine each applicant whom the board certifies:

(f) Meets one of the following medical education and postgraduate training requirements:

1.a. Is a graduate of an allopathic medical school or allopathic college recognized and approved by an accrediting agency recognized by the United States Office of Education or is a graduate of an allopathic medical school or allopathic college within a territorial jurisdiction of the United States recognized by the accrediting agency of the governmental body of that jurisdiction;

b. If the language of instruction of the medical school is other than English, has demonstrated competency in English through presentation of a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

2.a. Is a graduate of a foreign medical school registered with the World Health Organization and certified pursuant to s. 458.314 as having met the standards required to accredit medical schools in the United States or reasonably comparable standards;

b. If the language of instruction of the foreign medical school is other than English, has demonstrated competency in English through presentation of the Educational Commission ~~for~~ on Foreign Medical Graduates English proficiency certificate or by a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

3.a. Is a graduate of a foreign medical school which has not been certified pursuant to s. 458.314;

b. Has had his medical credentials evaluated by the Educational ~~Educational~~ Commission ~~for~~ on Foreign Medical Graduates, holds an active, valid certificate issued by that commission, and has passed the examination utilized by that commission; and

c. Has completed an approved residency of at least 1 year; however, after October 1, 1992, the applicant shall have completed an approved residency or fellowship of at least 2 3 years in one specialty area. However, to be acceptable, the fellowship experience and training must be counted toward regular or subspecialty certification by a board recognized and certified by the American Board of Medical Specialties.

(2) As prescribed by board rule, the board may require an applicant who does not pass the licensing examination after five attempts to complete additional remedial education or training. The board shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the board to retake the examination a sixth or subsequent time. Every applicant who is otherwise qualified may take the licensing examination five times after October 1, 1986, notwithstanding the number of times the examination has been previously failed. If an applicant fails the examination taken after October 1, 1986, five times, he shall no longer be eligible for licensure.

(10) Notwithstanding any other provision of this section, the department shall examine any person who meets the criteria set forth in sub-subparagraph (1)(f)1.a., sub-subparagraphs (1)(f)3.a. and b., or subsection (3), if the person:

(a) Submits proof of successful completion of Steps I and II of the United States Medical Licensing Examination or the equivalent, as defined by rule of the board;

(b) Is participating in an allocated slot in an allopathic training program in this state on a full-time basis at the time of examination;

(c) Makes a written request to the department that he or she be administered the examination without applying for a license as a physician in this state; and

(d) Remits a nonrefundable administration fee not to exceed \$50 and an examination fee not to exceed \$300 plus the actual cost per person to the department for the purchase of the examination from the Federation of State Medical Boards of the United States or a similar national organization. The examination fee is refundable if the person is found to be ineligible to take the examination.

Section 19. Section 458.313, Florida Statutes, 1996 Supplement, is amended to read:

458.313 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee not to exceed \$500 set by the board, ~~demonstrates to the board~~ certifies that he:

(a) Has met the qualifications for licensure in s. 458.311(1)(b)-(f);

(b) ~~Has obtained a passing score, as established by rule of the board, on the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or of the United States Medical Licensing Examination (USMLE), or the examination of the National Board of Medical Examiners, or on a combination thereof, provided the board certifies as eligible for licensure by endorsement any applicant who took the required examinations more than 10 years prior to application that said examination or combination of examinations required shall have been so taken within the 10 years immediately preceding the filing of his application for licensure under this section; and~~

(c) ~~Has submitted~~ Shows evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or evidence of successful completion of either board-approved post-graduate training, or a board-approved clinical competency examination, within the year preceding the filing of an application for licensure. For purposes of this paragraph, "active licensed practice of medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, medical directors under s. 641.495(11) who are practicing medicine, and those on the active teaching faculty of an accredited medical school.

(2)(a) ~~As prescribed by board rule, the board may require an applicant who does not pass the licensing examination after five attempts to complete additional remedial education or training. The board shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the board to retake the examination a sixth or subsequent time. The board may require oral examinations of any applicant under the provisions of this section. However, the applicant must be given adequate notice of the examination, both as to the time, place, nature, and scope thereof, as well as a statement of the reasons requiring such examination. Failure to successfully complete an oral examination, if required by the board, shall result in revocation of the license.~~

(b) ~~The board may require an applicant for licensure by endorsement to take and pass the appropriate licensure examination prior to certifying the applicant as eligible for licensure.~~

(3) The department and the board shall ~~ensure~~ assure that applicants for licensure by endorsement meet applicable criteria in this chapter through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the secretary or his designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

(4) ~~If the applicant has not actively practiced medicine or been on the active teaching faculty of an accredited medical school within the previous 4 years, the board shall certify the applicant to the department for licensure~~

~~by endorsement subject to the condition that the applicant work under the supervision of another physician for a period, not to exceed 1 year, as determined by the board based on its determination of the licensee's ability to practice medicine. The supervising physician shall have had no probable cause findings against him within the previous 3 years.~~

~~(4)(5)~~ The board may promulgate rules and regulations, to be applied on a uniform and consistent basis, which may be necessary to carry out the provisions of this section.

~~(5)(6)~~ Upon certification by the board, the department shall impose conditions, limitations, or restrictions on a license by endorsement if the applicant is on probation in another jurisdiction for an act which would constitute a violation of this chapter.

~~(6)(7)~~ The department shall not issue a license by endorsement to any applicant who is under investigation in any jurisdiction for an act or offense which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of s. 458.331 shall apply. Furthermore, the department may not issue an unrestricted license to any individual who has committed any act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331. When the board finds that an individual has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331, ~~then~~ the board may enter an order imposing one or more of the terms set forth in subsection ~~(7)~~ (8).

~~(7)(8)~~ When the board determines that any applicant for licensure by endorsement has failed to meet, to the board's satisfaction, each of the appropriate requirements set forth in this section, it may enter an order requiring one or more of the following terms:

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

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

(c) Certification to the department of an application for licensure, certification, or registration with 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, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

(8) The department shall reactivate the license of any physician whose license has become void by failure to practice in Florida for a period of 1 year within 3 years after issuance of the license by endorsement, if the physician was issued a license by endorsement prior to 1989, has actively practiced medicine in another state for the last 4 years, applies for licensure before October 1, 1998, pays the applicable fees, and otherwise meets any continu-

ing education requirements for reactivation of the license as determined by the board.

Section 20. Paragraphs (a) and (b) of subsection (1) of section 458.317, Florida Statutes, are amended to read:

458.317 Limited licenses.—

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

1. Submit to the board, with an application and fee not to exceed \$300, an affidavit stating that he has been licensed to practice medicine in any jurisdiction in the United States for at least 10 years ~~and has retired or intends to retire from the practice of medicine~~ and intends to practice only pursuant to the restrictions of a limited license granted pursuant to this section. However, a physician who is not fully retired in all jurisdictions, may use a limited license only for noncompensated practice. If the person applying for a limited license submits a notarized statement from the employing agency or institution stating that he will not receive ~~monetary~~ compensation for any service involving the practice of medicine, the application fee and all licensure fees shall be waived. However, any person who receives a waiver of fees for a limited license shall pay such fees if the person receives compensation for the practice of medicine.

2. Meet the requirements in s. 458.311(1)(b)-(f) and (5). If the applicant graduated from medical school prior to 1946, the board or its appropriate committee may accept military medical training or medical experience as a substitute for the approved 1-year residency requirement in s. 458.311(1)(f).

(b) After approval of an application under this section, no license shall be issued until the applicant provides to the board an affidavit that ~~the applicant has in fact retired from the practice of medicine in this or any other jurisdiction in which the applicant holds a license and that there have been no substantial changes in status since initial application.~~

Nothing herein limits in any way any policy by the board, otherwise authorized by law, to grant licenses to physicians duly licensed in other states under conditions less restrictive than the requirements of this section. Notwithstanding the other provisions of this section, the board may refuse to authorize a physician otherwise qualified to practice in the employ of any agency or institution otherwise qualified if the agency or institution has caused or permitted violations of the provisions of this chapter which it knew or should have known were occurring.

Section 21. Subsection (1) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, evidence that the applicant has actively practiced medicine or has been on the active teaching faculty of an accredited medical school for at least 2 years of the immediately preceding within the previous 4 years,

and a fee not to exceed \$500; provided, however, that if the licensee is either a resident physician, assistant resident physician, fellow, house physician, or intern in an approved postgraduate training program, as defined by the board by rule, the fee shall not exceed \$100 per annum. If the licensee has not actively practiced medicine for at least 2 years of the immediately preceding ~~within the previous~~ 4 years, the board shall require that the licensee successfully complete a board-approved clinical competency examination prior to renewal of the license. "Actively practiced medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, including physicians practicing administrative medicine.

Section 22. Paragraphs (a) and (g) of subsection (5) of section 458.320, Florida Statutes, 1996 Supplement, are amended to read:

458.320 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15)~~(14)~~.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either \$100,000, if the physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or \$250,000, if the physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

2. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

3. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

4. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients and ~~or~~ provide a written statement to any person to whom medical services are being provided. A copy of the written statement shall be given to each patient to sign, acknowledging receipt thereof, and the signed copy shall be maintained in the patient's file. If the patient refuses to sign or is unable to sign the written statement, the licensee shall so note it on the form. Such sign ~~and~~ or statement shall state that: "Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law."

Section 23. Paragraphs (m), (cc), and (ii) of subsection (1) of section 458.331, Florida Statutes, 1996 Supplement, are amended, and paragraph (ll) is added to said subsection, to read:

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

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

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

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

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, 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.

(ii) ~~Failing to report to the department Division of Medical Quality Assurance any licensee physician licensed under this chapter or osteopathic physician licensed 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 physician or osteopathic physician 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.~~

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

Section 24. Section 458.3312, Florida Statutes, is created to read:

458.3312 Specialties.—A physician licensed under this chapter may not hold himself or herself out as a board-certified specialist unless the physician has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties or other recognizing agency approved by the board. However, a physician may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the physician.

Section 25. 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.—

(1) Any person desiring to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training which leads to subspecialty board certification in this state who does not hold a valid, active license issued under this chapter shall apply to the department to be registered and shall remit a fee not to exceed \$300 as set by the board. The department shall register any applicant the board certifies has met the following requirements:

- (a) Is at least 21 years of age.
- (b) Has not committed any act or offense within or without the state which would constitute the basis for refusal to certify an application for licensure pursuant to s. 458.331.
- (c) Is a graduate of a medical school or college as specified in s. 458.311(1)(f).

(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 the basis for imposing a disciplinary 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.

(3) Every hospital employing or utilizing the services of a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training which leads to subspecialty board certification shall designate a person who shall, on January 1 and July 1 of each year, furnish the department with a list of the hospital's its employees and such other information as the board may direct. The chief executive officer of each such hospital shall provide the executive director of the board with the name, title, and address of the person responsible for furnishing such reports.

(4) Registration under this section shall automatically expire after 2 years without further action by the board or the department unless an application for renewal is approved by the board. No person registered under this section may be employed or utilized as a house physician or act as a resident physician, an assistant resident physician, an intern, or a fellow in fellowship training which leads to a subspecialty board certification in a hospital of this state for more than 2 years without a valid, active license or renewal of registration under this section. Requirements for renewal of registration shall be established by rule of the board. An application fee not to exceed \$300 as set by the board shall accompany the application for renewal, except that resident physicians, assistant resident physicians, interns, and fellows in fellowship training which leads to subspecialty board certification shall be exempt from payment of any renewal fees.

(5) Notwithstanding any provision of this section or s. 120.52 to the contrary, any person who is registered under this section is subject to the provisions of s. 458.331.

(6) A person registered as a resident physician under this section may in the normal course of his or her employment prescribe medicinal drugs described in schedules set out in chapter 893 when:

(a) The person prescribes such medicinal drugs through use of a Drug Enforcement Administration number issued to the hospital by which the person is employed or at which the person's services are used;

(b) The person is identified by a discrete suffix to the identification number issued to the hospital; and

(c) The use of the institutional identification number and individual suffixes conforms to the requirements of the federal Drug Enforcement Administration.

(7)(5) Any person willfully violating this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 26. Subsection (2) of section 458.346, Florida Statutes, is amended to read:

458.346 Public Sector Physician Advisory Committee.—

(2) PUBLIC SECTOR PHYSICIAN ADVISORY COMMITTEE.—There is hereby created a Public Sector Physician Advisory Committee which shall be comprised of three physicians. One physician shall be appointed by the ~~chair~~ ~~chairman~~ of the Board of Medicine. The two remaining physicians shall be appointed by the secretary of the department from recommendations of the appropriate organization, if any, representing such physicians for the purpose of collective bargaining. The ~~chair~~ ~~chairman~~ of the committee shall be one of the two public sector physicians who shall be elected by majority vote of the committee members. Members of the committee shall serve 3-year terms and shall meet at least once each year or upon the call of the committee chair on a quarterly basis. The initial term for one public sector physician shall be for 2 years, and the other for 3 years. Members of the committee are subject to reappointment. Committee members shall receive reimbursement for per diem and travel expenses.

Section 27. Section 458.347, Florida Statutes, 1996 Supplement, is amended to read:

458.347 Physician assistants.—

(1) LEGISLATIVE INTENT.—

(a) The purpose of this section is to encourage more effective utilization of the skills of physicians or groups of physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the patient's health and welfare.

(b) In order that maximum skills may be obtained within a minimum time period of education, a physician assistant shall be specialized to the extent that he can operate efficiently and effectively in the specialty areas in which he has been trained or is experienced.

(c) The purpose of this section is to encourage the utilization of physician assistants by physicians and to allow for innovative development of programs for the education of physician assistants.

(2) DEFINITIONS.—As used in this section:

(a) ~~“Agency” means the Agency for Health Care Administration.~~

~~(a)(b)~~ “Approved program” means a program, formally approved by the boards, for the education of physician assistants.

~~(b)(c)~~ “Boards” means the Board of Medicine and the Board of Osteopathic Medicine.

~~(c)(d)~~ “Council” means the Council on Physician Assistants.

~~(d)(e)~~ “Trainee” means a person who is currently enrolled in an approved program.

~~(e)(f)~~ “Physician assistant” means a person who is a graduate of an approved program or its equivalent or meets standards approved by the boards and is certified to perform medical services delegated by the supervising physician.

~~(f)(g)~~ “Supervision” means responsible supervision and control. Except in cases of emergency, supervision requires the easy availability or physical presence of the licensed physician for consultation and direction of the actions of the physician assistant. For the purposes of this definition, the term “easy availability” includes the ability to communicate by way of telecommunication. The boards shall establish rules as to what constitutes responsible supervision of the physician assistant.

~~(g)(h)~~ “Proficiency examination” means an entry-level examination approved by the boards, including, but not limited to, those examinations administered by the National Commission on Certification of Physician Assistants.

~~(h)(i)~~ “Continuing medical education” means courses recognized and approved by the boards, the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association, or the Accreditation Council on Continuing Medical Education.

(3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or group of physicians supervising a certified physician assistant must be qualified in the medical areas in which the physician assistant is to perform and shall be individually or collectively responsible and liable for the performance and the acts and omissions of the physician assistant. A physician may not supervise more than four currently certified physician assistants at any one time.

(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 certified physician assistants.

(c) Certified 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 certified physician assistant, pursuant to a written protocol, the authority to act according to s. 154.04(1)(c)(4). Such delegated authority is limited to the supervising physician's practice in connection with a county ~~public health~~ department unit as defined and established pursuant to chapter 154. The boards shall adopt rules governing the supervision of physician assistants by physicians in county ~~public health~~ departments units.

(e) A supervisory physician may delegate to a fully certified physician assistant the authority to prescribe any medication used in the supervisory physician's practice if such medication is listed on the formulary created pursuant to paragraph (f). A fully certified physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that 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 agency of his intent to delegate, on a department-approved ~~an agency-approved~~ form, before delegating such authority and with each certification renewal application filed by the physician assistant.

3. The physician assistant must file with the department agency, before commencing to prescribe, evidence that 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 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 agency, 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 agency a signed affidavit that 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 certification renewal application.

6. The department agency shall issue certification and a prescriber number to the physician assistant granting authority for the prescribing of me-

dicinal 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. 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 Director of Health Care Administration. The committee must be composed of one fully certified physician assistant certified pursuant to this section or s. 459.022 ~~458.022~~, two physicians licensed pursuant to this chapter, one of whom supervises a 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 committee shall establish a formulary of medicinal drugs for which a fully certified 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~~ agency shall mail a copy of such formulary to each fully certified 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).

(5) PERFORMANCE BY TRAINEES.—Notwithstanding any other law, a trainee may perform medical services when such services are rendered within the scope of an approved program.

(6) PROGRAM APPROVAL.—

(a) The boards shall approve programs, based on recommendations by the council, for the education and training of physician assistants which meet standards established by rule of the boards. The council may recommend only those physician assistant programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Programs or its successor organization. Any educational institution offering a physician assistant program approved by the boards pursuant to this paragraph may also offer the physician assistant program authorized in paragraph (c) for unlicensed physicians.

(b) The boards shall adopt and publish standards to ensure that such programs operate in a manner that does not endanger the health or welfare of the patients who receive services within the scope of the programs. The boards shall review the quality of the curricula, faculties, and facilities of such programs and take whatever other action is necessary to determine that the purposes of this section are being met.

(c) Any community college with the approval of the State Board of Community Colleges may conduct a physician assistant program which shall apply for national accreditation through the American Medical Association's Committee on Allied Health, Education, and Accreditation, or its successor organization, and which may admit unlicensed physicians, as authorized in subsection (7), who are graduates of foreign medical schools listed with the World Health Organization. The unlicensed physician must have been a resident of this state for a minimum of 12 months immediately prior to admission to the program. An evaluation of knowledge base by examination shall be required to grant advanced academic credit and to fulfill the necessary requirements to graduate. A minimum of one 16-week semester of supervised clinical and didactic education, which may be completed simultaneously, shall be required before graduation from the program. All other provisions of this section shall remain in effect.

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

(a) Any person desiring to be certified as a physician assistant must apply to the ~~department~~ agency. The ~~department~~ agency shall issue a certificate to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.
2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level

examination of the National Commission on Certification of Physician Assistants to be eligible for certification.

3. Has completed the application form and remitted an application fee not to exceed \$300 as set by the boards. An application for certification made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

(b)1. Notwithstanding subparagraph (a)2. and sub-subparagraph (a)3.a., the department agency shall examine each applicant who the Board of Medicine certifies:

a. Has completed the application form and remitted a nonrefundable application fee not to exceed \$500 and an examination fee not to exceed \$300, plus the actual cost to the department agency to provide the examination. The examination fee is refundable if the applicant is found to be ineligible to take the examination. The department agency shall translate the examination into the native language of any applicant who requests and agrees to pay all costs of such translation, provided the applicant demonstrates to the department agency the ability to communicate orally in basic English.

b. Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board of Medicine as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(1), (3), (4), and (5), with the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates.

c. Was eligible and made initial application for certification as a physician assistant in this state between July 1, 1990, and June 30, 1991.

d. Was a resident of this state on July 1, 1990, or was licensed or certified in any state in the United States as a physician assistant on July 1, 1990.

2. The department agency may grant temporary certification to an applicant who meets the requirements of subparagraph 1. Between meetings of the council, the department agency may grant temporary certification to practice based on the completion of all temporary certification requirements.

All such administratively issued certifications shall be reviewed and acted on at the next regular meeting of the council. A temporary certificate expires upon receipt and notice of scores to the certificateholder from the first available examination specified in subparagraph 1. following certification by the department agency. An applicant who fails the proficiency examination is no longer temporarily certified, but may apply for a one-time extension of temporary certification after reapplying for the next available examination. Extended certification shall expire upon failure of the certificateholder to sit for the next available examination or upon receipt and notice of scores to the certificateholder from such examination.

3. Notwithstanding any other provision of law, the examination specified pursuant to subparagraph 1. shall be administered by the department agency only five times. Applicants certified by the board for examination shall receive at least 6 months' notice of eligibility prior to the administration of the initial examination. Subsequent examinations shall be administered at intervals determined by the department agency after the reporting of the scores of the first examination. For the purposes of this paragraph, the department agency may develop, contract for the development of, purchase, or approve an examination, including a practical component, that adequately measures an applicant's ability to practice with reasonable skill and safety. The minimum passing score on the examination shall be established by the department agency, with the advice of the board. Those applicants failing to pass that examination or any subsequent examination shall receive notice of the administration of the next examination with the notice of scores following such examination. Any applicant who passes the examination and meets the requirements of this section shall be certified as a physician assistant with all rights defined thereby.

(c) The certification must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed \$500 as set by the boards.
2. A sworn statement of no felony convictions in the previous 2 years.

(d) Each certified physician assistant shall biennially complete 100 hours of continuing medical education or shall hold a current certificate issued by the National Commission on Certification of Physician Assistants.

(e) Upon employment as a physician assistant, a certified physician assistant must notify the department agency in writing within 30 days after such employment or after any subsequent changes in the supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician.

(f) Notwithstanding subparagraph (a)2., the department agency may grant to a recent graduate of an approved program, as specified in subsection (6), temporary certification to expire upon receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the department agency may grant temporary certification to practice based on the

completion of all temporary certification requirements. All such administratively issued certifications shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be certified prior to employment, but must comply with paragraph (e). An applicant who has passed the proficiency examination may be granted permanent certification. An applicant failing the proficiency examination is no longer temporarily certified, but may reapply for a 1-year extension of temporary certification. An applicant may not be granted more than two temporary certificates and may not be certified as a physician assistant until he passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the council to retake the examination a sixth or subsequent time.

(g) The Board of Medicine may impose any of the penalties specified in ss. 455.227 and 458.331(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 455.

(8) DELEGATION OF POWERS AND DUTIES.—The boards may delegate such powers and duties to the council as they may deem proper.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department ~~Agency for Health Care Administration~~.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician, ~~supervises a physician assistant in the physician's practice,~~ and is a member of the Board of Osteopathic Medicine.

3. The secretary of the department ~~head of the agency~~ or his designee shall appoint a fully certified physician assistant licensed under this chapter or chapter 459.

(b) Two of the members appointed to the council must be physicians who supervise physician assistants in their practice. Members shall be appointed to terms of 4 years, except that of the initial appointments, two members shall be appointed to terms of 2 years, two members shall be appointed to terms of 3 years, and one member shall be appointed to a term of 4 years, as established by rule of the boards. Council members may not serve more than two consecutive terms. The council shall annually elect a chairperson from among its members.

(c) The council shall:

1. Recommend to the department agency the certification of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under this chapter and chapter 459, except for rules relating to the formulary developed under paragraph (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 certified physician assistants.

(10) INACTIVE AND DELINQUENT STATUS.—A certificate on inactive or delinquent status may be reactivated only as provided in s. 455.271.

(11) PENALTY.—Any person who has not been certified by the council and approved by the department agency and who holds himself out as a physician assistant or who uses any other term in indicating or implying that he is a physician assistant commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding \$5,000.

(12) DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION.—The boards may deny, suspend, or revoke a physician assistant certification if a board determines that the physician assistant has violated this chapter.

(13) RULES.—The boards shall adopt rules to implement this section, including rules detailing the contents of the application for certification and notification pursuant to subsection (7) and rules to ensure both the continued competency of physician assistants and the proper utilization of them by physicians or groups of physicians.

(14) EXISTING PROGRAMS.—This section does not eliminate or supersede existing laws relating to other paramedical professions or services and is supplemental to all such existing laws relating to the certification and practice of paramedical professions.

(15) **LIABILITY.**—Each supervising physician using a physician assistant is liable for any acts or omissions of the physician assistant acting under the physician’s supervision and control.

(16) **LEGAL SERVICES.**—The Department of Legal Affairs shall provide legal services to the council as authorized in s. 455.221(1).

(17) **FEES.**—The department agency shall allocate the fees collected under this section to the council.

Section 28. Subsections (1) and (2) of section 458.3485, Florida Statutes, are amended to read:

458.3485 Medical assistant.—

(1) **DEFINITION.**—As used in this section, “medical assistant” means a professional multiskilled person dedicated to assisting in all aspects of medical practice under the direct supervision and responsibility of a physician. This practitioner assists with patient care management, executes administrative and clinical procedures, and often performs managerial and supervisory functions. Competence in the field also requires that a medical assistant adhere to ethical and legal standards of professional practice, recognize and respond to emergencies, and demonstrate professional characteristics.

(2) **DUTIES.**—Under the direct supervision and responsibility of a licensed physician, ~~the duties of a medical assistant~~ may undertake the following duties ~~are to:~~

(a) Performing ~~Perform~~ clinical procedures, to include:

1. Performing aseptic procedures.
2. Taking vital signs.
3. Preparing patients for the physician’s care.
4. Performing venipunctures and nonintravenous injections.
5. Observing and reporting patients’ signs or symptoms.

(b) Administering basic first aid.

(c) Assisting with patient examinations or treatments.

(d) Operating office medical equipment.

(e) Collecting routine laboratory specimens as directed by the physician.

(f) Administering medication as directed by the physician.

(g) Performing basic laboratory procedures.

(h) Performing office procedures including all general administrative duties required by the physician.

- (i) ~~Performing Perform~~ dialysis procedures, including home dialysis.

Section 29. Subsection (2) of section 459.003, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

459.003 Definitions.—As used in this chapter:

(2) “Department” means the Department of Health Business and Professional Regulation.

(5) “Doctor of Osteopathy” and “Doctor of Osteopathic Medicine,” when referring to degrees, shall be construed to be equivalent and equal degrees.

Section 30. Subsections (1) and (3) and paragraph (b) of subsection (5) of section 459.021, Florida Statutes, are amended, and subsections (8) and (9) are added to that section, to read:

459.021 Registration of resident physicians, interns, and fellows; list of hospital employees; penalty.—

(1) Any person who holds a degree of Doctor of Osteopathic Medicine ~~Osteopathy~~ from a college of osteopathic medicine recognized and approved by the American Osteopathic Association who desires to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training which leads to subspecialty board certification in this state who does not hold an active license issued under this chapter shall apply to the department to be registered, on an application provided by the department, within 30 days of commencing such a training program and shall remit a fee not to exceed \$300 as set by the board.

(3) Every hospital having employed or contracted with or utilized the services of a person who holds a degree of Doctor of Osteopathic Medicine ~~Osteopathy~~ from a college of osteopathic medicine recognized and approved by the American Osteopathic Association as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training which leads to subspecialty board certification shall designate a person who shall furnish, in January and July of each year, to the department a list of all such persons who have served in the hospital during the preceding 6-month period. The chief executive officer of each such hospital shall provide the executive director of the board with the name, title, and address of the person responsible for filing such reports.

(5) It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 for any hospital, and also for the superintendent, administrator, and other person or persons having administrative authority in a hospital:

(b) To fail to furnish to the department the list and information required by subsection (3).

(8) Notwithstanding any provision of this section or s. 120.52 to the contrary, any person who is registered under this section is subject to the provisions of s. 459.015.

(9) A person registered as a resident physician under this section may in the normal course of his or her employment prescribe medicinal drugs described in schedules set out in chapter 893 when:

(a) The person prescribes such medicinal drugs through use of a Drug Enforcement Administration number issued to the hospital by which the person is employed or at which the person's services are used;

(b) The person is identified by a discrete suffix to the identification number issued to the hospital; and

(c) The use of the institutional identification number and individual suffixes conforms to the requirements of the federal Drug Enforcement Administration.

Section 31. Subsection (1) of section 459.0075, Florida Statutes, is amended to read:

459.0075 Limited licenses.—

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

(a) Submit to the board a licensure application and fee required by this chapter. However, an osteopathic physician who is not fully retired in all jurisdictions, may use a limited license only for noncompensated practice. ~~However,~~ If the person applying for a limited license submits a notarized statement from the employing agency or institution stating that he will not receive monetary compensation for any service involving the practice of osteopathic medicine, the application fee and all licensure fees shall be waived. However, any person who receives a waiver of fees for a limited license shall pay such fees if the person receives compensation for the practice of osteopathic medicine.

(b) Submit an affidavit that such osteopathic physician has been licensed to practice osteopathic medicine in any jurisdiction in the United States in good standing and pursuant to law for at least 10 years ~~and has now retired and that he was in good standing at the time of his retirement.~~

(c) Complete an amount of continuing education established by the board.

Section 32. Paragraphs (a) and (g) of subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, are amended to read:

459.0085 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its ~~and~~ subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15)(14).

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either \$100,000, if the osteopathic physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or \$250,000, if the osteopathic physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment, pending disposition of the appeal.

2. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

3. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the osteopathic physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

4. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to ~~either~~ post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients and ~~or~~ provide a written statement to any person to whom medical services are being provided. A copy of the written statement shall be given to each patient to sign, acknowledging receipt thereof, and the signed copy shall be maintained in the patient's file. If the patient refuses to sign or is unable to sign the written statement, the licensee shall so note it on the form. Such sign ~~and or~~ statement shall state that: "Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes strict penalties against noninsured osteopathic physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law."

Section 33. Paragraphs (o), (gg), and (ll) of subsection (1) of section 459.015, Florida Statutes, 1996 Supplement, are amended, and paragraph (nn) is added to said subsection, to read:

459.015 Grounds for disciplinary action by the board.—

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

(o) Failing to keep legible, as defined by department rule in consultation with the board, written 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 justifying 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.

(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 ~~in children~~ characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, 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.

(ll) ~~Failing to report to the department Division of Medical Quality Assurance any licensee physician licensed under chapter 458 or osteopathic physician licensed 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 that person physician or osteopathic physician 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.~~

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

Section 34. Section 459.0152, Florida Statutes, is created to read:

459.0152 Specialties.—An osteopathic physician licensed under this chapter may not hold himself or herself out as a board-certified specialist unless the osteopathic physician has successfully completed the requirements for certification by the American Osteopathic Association or the Accreditation Council on Graduate Medical Education and is certified as a specialist by a certifying agency approved by the board. However, an osteopathic physician may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the osteopathic physician.

Section 35. Section 459.022, Florida Statutes, 1996 Supplement, is amended to read:

459.022 Physician assistants.—

(1) LEGISLATIVE INTENT.—

(a) The purpose of this section is to encourage more effective utilization of the skills of osteopathic physicians or groups of osteopathic physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the patient's health and welfare.

(b) In order that maximum skills may be obtained within a minimum time period of education, a physician assistant shall be specialized to the extent that he can operate efficiently and effectively in the specialty areas in which he has been trained or is experienced.

(c) The purpose of this section is to encourage the utilization of physician assistants by osteopathic physicians and to allow for innovative development of programs for the education of physician assistants.

(2) DEFINITIONS.—As used in this section:

(a) ~~“Agency” means the Agency for Health Care Administration.~~

(a)(b) “Approved program” means a program, formally approved by the boards, for the education of physician assistants.

(b)~~(c)~~ “Boards” means the Board of Medicine and the Board of Osteopathic Medicine.

(c)~~(d)~~ “Council” means the Council on Physician Assistants.

(d)~~(e)~~ “Trainee” means a person who is currently enrolled in an approved program.

(e)~~(f)~~ “Physician assistant” means a person who is a graduate of an approved program or its equivalent or meets standards approved by the boards and is certified to perform medical services delegated by the supervising physician.

(f)~~(g)~~ “Supervision” means responsible supervision and control. Except in cases of emergency, supervision requires the easy availability or physical presence of the licensed physician for consultation and direction of the actions of the physician assistant. For the purposes of this definition, the term “easy availability” includes the ability to communicate by way of telecommunication. The boards shall establish rules as to what constitutes responsible supervision of the physician assistant.

(g)~~(h)~~ “Proficiency examination” means an entry-level examination approved by the boards, including, but not limited to, those examinations administered by the National Commission on Certification of Physician Assistants.

(h)~~(i)~~ “Continuing medical education” means courses recognized and approved by the boards, the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association, or the Accreditation Council on Continuing Medical Education.

(3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or group of physicians supervising a certified physician assistant must be qualified in the medical areas in which the physician assistant is to perform and shall be individually or collectively responsible and liable for the performance and the acts and omissions of the physician assistant. A physician may not supervise more than four currently certified physician assistants at any one time.

(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 certified physician assistants.

(c) Certified 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 certified physician assistant, pursuant to a written protocol, the authority to act according to s. 154.04(1)(c)(d). Such delegated authority is limited to the supervising physician's practice in connection with a county public health department unit as defined and established pursuant to chapter 154. The boards shall adopt rules governing the supervision of physician assistants by physicians in county public health departments units.

(e) A supervisory physician may delegate to a fully certified physician assistant the authority to prescribe any medication used in the supervisory physician's practice if such medication is listed on the formulary created pursuant to s. 458.347. A fully certified physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that 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 agency of his intent to delegate, on a department-approved ~~an agency-approved~~ form, before delegating such authority and with each certification renewal application filed by the physician assistant.

3. The physician assistant must file with the department agency, before commencing to prescribe, evidence that 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 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 agency, 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 agency a signed affidavit that 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 certification renewal application.

6. The department agency shall issue certification 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. 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 Director of Health Care Administration. The committee must be composed of one fully certified physician assistant certified 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 certified 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 agency shall mail a copy of such formulary to each fully certified 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).

(5) PERFORMANCE BY TRAINEES.—Notwithstanding any other law, a trainee may perform medical services when such services are rendered within the scope of an approved program.

(6) PROGRAM APPROVAL.—

(a) The boards shall approve programs, based on recommendations by the council, for the education and training of physician assistants which meet standards established by rule of the boards. The council may recommend only those physician assistant programs that hold full accreditation

or provisional accreditation from the Commission on Accreditation of Allied Health Programs or its successor organization.

(b) The boards shall adopt and publish standards to ensure that such programs operate in a manner that does not endanger the health or welfare of the patients who receive services within the scope of the programs. The boards shall review the quality of the curricula, faculties, and facilities of such programs and take whatever other action is necessary to determine that the purposes of this section are being met.

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

(a) Any person desiring to be certified as a physician assistant must apply to the department agency. The department agency shall issue a certificate to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for certification.

3. Has completed the application form and remitted an application fee not to exceed \$300 as set by the boards. An application for certification made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

(b) The certification must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed \$500 as set by the boards.

2. A sworn statement of no felony convictions in the previous 2 years.

(c) Each certified physician assistant shall biennially complete 100 hours of continuing medical education or shall hold a current certificate issued by the National Commission on Certification of Physician Assistants.

(d) Upon employment as a physician assistant, a certified physician assistant must notify the department agency in writing within 30 days after

such employment or after any subsequent changes in the supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician.

(e) Notwithstanding subparagraph (a)2., the department agency may grant to a recent graduate of an approved program, as specified in subsection (6), temporary certification to expire upon receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the department agency may grant temporary certification to practice to physician assistant applicants based on the completion of all temporary certification requirements. All such administratively issued certifications shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be certified prior to employment, but must comply with paragraph (d). An applicant who has passed the proficiency examination may be granted permanent certification. An applicant failing the proficiency examination is no longer temporarily certified, but may reapply for a 1-year extension of temporary certification. An applicant may not be granted more than two temporary certificates and may not be certified as a physician assistant until he passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the council to retake the examination a sixth or subsequent time.

(f) The Board of Osteopathic Medicine may impose any of the penalties specified in ss. 455.227 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 455.

(8) DELEGATION OF POWERS AND DUTIES.—The boards may delegate such powers and duties to the council as they may deem proper.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department Agency for Health Care Administration.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician, ~~supervises a physician assistant in the physician's practice,~~ and is a member of the Board of Osteopathic Medicine.

3. The secretary of the department head of the agency or his designee shall appoint a fully certified physician assistant licensed under chapter 458 or this chapter.

(b) Two of the members appointed to the council must be physicians who supervise physician assistants in their practice. Members shall be appointed to terms of 4 years, except that of the initial appointments, two members shall be appointed to terms of 2 years, two members shall be appointed to terms of 3 years, and one member shall be appointed to a term of 4 years, as established by rule of the boards. Council members may not serve more than two consecutive terms. The council shall annually elect a chairperson from among its members.

(c) The council shall:

1. Recommend to the department ~~agency~~ the certification 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 certified physician assistants.

(10) INACTIVE AND DELINQUENT STATUS.—A certificate on inactive or delinquent status may be reactivated only as provided in s. 455.271.

(11) PENALTY.—Any person who has not been certified by the council and approved by the department ~~agency~~ and who holds himself out as a physician assistant or who uses any other term in indicating or implying that he is a physician assistant commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding \$5,000.

(12) DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION.—The boards may deny, suspend, or revoke a physician assistant certification if a board determines that the physician assistant has violated this chapter.

(13) RULES.—The boards shall adopt rules to implement this section, including rules detailing the contents of the application for certification and

notification pursuant to subsection (7) and rules to ensure both the continued competency of physician assistants and the proper utilization of them by physicians or groups of physicians.

(14) **EXISTING PROGRAMS.**—This section does not eliminate or supersede existing laws relating to other paramedical professions or services and is supplemental to all such existing laws relating to the certification and practice of paramedical professions.

(15) **LIABILITY.**—Each supervising physician using a physician assistant is liable for any acts or omissions of the physician assistant acting under the physician's supervision and control.

(16) **LEGAL SERVICES.**—The Department of Legal Affairs shall provide legal services to the council as authorized in s. 455.221(1).

(17) **FEES.**—The department ~~agency~~ shall allocate the fees collected under this section to the council.

Section 36. Subsection (1) of section 240.4067, Florida Statutes, is amended to read:

240.4067 **Medical Education Reimbursement and Loan Repayment Program.**—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced registered nurse practitioner or physician's assistant certification. The following licensed or certified health care professionals are eligible to participate in this program: medical doctors with primary care specialties, doctors of osteopathic medicine osteopathy with primary care specialties, physician's assistants, licensed practical nurses and registered nurses, and advanced registered nurse practitioners with primary care specialties such as certified nurse midwives. Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal medicine, pediatrics, and other specialties which may be identified by the Department of Health and Rehabilitative Services.

Section 37. Subsection (5) of section 390.011, Florida Statutes, is amended to read:

390.011 **Definitions.**—As used in this act:

(5) "Physician" means a physician licensed under chapter 458 or chapter 459 or a physician practicing medicine or osteopathic medicine osteopathy in the employment of the United States or this state.

Section 38. Subsection (1) of section 395.0191, Florida Statutes, is amended to read:

395.0191 Staff membership and clinical privileges.—

(1) No licensed facility, in considering and acting upon an application for staff membership or clinical privileges, shall deny the application of a qualified doctor of medicine licensed under chapter 458, a doctor of osteopathic medicine ~~osteopathy~~ licensed under chapter 459, a doctor of dentistry licensed under chapter 466, a doctor of podiatry licensed under chapter 461, or a psychologist licensed under chapter 490 for such staff membership or clinical privileges within the scope of his or her respective licensure solely because the applicant is licensed under any of such chapters.

Section 39. Paragraph (g) of subsection (1) of section 408.035, Florida Statutes, is amended to read:

408.035 Review criteria.—

(1) The agency shall determine the reviewability of applications and shall review applications for certificate-of-need determinations for health care facilities and services, hospices, and health maintenance organizations in context with the following criteria:

(g) The need for research and educational facilities, including, but not limited to, institutional training programs and community training programs for health care practitioners and for doctors of osteopathic medicine ~~osteopathy~~ and medicine at the student, internship, and residency training levels.

Section 40. Subsection (9) of section 409.905, Florida Statutes, 1996 Supplement, 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 were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. 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 monies and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(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 ~~osteopathy~~. 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 ~~osteopathy~~ as defined by state law. The agency shall not pay for services that are clinically unproven, experimental, or for purely cosmetic purposes.

Section 41. Subsection (33) of section 415.102, Florida Statutes, is amended to read:

415.102 Definitions of terms used in ss. 415.101-415.113.—As used in ss. 415.101-415.113, the term:

(33) “Specified medical personnel” means licensed or certified physicians, osteopathic physicians ~~osteopaths~~, nurses, paramedics, advanced registered nurse practitioners, psychologists, psychiatrists, mental health professionals, or any other licensed or certified medical personnel.

Section 42. Paragraph (a) of subsection (1) of section 415.1034, Florida Statutes, is amended to read:

415.1034 Mandatory reporting of abuse, neglect, or exploitation of disabled adults or elderly persons; mandatory reports of death.—

(1) MANDATORY REPORTING.—

(a) Any person, including, but not limited to, any:

1. Physician, osteopathic physician ~~osteopath~~, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of disabled adults or elderly persons;

2. Health professional or mental health professional other than one listed in subparagraph 1.;

3. Practitioner who relies solely on spiritual means for healing;

4. Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;

5. State, county, or municipal criminal justice employee or law enforcement officer;

6. Human rights advocacy committee or long-term care ombudsman council member; or

7. Bank, savings and loan, or credit union officer, trustee, or employee,

who knows, or has reasonable cause to suspect, that a disabled adult or an elderly person has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse registry and tracking system on the single statewide toll-free telephone number.

Section 43. Paragraph (a) of subsection (1) of section 415.504, Florida Statutes, 1996 Supplement, is amended to read:

415.504 Mandatory reports of child abuse or neglect; mandatory reports of death; central abuse hotline.—

(1) Any person, including, but not limited to, any:

(a) Physician, osteopathic physician osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

Section 44. Subsection (2) of section 440.106, Florida Statutes, is amended to read:

440.106 Civil remedies; administrative penalties.—

(2) Whenever a physician, osteopathic physician osteopath, chiropractor, podiatrist, or other practitioner is determined to have violated s. 440.105, the Board of ~~Medicine~~ Medical Examiners as set forth in chapter 458, the Board of ~~Osteopathic Medicine~~ Medical Examiners as set forth in chapter 459, the Board of Chiropractic as set forth in chapter 460, the Board of Podiatric Medicine as set forth in chapter 461, or other appropriate licensing authority, shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, osteopathic physician osteopath, chiropractor, or other practitioner.

Section 45. Paragraph (r) of subsection (1) of section 440.13, Florida Statutes, 1996 Supplement, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

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

(r) “Physician” or “doctor” means ~~a medical doctor or doctor of osteopathy licensed under chapter 458~~, a physician licensed under chapter 458, an osteopathic physician osteopath licensed under chapter 459, a chiropractor licensed under chapter 460, a podiatrist licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, each of whom must be certified by the division as a health care provider.

Section 46. Paragraphs (i) and (k) of subsection (1) of section 440.134, Florida Statutes, are amended to read:

440.134 Workers’ compensation managed care arrangement.—

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

(i) “Medical care coordinator” means a primary care provider within a provider network who is responsible for managing the medical care of an injured worker including determining other health care providers and health care facilities to which the injured employee will be referred for evaluation or treatment. A medical care coordinator shall be a physician licensed under chapter 458 or an osteopathic physician osteopath licensed under chapter 459.

(k) "Primary care provider" means, except in the case of emergency treatment, the initial treating physician and, when appropriate, continuing treating physician, who may be a family practitioner, general practitioner, or internist physician licensed under chapter 458; a family practitioner, general practitioner, or internist osteopathic physician ~~osteopath~~ licensed under chapter 459; a chiropractor licensed under chapter 460; a podiatrist licensed under chapter 461; an optometrist licensed under chapter 463; or a dentist licensed under chapter 466.

Section 47. Paragraph (a) of subsection (3) of section 440.15, Florida Statutes, 1996 Supplement, is amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(a) Impairment benefits.—

1. Once the employee has reached the date of maximum medical improvement, impairment benefits are due and payable within 20 days after the carrier has knowledge of the impairment.

2. The three-member panel, in cooperation with the division, shall establish and use a uniform permanent impairment rating schedule. This schedule must be based on medically or scientifically demonstrable findings as well as the systems and criteria set forth in the American Medical Association's Guides to the Evaluation of Permanent Impairment; the Snellen Charts, published by American Medical Association Committee for Eye Injuries; and the Minnesota Department of Labor and Industry Disability Schedules. The schedule should be based upon objective findings. The schedule shall be more comprehensive than the AMA Guides to the Evaluation of Permanent Impairment and shall expand the areas already addressed and address additional areas not currently contained in the guides. On August 1, 1979, and pending the adoption, by rule, of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971, 1988, by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof. For injuries after July 1, 1990, pending the adoption by division rule of a uniform disability rating schedule, the Minnesota Department of Labor and Industry Disability Schedule shall be used unless that schedule does not address an injury. In such case, the Guides to the Evaluation of Permanent Impairment by the American Medical Association shall be used. Determination of permanent impairment under this schedule must be made by a physician licensed under chapter 458, a doctor of osteopathic medicine ~~osteopathy~~ licensed under chapters 458 and 459, a chiropractor licensed under chapter 460, a podiatrist licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, as appropriate considering the nature of the injury. No other persons are authorized to render opinions regarding the existence of or the extent of permanent impairment.

3. All impairment income benefits shall be based on an impairment rating using the impairment schedule referred to in subparagraph 2. Impairment income benefits are paid weekly at the rate of 50 percent of the employee's average weekly temporary total disability benefit not to exceed the maximum weekly benefit under s. 440.12. An employee's entitlement to impairment income benefits begins the day after the employee reaches maximum medical improvement or the expiration of temporary benefits, whichever occurs earlier, and continues until the earlier of:

a. The expiration of a period computed at the rate of 3 weeks for each percentage point of impairment; or

b. The death of the employee.

4. After the employee has been certified by a doctor as having reached maximum medical improvement or 6 weeks before the expiration of temporary benefits, whichever occurs earlier, the certifying doctor shall evaluate the condition of the employee and assign an impairment rating, using the impairment schedule referred to in subparagraph 2. Compensation is not payable for the mental, psychological, or emotional injury arising out of depression from being out of work. If the certification and evaluation are performed by a doctor other than the employee's treating doctor, the certification and evaluation must be submitted to the treating doctor, and the treating doctor must indicate agreement or disagreement with the certification and evaluation. The certifying doctor shall issue a written report to the division, the employee, and the carrier certifying that maximum medical improvement has been reached, stating the impairment rating, and providing any other information required by the division. If the employee has not been certified as having reached maximum medical improvement before the expiration of 102 weeks after the date temporary total disability benefits begin to accrue, the carrier shall notify the treating doctor of the requirements of this section.

5. The carrier shall pay the employee impairment income benefits for a period based on the impairment rating.

Section 48. Subsection (2) of section 456.31, Florida Statutes, is amended to read:

456.31 Legislative intent.—

(2) It is the intent of the Legislature to provide for certain practitioners of the healing arts, such as a trained and qualified dentist, to use hypnosis for hypnoanesthesia or for the allaying of anxiety in relation to dental work; however, under no circumstances shall it be legal or proper for the dentist or the individual to whom the dentist may refer the patient, to use hypnosis for the treatment of the neurotic difficulties of a patient. The same applies to the optometrist, podiatrist, chiropractor, osteopathic physician ~~osteopath~~, or physician of medicine.

Section 49. Subsection (1) of section 459.006, Florida Statutes, is amended to read:

459.006 Licensure by examination.—Any person desiring to be licensed by examination shall:

(1) Have successfully completed a resident internship of not less than 12 months in a hospital approved for this purpose by the Board of Trustees of the American Osteopathic Association or any other internship program approved by the board upon a showing of good cause by the applicant. This requirement may be waived for applicants who matriculated in a college of osteopathic medicine osteopathy during or before 1948.

Section 50. Subsection (1) of section 462.01, Florida Statutes, is amended to read:

462.01 Definitions.—As used in this chapter:

(1) “Natureopathy” and “Naturopathy” shall be construed as synonymous terms and mean the use and practice of psychological, mechanical, and material health sciences to aid in purifying, cleansing, and normalizing human tissues for the preservation or restoration of health, according to the fundamental principles of anatomy, physiology, and applied psychology, as may be required. Naturopathic practice employs, among other agencies, phytotherapy, dietetics, psychotherapy, suggestotherapy, hydrotherapy, zone therapy, biochemistry, external applications, electrotherapy, mechanotherapy, mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy; provided, however, that nothing in this chapter shall be held or construed to authorize any naturopathic physician licensed hereunder to practice materia medica or surgery or chiropractic, nor shall the provisions of this law in any manner apply to or affect the practice of osteopathic medicine osteopathy, chiropractic, Christian Science, or any other treatment authorized and provided for by law for the cure or prevention of disease and ailments.

Section 51. Subsection (10) of section 468.301, Florida Statutes, is amended to read:

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

(10) “Licensed practitioner” means a person who is licensed or otherwise authorized by law to practice medicine, podiatry, chiropody, osteopathic medicine osteopathy, naturopathy, or chiropractic in this state.

Section 52. Paragraph (a) of subsection (6) of section 468.302, Florida Statutes, 1996 Supplement, is amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(6) Requirement for certification does not apply to:

(a) A hospital resident who is not a licensed practitioner in this state or a student enrolled in and attending a school or college of medicine, osteopathic medicine osteopathy, chiropody, podiatry, or chiropractic or a radiologic technology educational program and who applies radiation to a human being while under the direct supervision of a licensed practitioner.

Section 53. Section 476.044, Florida Statutes, is amended to read:

476.044 Exemptions.—This chapter does not apply to the following persons when practicing pursuant to their professional responsibilities and duties:

(1) Persons authorized under the laws of this state to practice medicine, surgery, osteopathic medicine ~~osteopathy~~, chiropractic, naturopathy, or podiatry;

(2) Commissioned medical or surgical officers of the United States Armed Forces hospital service;

(3) Licensed nurses under the laws of this state;

(4) Persons practicing cosmetology under the laws of this state;

(5) Persons employed in federal, state, or local institutions, hospitals, or military bases as barbers whose practice is limited to the inmates, patients, or authorized military personnel of such institutions, hospitals, or bases; or

(6) Persons who practice only shampooing as defined in s. 477.013 and whose practice is limited to the acts described therein; or

(7) Persons whose occupation or practice is confined solely to cutting, trimming, polishing, or cleansing the fingernails of any person when said cutting, trimming, polishing, or cleansing is done in a barbershop licensed pursuant to this chapter which is carrying on a regular and customary business of barbering, and such individual has been practicing the activities set forth in this subsection prior to October 1, 1985.

Section 54. Paragraph (a) of subsection (1) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(1) This chapter does not apply to the following persons when practicing pursuant to their professional or occupational responsibilities and duties:

(a) Persons authorized under the laws of this state to practice medicine, surgery, osteopathic medicine ~~osteopathy~~, chiropractic, massage, naturopathy, or podiatry.

Section 55. Paragraph (a) of subsection (8) of section 483.291, Florida Statutes, is amended to read:

483.291 Powers and duties of the agency; rules.—The agency shall adopt rules to implement this part, which rules must include the following:

(8) PERSONNEL.—The agency shall prescribe minimum qualifications for center personnel. A center may employ as a medical assistant a person who has at least one of the following qualifications:

(a) Prior experience of not less than 6 months as a medical assistant in the office of a licensed medical doctor or osteopathic physician ~~osteopath~~ or

in a hospital, an ambulatory surgical center, a home health agency, or a health maintenance organization.

Section 56. Subsection (1) of section 621.03, Florida Statutes, is amended to read:

621.03 Definitions.—As used in this act the following words shall have the meaning indicated:

(1) The term “professional service” means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization. By way of example and without limiting the generality thereof, the personal services which come within the provisions of this act are the personal services rendered by certified public accountants, public accountants, chiropractors, dentists, osteopathic physicians ~~osteopaths~~, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, architects, veterinarians, attorneys at law, and life insurance agents.

Section 57. Paragraph (h) of subsection (4) of section 627.351, Florida Statutes, 1996 Supplement, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(h) As used in this subsection:

1. “Health care provider” means hospitals licensed under chapter 395; physicians licensed under chapter 458; osteopathic physicians ~~osteopaths~~ licensed under chapter 459; podiatrists licensed under chapter 461; dentists licensed under chapter 466; chiropractors licensed under chapter 460; naturopaths licensed under chapter 462; nurses licensed under chapter 464; midwives licensed under chapter 467; clinical laboratories registered under chapter 483; physician assistants certified under chapter 458; physical therapists and physical therapist assistants licensed under chapter 486; health maintenance organizations certificated under part I of chapter 641; ambulatory surgical centers licensed under chapter 395; other medical facilities as defined in subparagraph 2.; blood banks, plasma centers, industrial clinics, and renal dialysis facilities; or professional associations, partnerships, corporations, joint ventures, or other associations for professional activity by health care providers.

2. “Other medical facility” means a facility the primary purpose of which is to provide human medical diagnostic services or a facility providing non-surgical human medical treatment, to which facility the patient is admitted and from which facility the patient is discharged within the same working day, and which facility is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy or an office maintained by a physician or dentist for the practice of medicine shall not be construed to be an “other medical facility.”

3. “Health care facility” means any hospital licensed under chapter 395, health maintenance organization certificated under part I of chapter 641,

ambulatory surgical center licensed under chapter 395, or other medical facility as defined in subparagraph 2.

Section 58. Paragraph (b) of subsection (1) of section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

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

(b) “Health care provider” means any:

1. Hospital licensed under chapter 395.
2. Physician licensed, or physician assistant certified, under chapter 458.
3. Osteopathic physician ~~Osteopath~~ licensed under chapter 459.
4. Podiatrist licensed under chapter 461.
5. Health maintenance organization certificated under part I of chapter 641.
6. Ambulatory surgical center licensed under chapter 395.
7. Chiropractor licensed under chapter 460.
8. Psychologist licensed under chapter 490.
9. Optometrist licensed under chapter 463.
10. Dentist licensed under chapter 466.
11. Pharmacist licensed under chapter 465.
12. Registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under chapter 464.
13. Other medical facility.
14. Professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9., 10., 11., and 12. for professional activity.

Section 59. Subsection (10) of section 627.6482, Florida Statutes, is amended to read:

627.6482 Definitions.—As used in ss. 627.648-627.6498, the term:

(10) “Physician” means a physician licensed under chapter 458; an osteopathic physician ~~osteopath~~ licensed under chapter 459; a chiropractor licensed under chapter 460; a podiatrist licensed under chapter 461; or, for purposes of oral surgery only, a dental surgeon licensed under chapter 466.

Section 60. Section 725.01, Florida Statutes, is amended to read:

725.01 Promise to pay another's debt, etc.—No action shall be brought whereby to charge any executor or administrator upon any special promise to answer or pay any debt or damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of another person or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements or hereditaments, or of any uncertain interest in or concerning them, or for any lease thereof for a period longer than 1 year, or upon any agreement that is not to be performed within the space of 1 year from the making thereof, or whereby to charge any health care provider upon any guarantee, warranty, or assurance as to the results of any medical, surgical, or diagnostic procedure performed by any physician licensed under chapter 458, osteopathic physician osteopath licensed under chapter 459, chiropractor licensed under chapter 460, podiatrist licensed under chapter 461, or dentist licensed under chapter 466, unless the agreement or promise upon which such action shall be brought, or some note or memorandum thereof shall be in writing and signed by the party to be charged therewith or by some other person by him thereunto lawfully authorized.

Section 61. Paragraph (b) of subsection (1) of section 766.101, Florida Statutes, 1996 Supplement, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(b) The term “health care providers” means physicians licensed under chapter 458, osteopathic physicians osteopaths licensed under chapter 459, podiatrists licensed under chapter 461, optometrists licensed under chapter 463, dentists licensed under chapter 466, chiropractors licensed under chapter 460, pharmacists licensed under chapter 465, or hospitals or ambulatory surgical centers licensed under chapter 395.

Section 62. Subsection (3) of section 766.103, Florida Statutes, is amended to read:

766.103 Florida Medical Consent Law.—

(3) No recovery shall be allowed in any court in this state against any physician licensed under chapter 458, osteopathic physician osteopath licensed under chapter 459, chiropractor licensed under chapter 460, podiatrist licensed under chapter 461, or dentist licensed under chapter 466 in an action brought for treating, examining, or operating on a patient without his informed consent when:

(a)1. The action of the physician, osteopathic physician osteopath, chiropractor, podiatrist, or dentist in obtaining the consent of the patient or another person authorized to give consent for the patient was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community; and

2. A reasonable individual, from the information provided by the physician, osteopathic physician ~~osteopath~~, chiropractor, podiatrist, or dentist, under the circumstances, would have a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, which are recognized among other physicians, osteopathic physicians ~~osteopaths~~, chiropractors, podiatrists, or dentists in the same or similar community who perform similar treatments or procedures; or

(b) The patient would reasonably, under all the surrounding circumstances, have undergone such treatment or procedure had he been advised by the physician, osteopathic physician ~~osteopath~~, chiropractor, podiatrist, or dentist in accordance with the provisions of paragraph (a).

Section 63. Paragraphs (b) and (i) of subsection (1) and paragraph (e) of subsection (2) of section 766.105, Florida Statutes, 1996 Supplement, are amended to read:

766.105 Florida Patient's Compensation Fund.—

(1) DEFINITIONS.—The following definitions apply in the interpretation and enforcement of this section:

(b) The term “health care provider” means any:

1. Hospital licensed under chapter 395.
2. Physician licensed, or physician assistant certified, under chapter 458.
3. Osteopathic physician ~~Osteopath~~ licensed under chapter 459.
4. Podiatrist licensed under chapter 461.
5. Health maintenance organization certificated under part I of chapter 641.
6. Ambulatory surgical center licensed under chapter 395.
7. “Other medical facility” as defined in paragraph (c).
8. Professional association, partnership, corporation, joint venture, or other association by the individuals set forth in subparagraphs 2., 3., and 4. for professional activity.

(i) The term “house physician” means any physician, osteopathic physician ~~osteopath~~, podiatrist, or dentist except: a physician, osteopathic physician ~~osteopath~~, podiatrist, or dentist with staff privileges at a hospital; a physician, osteopathic physician ~~osteopath~~, podiatrist, or dentist providing emergency room services; an anesthesiologist, pathologist, or radiologist; or a physician, osteopathic physician ~~osteopath~~, podiatrist, or dentist who performs a service for a fee.

(2) COVERAGE.—

(e) The coverage afforded by the fund for a participating hospital or ambulatory surgical center shall apply to the officers, trustees, volunteer workers, trainees, committee members (including physicians, osteopathic physicians osteopaths, podiatrists, and dentists), and employees of the hospital or ambulatory surgical center, other than employed physicians licensed under chapter 458, physician assistants licensed under chapter 458, osteopathic physicians osteopaths licensed under chapter 459, dentists licensed under chapter 466, and podiatrists licensed under chapter 461. However, the coverage afforded by the fund for a participating hospital shall apply to house physicians, interns, employed physician residents in a resident training program, or physicians performing purely administrative duties for the participating hospitals other than the treatment of patients. This coverage shall apply to the hospital or ambulatory surgical center and those included in this subsection as one health care provider.

Section 64. Subsection (2) of section 766.110, Florida Statutes, is amended to read:

766.110 Liability of health care facilities.—

(2) Every hospital licensed under chapter 395 may carry liability insurance or adequately insure itself in an amount of not less than \$1.5 million per claim, \$5 million annual aggregate to cover all medical injuries to patients resulting from negligent acts or omissions on the part of those members of its medical staff who are covered thereby in furtherance of the requirements of ss. 458.320 and 459.0085. Self-insurance coverage extended hereunder to a member of a hospital's medical staff meets the financial responsibility requirements of ss. 458.320 and 459.0085 if the physician's coverage limits are not less than the minimum limits established in ss. 458.320 and 459.0085 and the hospital is a verified trauma center as of July 1, 1990, that has extended self-insurance coverage continuously to members of its medical staff for activities both inside and outside of the hospital since January 1, 1987. Any insurer authorized to write casualty insurance may make available, but shall not be required to write, such coverage. The hospital may assess on an equitable and pro rata basis the following professional health care providers for a portion of the total hospital insurance cost for this coverage: physicians licensed under chapter 458, osteopathic physicians osteopaths licensed under chapter 459, podiatrists licensed under chapter 461, dentists licensed under chapter 466, and nurses licensed under chapter 464. The hospital may provide for a deductible amount to be applied against any individual health care provider found liable in a law suit in tort or for breach of contract. The legislative intent in providing for the deductible to be applied to individual health care providers found negligent or in breach of contract is to instill in each individual health care provider the incentive to avoid the risk of injury to the fullest extent and ensure that the citizens of this state receive the highest quality health care obtainable.

Section 65. Subsection (2) of section 817.234, Florida Statutes, is amended to read:

817.234 False and fraudulent insurance claims.—

(2) Any physician licensed under chapter 458, osteopathic physician osteopath licensed under chapter 459, chiropractor licensed under chapter 460, or other practitioner licensed under the laws of this state who knowingly and willfully assists, conspires with, or urges any insured party to fraudulently violate any of the provisions of this section or part XI of chapter 627, or any person who, due to such assistance, conspiracy, or urging by said physician, osteopathic physician osteopath, chiropractor, or practitioner, knowingly and willfully benefits from the proceeds derived from the use of such fraud, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In the event that a physician, osteopathic physician osteopath, chiropractor, or practitioner is adjudicated guilty of a violation of this section, the Board of Medicine as set forth in chapter 458, the Board of Osteopathic Medicine as set forth in chapter 459, the Board of Chiropractic as set forth in chapter 460, or other appropriate licensing authority shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, osteopathic physician osteopath, chiropractor, or practitioner.

Section 66. Subsection (1) of section 945.047, Florida Statutes, is amended to read:

945.047 Licensing requirements for physicians, osteopathic physicians, and chiropractors employed by the department.—

(1) The Department of Corrections shall employ only physicians, osteopathic physicians, or chiropractic physicians holding licenses in good standing to practice medicine in this state, except that, by October 1, 1980, no more than 10 percent of the total number of such physicians employed by the department may be exempted from the provisions of this subsection. Each such exempted physician shall hold a valid license to practice medicine, osteopathic medicine osteopathy, or chiropractic in another state and shall have been certified by the appropriate board as eligible for admission for examination in this state under chapter 458, chapter 459, or chapter 460, as applicable. The appropriate board shall not certify as eligible for admission for examination any person who has been adjudged unqualified or guilty of any of the acts enumerated in the disciplinary provisions contained in chapter 458, chapter 459, or chapter 460, as applicable.

Section 67. Subsection (1) of section 460.403, Florida Statutes, 1996 Supplement, is amended to read:

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

(1) “Department” means the Department of Health Business and Professional Regulation.

Section 68. Paragraphs (bb) and (cc) of subsection (1) of section 460.413, Florida Statutes, 1996 Supplement, are repealed, paragraphs (q) and (gg) of subsection (1) and subsection (2) of that section are amended, and subsections (6) and (7) are added to that section, to read:

460.413 Grounds for disciplinary action; action by the board.—

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

(q) Being unable to practice chiropractic 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 he can resume the competent practice of chiropractic with reasonable skill and safety to patients.

(gg) ~~Failing to report to the department Division of Medical Quality Assurance any licensee physician licensed under chapter 458 or osteopathic physician licensed 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 physician or osteopathic physician 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 chiropractic physician or chiropractic physician's assistant also provides services.~~

(2) 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 \$2,000 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.
- (k) 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.

(6) In any administrative action against a chiropractic physician which does not involve revocation or suspension of license, the department shall have the burden, by the greater weight of the evidence, to establish the existence of grounds for disciplinary action. The department shall establish grounds for revocation or suspension of license by clear and convincing evidence.

(7) If any chiropractic physician is guilty of such unprofessional conduct, negligence, or mental or physical incapacity or impairment that the department determines that the chiropractic physician is unable to practice with reasonable skill and safety and presents a danger to patients, the department shall be authorized to maintain an action in circuit court enjoining such chiropractic physician from providing medical services to the public until the chiropractic physician demonstrates the ability to practice with reasonable skill and safety and without danger to patients.

Section 69. For the purpose of incorporating the amendment to section 460.413, Florida Statutes, 1996 Supplement, in a reference thereto, subsection (9) of section 320.0848, Florida Statutes, is reenacted to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(9) A violation of this section is grounds for disciplinary action under s. 458.331, s. 459.015, s. 460.413, or s. 461.013, as applicable.

Section 70. For the purpose of incorporating the amendment to section 460.413, Florida Statutes, 1996 Supplement, in a reference thereto, paragraph (g) of subsection (4) of section 455.236, Florida Statutes, is reenacted to read:

455.236 Financial arrangements between referring health care providers and providers of health care services.—

(4) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as provided in this section:

(g) A violation of this section by a health care provider shall constitute grounds for disciplinary action to be taken by the applicable board pursuant to s. 458.331(2), s. 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s. 466.028(2). Any hospital licensed under chapter 395 found in violation of this section shall be subject to the rules adopted by the Department of Health and Rehabilitative Services pursuant to s. 395.0185(2).

Section 71. For the purpose of incorporating the amendment to section 460.413, Florida Statutes, 1996 Supplement, in a reference thereto, subsection (2) of section 766.111, Florida Statutes, is reenacted to read:

766.111 Engaging in unnecessary diagnostic testing; penalties.—

(2) A violation of this section shall be grounds for disciplinary action pursuant to s. 458.331, s. 459.015, s. 460.413, s. 461.013, or s. 466.028, as applicable.

Section 72. Paragraph (a) of subsection (8) of section 460.4165, Florida Statutes, is amended to read:

460.4165 Chiropractic physician's assistants.—

(8) FEES.—

(a) A fee not to exceed \$100 set by the board shall accompany the annual application by a chiropractic physician ~~or group of chiropractic physicians~~ for authorization to supervise a certified chiropractic physician's assistant.

Section 73. Subsection (1) of section 461.003, Florida Statutes, is amended to read:

461.003 Definitions.—As used in this chapter:

(1) "Department" means the Department of Health Business and Professional Regulation.

Section 74. Paragraph (aa) of subsection (1) of section 461.013, Florida Statutes, is amended to read:

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

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

(aa) Failing to report to the ~~department~~ Division of Medical Quality Assurance any licensee physician licensed under chapter 458 or osteopathic physician licensed under chapter 459 who the podiatrist knows has violated the grounds for disciplinary action set out in the law under which that ~~person physician or osteopathic physician~~ 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 podiatrist also provides services.

Section 75. Section 461.018, Florida Statutes, 1996 Supplement, is amended to read:

461.018 Limited scope of practice; area of need.—Those persons holding valid certificates on October 1, 1991, who were certified pursuant to chapters 88-205 and 88-392, Laws of Florida, and who have been practicing under a board-approved protocol for at least 2 years are eligible to receive a podiatry license to practice without supervision under their present limited scope of practice of the nonsurgical treatment of corns, calluses, and ingrown toenails in a specially designated area of need as provided by rule of the board.

Section 76. Subsection (1) and paragraph (c) of subsection (3) of section 464.003, Florida Statutes, 1996 Supplement, are amended to read:

464.003 Definitions.—As used in this chapter:

(1) “Department Agency” means the Department of Agency for Health Care Administration.

(3)

(c) “Advanced or specialized nursing practice” means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are proper to be performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom shall be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom shall have had work experience with advanced registered nurse practitioners; and the ~~secretary~~ ~~director~~ of the ~~department agency~~ or the ~~secretary’s~~ ~~director’s~~ designee. Each committee member appointed by a board shall be appointed to a term of 4 years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts shall be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. The department agency may, by rule, require that a copy of the protocol be filed with the department agency along with the notice required by s. 458.348.

Section 77. Subsection (1) of section 464.004, Florida Statutes, 1996 Supplement, is amended to read:

464.004 Board of Nursing; membership; appointment; terms.—

(1) The Board of Nursing is created within the department agency and shall consist of 13 members to be appointed by the Governor and confirmed by the Senate.

Section 78. Subsection (1) of section 464.008, Florida Statutes, 1996 Supplement, is 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 agency to take the licensure examination. The department agency 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 agency 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 agency 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 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 agency.

Section 79. Subsections (1) and (3) of section 464.009, Florida Statutes, 1996 Supplement, are amended to read:

464.009 Licensure by endorsement.—

(1) The department agency shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department agency and remitting a fee set by the board not to exceed \$100, demonstrates to the board that he:

(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 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 substan-

tially equivalent to or more stringent than the examination given by the department agency.

(3) The department agency 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 chapter until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

Section 80. Subsections (1) and (5) of section 464.012, Florida Statutes, 1996 Supplement, are amended to read:

464.012 Certification of advanced registered nurse practitioners; fees.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department agency and submit proof that he holds a current license to practice professional nursing and that he meets one or more of the following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(5) The board shall certify, and the department agency shall issue a certificate to, any nurse meeting the qualifications in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board is authorized to adopt such other rules as are necessary to implement the provisions of this section.

Section 81. Subsections (1) and (2) of section 464.013, Florida Statutes, 1996 Supplement, are amended to read:

464.013 Renewal of license or certificate.—

(1) The department agency shall renew a license upon receipt of the renewal application and fee.

(2) The department agency shall adopt rules establishing a procedure for the biennial renewal of licenses.

Section 82. Subsection (2) of section 464.014, Florida Statutes, 1996 Supplement, is amended to read:

464.014 Inactive status.—

(2) The department agency may not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

Section 83. Paragraphs (a), (c), (j), (k), (l), and (m) of subsection (1) and paragraph (a) of subsection (2) of section 464.018, Florida Statutes, 1996 Supplement, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in 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 agency or the board.

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

(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 agency shall have, upon a finding of the ~~secretary director~~ or the secretary's his 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 agency. If the licensee refuses to comply with such order, the department's agency'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 agency 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 he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department agency any person who the licensee knows is in violation of this chapter or of the rules of the department agency 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 chapter, a rule of the board or the department agency, or a lawful order of the board or department agency previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department agency.

(m) Failing to report to the department Division of Health Quality Assurance any licensee physician licensed under chapter 458 or osteopathic physician licensed under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person physician or osteopathic physician 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.

(2) 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 agency an application for licensure.

Section 84. Subsections (1), (3), and (4) of section 464.019, Florida Statutes, 1996 Supplement, are amended to read:

464.019 Approval of nursing programs.—

(1) An institution desiring to conduct an approved program for the education of professional or practical nurses shall apply to the department agency and submit such evidence as may be required to show that it complies with the provisions of this chapter and with the rules of the board. The application shall include a program review fee, as set by the board, not to exceed \$1,000.

(3) The department agency shall survey each institution applying for approval and submit its findings to the board. If the board is satisfied that the program meets the requirements of this chapter and rules pursuant thereto, it shall certify the program for approval and the department agency shall approve the program.

(4) If the board, through an investigation by the department agency, finds that an approved program no longer meets the required standards, it may place the program on probationary status until such time as the standards are restored. If a program fails to correct these conditions within a specified period of time, the board may rescind the approval. Any program having its approval rescinded shall have the right to reapply.

Section 85. Section 464.0205, Florida Statutes, is created 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).

(d) Proof that the applicant meets the requirements for licensure under s. 464.008 or s. 464.009.

(2) All related administrative costs shall be borne by the applicant.

(3) The board may deny a retired volunteer nurse certificate to any applicant who has committed, or who is under investigation or prosecution for, any act that would constitute a ground for disciplinary action under s. 464.018.

(4) A retired volunteer nurse receiving certification from the board shall:

(a) Work under the direct supervision of the director of a county health department, a physician working under a limited license issued pursuant to s. 458.317 or s. 459.0075, a physician licensed under chapter 458 or chapter 459, an advanced registered nurse practitioner certified under s. 464.012, or a registered nurse licensed under s. 464.008 or s. 464.009.

(b) Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018, except that the scope of practice for certified volunteers shall be limited to primary and preventive health care, or as further defined by board rule.

(c) Work only in a setting for which there are provisions for professional liability coverage for acts or omissions of the retired volunteer nurse.

(d) Provide services under the certificate only in settings whose sponsors have been approved by the board.

(5) A retired volunteer nurse receiving certification from the board shall not:

(a) Administer controlled substances.

(b) Supervise other nurses.

(c) Receive monetary compensation.

(6) A retired volunteer nurse certified under this section may practice only in board-approved settings in public agencies or institutions or in non-profit agencies or institutions meeting the requirements of s. 501(c)(3) of the Internal Revenue Code, which agencies or institutions are located in areas of critical nursing need as determined by the board. Determination of underserved areas shall be made by the board after consultation with the Department of Health, the Department of Children and Family Services, the

Agency for Health Care Administration, and the Department of Elderly Affairs; however, such determination shall include, but not be limited to, health manpower shortage areas designated by the United States Department of Health and Human Services. The sponsoring agencies desiring to use certified retired volunteer nurses shall submit to the board verification of their status under s. 501(c)(3) of the Internal Revenue Code, the sites at which such volunteer nurses would work, the duties and scope of practice intended for such volunteer nurses, and the training or skills validation for such volunteer nurses.

(7) The retired volunteer nurse certificate shall be valid for 2 years, and a certificateholder may reapply for a certificate so long as the certificateholder continues to meet the eligibility requirements of this section. Any legislatively mandated continuing education on specific topics must be completed by the certificateholder prior to renewal; otherwise, the provisions of s. 464.013 do not apply.

Section 86. Subsection (12) is added to section 464.022, Florida Statutes, to read:

464.022 Exceptions.—No provision of this chapter shall be construed to prohibit:

(12) The practice of nursing by any legally qualified nurse of another state whose employment requires the nurse to accompany and care for a patient temporarily residing in this state for not more than 30 consecutive days, provided the patient is not in an inpatient setting, the board is notified prior to arrival of the patient and nurse, the nurse has the standing physician orders and current medical status of the patient available, and prearrangements with the appropriate licensed health care providers in this state have been made in case the patient needs placement in an inpatient setting.

Section 87. Subsections (4) and (10) of section 465.003, Florida Statutes, are amended to read:

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

(4) “Department” means the Department of Health Business and Professional Regulation.

(10)(a) “Pharmacy” includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, and a special pharmacy.

1.(a) The term “community pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.

2.(b) The term “institutional pharmacy” includes every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility, hereinafter referred to as “health care institutions,” where medicinal drugs are compounded, dispensed, stored, or sold.

3.(c) The term “nuclear pharmacy” includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are

compounded, dispensed, stored, or sold. The term “nuclear pharmacy” does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.

4.(d) The term “special pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection.

(b) The pharmacy department of any permittee shall be considered closed whenever a Florida licensed pharmacist is not present and on duty. The term “not present and on duty” shall not be construed to prevent a pharmacist from exiting the prescription department for the purposes of consulting or responding to inquiries or providing assistance to patients or customers, attending to personal hygiene needs, or performing any other function for which the pharmacist is responsible, provided that such activities are conducted in a manner consistent with the pharmacist’s responsibility to provide pharmacy services.

Section 88. Subsections (1) and (2) of section 465.004, Florida Statutes, are amended to read:

465.004 Board of Pharmacy.—

(1) The Board of Pharmacy is created within the department and shall consist of ~~nine seven~~ members to be appointed by the Governor and confirmed by the Senate.

(2) ~~Seven~~ Five members of the board must be licensed pharmacists who are residents of this state and who have been engaged in the practice of the profession of pharmacy in this state for at least 4 years and, to the extent practicable, represent the various pharmacy practice settings. Of the pharmacist members, one must be currently engaged in the practice of pharmacy in a community pharmacy, one must be currently engaged in the practice of pharmacy in a Class II institutional pharmacy or a Modified Class II institutional pharmacy, and five shall be pharmacists licensed in this state irrespective of practice setting. The remaining two members must be residents of the state who have never been licensed as pharmacists and who are in no way connected with the practice of the profession of pharmacy. No person may be appointed as a ~~consumer lay~~ member who is in any way connected with a drug manufacturer or wholesaler. At least one member of the board must be 60 years of age or older.

Section 89. Section 465.0125, Florida Statutes, is amended to read:

465.0125 Consultant pharmacist license; application, renewal, fees; responsibilities; rules.—

(1) The department shall issue or renew a consultant pharmacist license upon receipt of an initial or renewal application which conforms to the requirements for consultant pharmacist initial licensure or renewal as promulgated by the board by rule and a fee set by the board not to exceed \$250. The consultant pharmacist shall be responsible for maintaining all drug records required by law and for establishing drug handling procedures for

the safe handling and storage of drugs. The consultant pharmacist may also be responsible for ordering and evaluating any laboratory or clinical testing when, in the judgment of the consultant pharmacist, such activity is necessary for the proper performance of the consultant pharmacist's responsibilities. Such laboratory or clinical testing may be ordered only with regard to patients residing in a nursing home facility, and then only when authorized by the medical director of the nursing home facility. The consultant pharmacist must have completed such additional training and demonstrate such additional qualifications in the practice of institutional pharmacy as shall be required by the board of Pharmacy in addition to licensure as a registered pharmacist. ~~The board shall promulgate rules necessary to implement and administer this section.~~

(2) Notwithstanding the provisions of subsection (1), a consultant pharmacist or a doctor of pharmacy licensed in this state may also be responsible for ordering and evaluating any laboratory or clinical testing for persons under the care of a licensed home health agency when, in the judgment of the consultant pharmacist or doctor of pharmacy, such activity is necessary for the proper performance of his or her responsibilities and only when authorized by a practitioner licensed under chapter 458, chapter 459, chapter 461, or chapter 466. In order for the consultant pharmacist or doctor of pharmacy to qualify and accept this authority, he or she must receive 3 hours of continuing education relating to laboratory and clinical testing as established by the board.

(3) The board shall promulgate rules necessary to implement and administer this section.

Section 90. Subsection (1) of section 465.0156, Florida Statutes, is amended to read:

465.0156 Registration of nonresident pharmacies.—

(1) Any pharmacy which is located outside this state and which ships, mails, or delivers, in any manner, a dispensed medicinal drug into this state shall be considered a nonresident pharmacy, shall be registered with the board, shall provide pharmacy services at a high level of protection and competence, and shall disclose to the board the following specific information:

(a) That it maintains at all times a valid, unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the dispensing facility is located and from which the medicinal drugs shall be dispensed;

(b) The location, names, and titles of all principal corporate officers and the pharmacist who serves as the prescription department manager for all pharmacists who are dispensing medicinal drugs to residents of this state. This disclosure shall be made on an annual basis and within 30 days after any change of office location, corporate officer, or pharmacist serving as the prescription department manager for dispensing medicinal drugs to residents of this state;

(c) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of all states in which it is licensed as well as with all requests for information made by the board pursuant to this section. It shall respond directly to all communications from the board concerning emergency circumstances arising from errors in the dispensing of medicinal drugs to the residents of this state;

(d) That it maintains its records of medicinal drugs dispensed to patients in this state so that the records are readily retrievable from the other business records of the pharmacy and from the records of other medicinal drugs dispensed; and

(e) That during its regular hours of operation but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service shall be provided to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number must be disclosed on the label affixed to each container of dispensed medicinal drugs.

Section 91. Paragraph (o) of subsection (1) and paragraph (e) of subsection (2) of section 465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(o) Failing to report to the department ~~Division of Medical Quality Assurance~~ any licensee ~~physician licensed under chapter 458 or osteopathic physician licensed under chapter 459~~ who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that person ~~physician or osteopathic physician~~ 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.

(2) 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:

(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 92. 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 within the definitions set forth in s. 465.003(10)(a)1., 2.(b), and 3.(e) 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.

Section 93. Section 465.026, Florida Statutes, is amended to read:

465.026 Filling of certain prescriptions.—Nothing contained in this chapter shall be construed to prohibit a pharmacist licensed in this state from filling or refilling a valid prescription which is on file in a pharmacy located in this state or in another state and has been transferred from one pharmacy to another by any means, including any electronic means transfer by way of electronic data processing equipment, under the following conditions:

(1) Prior to dispensing any transferred pursuant to any such prescription, the dispensing pharmacist must, either verbally or by any electronic means, do all of the following shall:

(a) Advise the patient that the prescription on file at the such other pharmacy must be canceled before it may be filled or refilled he will be able to fill or refill it.

(b) Determine from the requested pharmacist that the prescription is valid and on file at the such other pharmacy and that the such prescription may be filled or refilled, as requested, in accordance with the prescriber's intent expressed on the such prescription.

(c) Notify the pharmacist or at the pharmacy where the prescription is on file that the prescription must be canceled.

(d) Record in writing, or by any electronic means, or cause to be recorded by data processing equipment the prescription order, the name of the pharmacy at which the prescription was on file, the prescription number, the name of the drug and the original amount dispensed, the date of original dispensing, and the number of remaining authorized refills.

(e) Obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the dispensing pharmacist's professional judgment of the dispensing pharmacist, so requires. Any interference with the professional judgment of the dispensing pharmacist by any pharmacist or pharmacy permittee, or its agents, or employees, shall be grounds for discipline revocation or suspension of the permit issued to the pharmacy.

(2) Upon receipt of a request for prescription transfer request information set forth in paragraph (1)(d), if the requested pharmacist is satisfied in his professional judgment that the such request is valid, or if the request has been validated by any electronic means, the requested pharmacist or pharmacy must do all of the following shall:

(a) Transfer the information required by paragraph (1)(d) ~~Provide such information~~ accurately and completely.

(b) Record on the prescription, or by any electronic means, ~~or record with data processing equipment~~ the name of the requesting pharmacy and pharmacist and the date of request.

(c) Cancel the prescription on file by electronic means or by recording the word "void" on the prescription record. No further prescription information shall be given or medication dispensed pursuant to the said original prescription.

(3) If a transferred prescription is not dispensed within a reasonable time, the pharmacist shall, by any means, so notify the transferring pharmacy. In the event that, after the information set forth in paragraph (1)(d) has been provided, a prescription is not dispensed by the requesting pharmacist, then such pharmacist shall provide notice of this fact to the pharmacy from which said information was obtained; Such notice shall serve to revalidate the canceled ~~voided~~ prescription. The pharmacist who has served such notice shall then cancel the prescription in the same manner as set forth in paragraph (2)(c).

(4) In the case of a prescription to be transferred from or to a pharmacy located in another ~~outside of the state~~, it shall be the responsibility of the pharmacist or pharmacy located in the State of Florida to verify, whether by electronic means or otherwise, assure that the person or entity involved in the performing the act of transfer is a licensed pharmacist or pharmacy in the other state from outside the state is a practitioner licensed to practice pharmacy in the jurisdiction wherein the non-Florida pharmacy involved is located.

(5) Electronic transfers of prescriptions are permitted regardless of whether the transferor or transferee pharmacy is open for business.

(6)~~(5)~~ The transfer of a prescription for medicinal drugs listed in Schedules III, IV, and V appearing in chapter 893 for the purpose of refill dispensing is permissible, ~~between pharmacies on a one-time basis~~ subject to the requirements of this section and federal law. Compliance with federal law shall be deemed compliance with the requirements of this section.

Section 94. Section 465.035, Florida Statutes, is amended to read:

465.035 Dispensing of medicinal ~~medical~~ drugs pursuant to facsimile of prescription.—

(1) Notwithstanding any other provision of this chapter, it is lawful for a pharmacy to dispense medicinal drugs, including controlled substances authorized under subsection (2), based on reception of an electronic facsimile of the original prescription if all of the following conditions are met:

(a) In the course of the transaction the pharmacy complies with laws and administrative rules relating to pharmacies and pharmacists.

(b) Except in the case of the transmission of a prescription by a person authorized by law to prescribe medicinal drugs:

1. The facsimile system making the transmission provides the pharmacy receiving the transmission with audio communication via telephonic, electronic, or similar means with the person presenting the prescription.

2. At the time of the delivery of the medicinal drugs, the pharmacy has in its possession the original prescription for the medicinal drug involved.

3. The recipient of the prescription shall sign a log and shall indicate the name and address of both the recipient and the patient for whom the medicinal drug was prescribed.

(2) ~~This section does not apply to the dispensing of~~ Controlled substances listed in Schedule II as defined in s. 893.03(2) may be dispensed as provided in this section to the extent allowed by 21 C.F.R. s. 1306.11.

Section 95. Subsection (1) of section 465.186, Florida Statutes, is amended to read:

465.186 Pharmacist's order for medicinal drugs; dispensing procedure; development of formulary.—

(1) There is hereby created a committee composed of two members of the Board of Medicine licensed under chapter 458 chosen by said board, one member of the Board of Osteopathic Medicine licensed under chapter 459 chosen by said board, three members of the Board of Pharmacy licensed under this chapter and chosen by said board, and one additional person with a background in health care or pharmacology chosen by the committee. The committee shall establish a formulary of medicinal drug products and dispensing procedures which shall be used by a pharmacist when ordering and dispensing such drug products to the public. Dispensing procedures may include matters related to reception of patient, description of his or her condition, patient interview, patient physician referral, product selection, and dispensing and use limitations. In developing the formulary of medicinal drug products, the committee may include products falling within the following categories:

(a) Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the United States Food and Drug Administration.

(b) Any medicinal drug recommended by the United States Food and Drug Administration Advisory Panel for transfer to over-the-counter status pending approval by the United States Food and Drug Administration.

(c) Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination.

(d) Any medicinal drug containing fluoride in any strength.

(e) Any medicinal drug containing lindane in any strength.

(f) Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program.

(g) Any topical anti-infectives excluding eye and ear topical anti-infectives.

However, any drug which is sold as an over-the-counter proprietary drug under federal law shall not be included in the formulary or otherwise affected by this section.

Section 96. Paragraph (iii) is added to subsection (4) of section 893.03, Florida Statutes, 1996 Supplement, to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled “Excluded Substances”; 21 C.F.R. s. 1308.24, styled “Exempt Chemical Preparations”; 21 C.F.R. s. 1308.32, styled “Exempted Prescription Products”; or 21 C.F.R. s. 1308.34, styled “Exempt Anabolic Steroid Products.”

(4) SCHEDULE IV.—A substance in Schedule IV has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, are controlled in Schedule IV:

(iii) Butorphanol tartrate.

Section 97. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (5) of section 316.193, Florida Statutes, 1996 Supplement, is reenacted to read:

316.193 Driving under the influence; penalties.—

(5) The court shall place any offender convicted of violating this section on monthly reporting probation and shall require attendance at a substance abuse course licensed by the department; and the agency conducting the course may refer the offender to an authorized service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section. The offender shall assume reasonable costs for such education, evaluation, and treatment, with completion of all such education,

evaluation, and treatment being a condition of reporting probation. Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychosocial evaluation conducted by an agency appointed by the court and with access to the original evaluation. The offender shall bear the cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the substance abuse education course, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege. The department shall reinstate the driving privilege when the offender completes the substance abuse education course or enters treatment required under this subsection. The organization that conducts the substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. All DUI treatment programs providing treatment services on January 1, 1994, shall be allowed to continue to provide such services until the department determines whether a waiver should be granted. A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

Section 98. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (5) of section 327.35, Florida Statutes, 1996 Supplement, is reenacted to read:

327.35 Boating under the influence; penalties.—

(5) In addition to any sentence or fine, the court shall place any offender convicted of violating this section on monthly reporting probation and shall require attendance at a substance abuse course specified by the court; and the agency conducting the course may refer the offender to an authorized service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section. The offender shall assume reasonable costs for such education, evaluation, and treatment, with completion of all such education, evaluation, and treatment being a condition of reporting probation. Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychosocial evaluation conducted by an agency appointed by the court and with access to the original evaluation. The offender shall bear the cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03.

Section 99. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraph (b) of subsection (11) of section 440.102, Florida Statutes, 1996 Supplement, is reenacted to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR SPECIAL-RISK POSITIONS.—

(b) An employee who is employed by a public employer in a special-risk position may be discharged or disciplined by a public employer for the first positive confirmed test result if the drug confirmed is an illicit drug under s. 893.03. A special-risk employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any special-risk or safety-sensitive position of the public employer, but may be assigned to a position other than a safety-sensitive position or placed on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

Section 100. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (3) of section 458.326, Florida Statutes, is reenacted to read:

458.326 Intractable pain; authorized treatment.—

(3) Notwithstanding any other provision of law, a physician may prescribe or administer any controlled substance under Schedules II-V, as provided for in s. 893.03, to a person for the treatment of intractable pain, provided the physician does so in accordance with that level of care, skill, and treatment recognized by a reasonably prudent physician under similar conditions and circumstances.

Section 101. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (1) of section 817.563, Florida Statutes, is reenacted to read:

817.563 Controlled substance named or described in s. 893.03; sale of substance in lieu thereof.—It is unlawful for any person to agree, consent, or in any manner offer to unlawfully sell to any person a controlled substance named or described in s. 893.03 and then sell to such person any other substance in lieu of such controlled substance. Any person who violates this section with respect to:

(1) A controlled substance named or described in s. 893.03(1), (2), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 102. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, section 831.31, Florida Statutes, is reenacted to read:

831.31 Counterfeit controlled substance; sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver.—

(1) It is unlawful for any person to sell, manufacture, or deliver, or to possess with intent to sell, manufacture, or deliver, a counterfeit controlled substance. Any person who violates this subsection with respect to:

(a) A controlled substance named or described in s. 893.03(1), (2), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) For purposes of this section, “counterfeit controlled substance” means:

(a) A controlled substance named or described in s. 893.03 which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, or number, or any likeness thereof, of a manufacturer other than the person who in fact manufactured the controlled substance; or

(b) Any substance which is falsely identified as a controlled substance named or described in s. 893.03.

Section 103. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraph (d) of subsection (1) of section 856.015, Florida Statutes, is reenacted to read:

856.015 Open house parties.—

(1) Definitions.—As used in this section:

(d) “Drug” means a controlled substance, as that term is defined in ss. 893.02(4) and 893.03.

Section 104. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (4) of section 893.02, Florida Statutes, is reenacted to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(4) “Controlled substance” means any substance named or described in Schedules I through V of s. 893.03. Laws controlling the manufacture, distribution, preparation, dispensing, or administration of such substances are drug abuse laws.

Section 105. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraph (b) of subsection (1) of section 893.08, Florida Statutes, is reenacted to read:

893.08 Exceptions.—

(1) The following may be distributed at retail without a prescription, but only by a registered pharmacist:

(b) Any compound, mixture, or preparation containing any depressant or stimulant substance described in s. 893.03(2)(a) or (c) except any amphet-

amine drug or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to this chapter; in s. 893.03(3)(a); or in Schedule IV, if:

1. The compound, mixture, or preparation contains one or more active medicinal ingredients not having depressant or stimulant effect on the central nervous system, and
2. Such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the controlled substances which do have a depressant or stimulant effect on the central nervous system.

Section 106. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraphs (a), (c), and (d) of subsection (1), paragraph (a) of subsection (2), paragraph (b) of subsection (4), and paragraph (b) of subsection (5) of section 893.13, Florida Statutes, 1996 Supplement, are reenacted to read:

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 a.m. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 and must be sentenced to a minimum term of imprisonment of 3 calendar years.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(d) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 200 feet of the real property comprising a public housing facility, within 200 feet of the real property comprising a public or private college, university, or other postsecondary educational institution, or within 200 feet of any public park. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(2)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to purchase, or possess with intent to purchase, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Except as authorized by this chapter, it is unlawful for any person 18 years of age or older to deliver any controlled substance to a person under the age of 18 years, or to use or hire a person under the age of 18 years as an agent or employee in the sale or delivery of such a substance, or to use such person to assist in avoiding detection or apprehension for a violation of this chapter. Any person who violates this provision with respect to:

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence may not be suspended or deferred, nor shall the person so convicted be placed on probation.

(5) It is unlawful for any person to bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. Any person who violates this provision with respect to:

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 107. Subsection (7) of section 466.003, Florida Statutes, is amended to read:

466.003 Definitions.—As used in this chapter:

(7) “Department” means the Department of Health Business and Professional Regulation.

Section 108. Subsection (3) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(3) If an applicant is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) or of a dental college or school not approved by the board, he shall not be entitled to take the examinations required in this section to practice dentistry until he ~~meets the following requirements:~~

(a) ~~Furnishes evidence to the board of a score on the examination of the National Board of Dental Examiners taken within 10 years of the date of application, which score is at least equal to the minimum score required for certification by that board. If the applicant fails to attain the score needed for certification on part I of the national board examination in two attempts, or fails to attain the score needed for certification on part II of the national board examination in two attempts, he shall not be entitled to take the laboratory model examination authorized in paragraph (c).~~

(b) ~~Submits, upon meeting the requirements of paragraph (a), the following credentials for review by the board:~~

1. ~~Transcripts of pre-dental education and dental education totaling 7 academic years of postsecondary education, including 4 academic years of dental education; and~~

2. ~~A dental school diploma.~~

~~The board shall not review the credentials specified in this paragraph until the applicant has furnished to the board evidence of satisfactory completion of the National Board of Dental Examiners examination as required by paragraph (a). Such credentials shall be submitted in a manner provided by rule of the board. The board shall approve those credentials which comply with this paragraph and with rules of the board adopted pursuant hereto. The provisions of this paragraph notwithstanding, an applicant who cannot~~

~~produce the credentials required by this paragraph as a result of political or other conditions in the country in which he received his education may seek approval by the board of his educational background prior to complying with the provisions of paragraph (a) by submitting such other reasonable and reliable evidence as may be set forth by rule of the board in lieu of the credentials required in this paragraph. The board shall not accept such alternative evidence until it has made a reasonable attempt to obtain the credentials required by this paragraph from the educational institutions the applicant is alleged to have attended, unless the board is otherwise satisfied that such credentials cannot be obtained.~~

(e) satisfies one of the following:

~~(a)1. Completes a program of study, as defined by the board by rule, at an accredited American dental school and demonstrates receipt of a D.D.S. or D.M.D. from said school; or~~

~~(b)2. Completes a 2-year supplemental dental education program at an accredited dental school and receives a dental diploma, degree, or certificate as evidence of program completion; or~~

~~3. Exhibits manual skills on a laboratory model pursuant to rules of the board. The board may charge a reasonable fee, not to exceed \$250, to cover the costs of administering the exhibition of competency in manual skills. If the applicant fails to exhibit competent clinical skills in two attempts, he shall not be entitled to take the examinations authorized in subsection (4). Effective December 31, 1991, no applicant may fulfill the requirements of this paragraph by taking the laboratory model exam. On or after said date, applicants must complete the educational requirements set forth in subparagraph 1. or subparagraph 2.~~

~~The provisions of paragraph (a) and subparagraph (c)3. notwithstanding, an applicant who is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) and who has failed to pass part I or part II of the national board examination in two attempts may take the laboratory model exam required in subparagraph (c)3. if the board finds that he has taken remedial training in the subject areas in which he tested below standard on said national board examination and that he has subsequently passed that part of such exam which he had previously failed, provided that no applicant shall be entitled to this exception who fails either part of the national board examination a total of three times. Further, an applicant who has failed to pass the laboratory model exam required in subparagraph (c)3. in two attempts may be allowed by the board to make a third and final attempt if the board finds that he has taken remedial training in clinical subjects in which he tested below standard. Upon passing said laboratory model exam, the applicant may take the licensure examinations required in subsection (4). Further, the educational requirements found in subparagraph (b)1. do not apply to persons who began dental education prior to October 1, 1983, and such persons shall be governed by the educational requirements in existence on September 30, 1983.~~

Section 109. Section 466.017, Florida Statutes, is amended to read:

466.017 Prescription of drugs; anesthesia.—

(1) A dentist shall have the right to prescribe drugs or medicine, subject to limitations imposed by law; perform surgical operations within the scope of his practice and training; administer general or local anesthesia or sedation, subject to limitations imposed by law; and use such appliances as may be necessary to the proper practice of dentistry.

(2) Pharmacists licensed pursuant to chapter 465 may fill prescriptions of legally licensed dentists in this state for any drugs necessary for the practice of dentistry.

(3) The board shall adopt rules which:

(a) Define general anesthesia.

(b) Specify which methods of general or local anesthesia or sedation, if any, are limited or prohibited for use by dentists.

(c) Establish minimal training, education, experience, or certification for a dentist to use general anesthesia or sedation, which rules may exclude, in the board's discretion, those dentists using general anesthesia or sedation in a competent and effective manner as of the effective date of the rules.

(d) Establish further requirements relating to the use of general anesthesia or sedation, including, but not limited to, office equipment and the training of dental assistants or dental hygienists who work with dentists using general anesthesia or sedation.

(e) Establish an administrative mechanism enabling the board to verify compliance with training, education, experience, equipment, or certification requirements of dentists, dental hygienists, and dental assistants adopted pursuant to this subsection. The board may charge a fee to defray the cost of verifying compliance with requirements adopted pursuant to this paragraph.

~~(4)(a) A licensed dentist who has been utilizing general anesthesia on a regular and routine basis in a competent and effective manner for a 10-year period preceding January 1, 1980, shall be deemed to have fulfilled the training requirements required by subsection (3) for general anesthesia.~~

~~(b) A licensed dentist who has been utilizing parenteral conscious sedation on an outpatient basis on a regular and routine basis in a competent and effective manner for the 3-year period preceding January 1, 1980, shall be deemed to have fulfilled the training requirements required by subsection (3) for parenteral conscious sedation.~~

~~(4)(5)~~ A dentist who administers or employs the use of any form of anesthesia must possess a certification in either basic cardiopulmonary resuscitation for health professionals or advanced cardiac life support approved by the American Heart Association or the American Red Cross or an equivalent agency-sponsored course with recertification every 2 years. Each dental office which uses any form of anesthesia must have immediately available

and in good working order such resuscitative equipment, oxygen, and other resuscitative drugs as are specified by rule of the board in order to manage possible adverse reactions.

(5)(6) A licensed dentist may utilize an X-ray machine, expose dental X-ray films, and interpret or read such films. The provisions of part IV of chapter 468 to the contrary notwithstanding, a licensed dentist may authorize or direct a dental assistant to operate such equipment and expose such films under his direction and supervision, pursuant to rules adopted by the board in accordance with s. 466.024 which ensure that said assistant is competent by reason of training and experience to operate said equipment in a safe and efficient manner. The board may charge a fee not to exceed \$35 to defray the cost of verifying compliance with requirements adopted pursuant to this section.

(6)(7) The provisions of s. 465.0276 notwithstanding, a dentist need not register with the board or comply with the continuing education requirements of that section if the dentist confines his dispensing activity to the dispensing of fluorides and chlorohexidine rinse solutions; provided that the dentist complies with and is subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, chapters 465, 499, and 893, and all applicable federal laws and regulations, when dispensing such products.

Section 110. Paragraphs (r) and (hh) of subsection (1) 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 which the disciplinary actions specified in subsection (2) may be taken:

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

(hh) Failing to report to the ~~department~~ Division of Medical Quality Assurance any licensee physician licensed under chapter 458 or osteopathic physician licensed under chapter 459 who the dentist knows has violated the grounds for disciplinary action set out in the law under which that person ~~physician or osteopathic physician~~ 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.

Section 111. Subsection (2) of section 468.1115, Florida Statutes, is amended to read:

468.1115 Exemptions.—

(2) The provisions of this part shall not apply to:

(a) Students actively engaged in a training program, if such persons are acting under the direct supervision of a licensed speech-language pathologist or a licensed audiologist.

(b) Persons practicing a licensed profession or operating within the scope of their profession, such as doctors of medicine, clinical psychologists, nurses, or hearing aid specialists, who are properly licensed under the laws of this state.

(c) Persons certified in the areas of speech-language impairment or hearing impairment ~~A person licensed in this state under chapter 231 when engaging in the profession for which they are certified he is licensed, or any person under the direct supervision of such a certified person, or of a licensee under this chapter, when the person under such supervision is performing hearing screenings in a school setting for prekindergarten through grade 12 the licensee when rendering services within the scope of the profession of the licensee.~~

(d) Laryngectomized individuals, rendering guidance and instruction to other laryngectomized individuals, who are under the supervision of a speech-language pathologist licensed under this part or of a physician licensed under chapter 458 or chapter 459 and qualified to perform this surgical procedure.

(e) Persons licensed by another state as a speech-language pathologist or audiologist who provide services within the applicable scope of practice set forth in s. 468.1125(6) or (7) for no more than 5 calendar days per month or 15 calendar days per year under the direct supervision of a Florida-licensed speech-language pathologist or audiologist. A person whose state of residence does not license speech-language pathologists or audiologists may also qualify for this exemption, if the person holds a certificate of clinical competence from the American Speech-Language and Hearing Association and meets all other requirements of this paragraph. In either case, the board shall hold the supervising Florida licensee fully accountable for the services provided by the out-of-state licensee.

(f) Nonlicensed persons working in a hospital setting who provide newborn infant hearing screenings, so long as training, clinical interpretation of the screenings, and the protocol for followup of infants who fail in-hospital screenings are provided by a licensed audiologist.

Section 112. Subsection (5) of section 468.1125, Florida Statutes, is amended to read:

468.1125 Definitions.—As used in this part, the term:

(5) “Department” means the Department of Health Business and Professional Regulation.

Section 113. Section 468.1155, Florida Statutes, is amended to read:

468.1155 Provisional license; requirements.—

(1)(a) A provisional license shall be required of all applicants who cannot document 9 months of supervised professional employment experience and a passing score on the national examination.

(b) Individuals who are required to hold a provisional license under paragraph (a) shall apply to the department and be certified by the board for licensure prior to initiating the professional employment experience required pursuant to s. 468.1165. Any person desiring a provisional license to practice speech-language pathology or audiology shall apply to the department.

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant who ~~whom~~ 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 with a major emphasis in speech-language pathology from an institution of higher learning which, at the time the applicant was enrolled and graduated, was accredited by an accrediting agency recognized by the 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 a program at a university or college outside the United States or Canada ~~must shall~~ present documentation of the determination of equivalency to standards established programs accredited by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant must shall have completed a total of 60 semester hours that ~~which~~ include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; ~~and information about training in management of speech, hearing, and language disorders;~~ and ~~which provide~~ information supplementary to these fields.

2. Six semester hours in audiology.

3. Thirty of the required 60 ~~these~~ semester hours ~~shall be~~ in courses acceptable toward a graduate degree by the college or university in which these courses were taken, ~~of which these 30 semester hours,~~ 24 semester hours must shall be in speech-language pathology.

(c) Completed 300 supervised clinical ~~clock hours of supervised clinical practice~~ with 200 clock hours in the area of speech-language pathology. The supervised clinical clock hours practice 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 ~~whom~~ 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 with a major emphasis in audiology from an institution of higher learning which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized by the 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 a program at a university or college outside the United States or Canada must shall present documentation of the determination of equivalency to standards established ~~programs accredited~~ by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant must shall have completed a total of 60 semester hours that ~~which~~ include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; ~~and information about training in management of speech, hearing, and language disorders; and which provide information supplementary to these fields.~~

2. Six semester hours in speech-language pathology.

3. Thirty of the required 60 ~~these~~ semester hours ~~shall be~~ in courses acceptable toward a graduate degree by the college or university in which these courses were taken, ~~of which these 30 semester hours,~~ 24 semester hours must shall be in audiology.

(c) Completed 300 supervised clinical ~~clock hours of supervised clinical practice~~ with 200 clock hours in the area of audiology. The supervised clinical ~~clock hours practice~~ shall be completed within the training institution or one of its cooperating programs.

(4) An applicant for a provisional license who has received a master's degree 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.

~~(5)(4) The board, by rule, shall establish requirements for the renewal of a provisional license. However, no person shall obtain a provisional license may not exceed for a period of which exceeds 24 months.~~

Section 114. Paragraph (a) of subsection (2) and subsection (3) of section 468.1185, Florida Statutes, are amended to read:

468.1185 Licensure.—

(2) The board shall certify for licensure any applicant who has:

(a) Satisfied the education and supervised clinical clock hour practice ~~practice~~ requirements of s. 468.1155.

(3) The board shall certify as qualified for a license by endorsement as a speech-language pathologist or audiologist an applicant who:

(a) Holds a valid license or certificate in another state or territory of the United States to practice the profession for which the application for licensure is made, if the criteria for issuance of such license were substantially equivalent to or more stringent than the licensure criteria which existed in this state at the time the license was issued; or

(b) Has received the certificate of clinical competence of the American Speech-Language and Hearing Association.

Section 115. Section 468.1195, Florida Statutes, is amended to read:

468.1195 Renewal of license or certificate; continuing education requirements; standards for approval of continuing education providers.—

(1) The department shall renew a license or certificate upon receipt of the renewal application, renewal fee, and proof satisfactory to the board that, ~~during the 2 years prior to the application for renewal, the licensee or certificateholder has completed the participated in not less than 20 hours of continuing education requirements established by the board in each area of licensure or certification.~~ A licensee or certificateholder who receives initial licensure or certification 6 months or less before the end of the biennial licensure cycle is exempt from the continuing education requirements for the first renewal of the license or certificate.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses and certificates.

(3) The board ~~may prescribe~~ shall by rule ~~prescribe~~ continuing education, ~~not to exceed 60 hours biennially in each area of licensure or certification,~~ as a condition for renewal of a license or a certificate. ~~The board may establish by rule standards for the approval of such continuing education activities.~~ The board may make exception from the requirements of continuing education in emergency or hardship cases.

(4) The board may establish by rule standards for the approval of providers of continuing education activities.

Section 116. Section 468.1201, Florida Statutes, is created to read:

468.1201 Requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—The board shall require, as a condition of granting a license under this part, that an applicant making initial application for licensure complete an education course acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete this requirement.

Section 117. Subsections (2), (3), and (4) of section 468.1215, Florida Statutes, are amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

(2) The department shall issue a certificate as a speech-language pathology assistant or as an audiology assistant to each applicant who whom the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(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 Commission on Recognition of Postsecondary Accreditation.

(3) The board, by rule, shall establish minimum education and on-the-job training and supervision requirements for certification as a speech-language pathology assistant or audiology assistant.

(4) The provisions of this section shall not apply to any student, intern, or trainee performing speech-language pathology or audiology services while completing the supervised clinical clock hours experience as required in s. 468.1155.

Section 118. Subsection (2) of section 468.1245, Florida Statutes, is amended to read:

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

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

Section 119. Section 468.1295, Florida Statutes, is amended to read:

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for 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. 455.228;:

- (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 licensed person to practice speech-language pathology or audiology contrary to this part, chapter 455, or any to a rule adopted pursuant thereto of the department or the board.
- (m) Violating any provision ~~Violation or repeated violation~~ of this part or of chapter 455, or any rule ~~rules~~ adopted pursuant thereto.
- (n) Misrepresenting the ~~Misrepresentation of~~ professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or

using use of any other term or title which might connote the availability of professional services when such use is not accurate.

~~(o) Representing, advertising, or implying 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.

(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.

(q) 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.

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

(s) 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.

(t) 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.

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

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

(w) 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.

(x) 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.

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

(z) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for per-

formance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

(aa) 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.

(bb) 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 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.

(2) 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, Denial of an application for licensure.

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

~~(c)~~(d) Issuance of a reprimand.

~~(d)~~(f) Restriction of the authorized scope of practice.

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

~~(f)~~(e) 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, including requiring the licensee or certificateholder speech-language pathologist or audiologist to undergo treatment, attend continuing education courses, submit to be reexamined, or to work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violation found speech-language pathologist or audiologist.

(g) Corrective action.

(3) ~~The department shall reissue the license or certificate which of a speech-language pathologist or audiologist who has been suspended or revoked disciplined upon certification by the board that the licensee or certificateholder person has complied with all of the terms and conditions set forth in the final order.~~

Section 120. Section 468.1296, Florida Statutes, is created to read:

468.1296 Sexual misconduct.—Sexual misconduct by any person licensed or certified in the practice of his or her profession is prohibited. Sexual misconduct means to induce or to attempt to induce the patient to engage, or to engage or to attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient.

Section 121. Subsection (2) of section 468.1655, Florida Statutes, is amended to read:

468.1655 Definitions.—As used in this part:

(2) “Department” means the Department of Health Business and Professional Regulation.

Section 122. Subsection (1) of section 468.1695, Florida Statutes, is amended to read:

468.1695 Licensure by examination.—

(1) Any person desiring to be licensed as a nursing home administrator shall apply to the department to take the licensure examination. The examination shall be given at least ~~two~~ ~~four~~ times a year and shall include, but not be limited to, questions on the subjects of nursing home administration such as:

- (a) Applicable standards of nursing home health and safety;
- (b) Federal, state, and local health and safety laws and rules;
- (c) General administration;
- (d) Psychology of patient care;
- (e) Principles of medical care;
- (f) Personal and social care;
- (g) Therapeutic and supportive care and services in long-term care;
- (h) Departmental organization and management;
- (i) Community interrelationships; and
- (j) Terminology.

The board may, by rule, adopt use of a national examination in lieu of part or all of the examination required by this part.

Section 123. Subsections (2), (4), and (5) of section 468.203, Florida Statutes, are amended to read:

468.203 Definitions.—As used in this act, the term:

(2) “Board” means the Board of Occupational Therapy Practice Medicine.

(4) “Occupational therapy” means the use of purposeful activity or interventions to achieve functional outcomes.

(a) For the purposes of this subsection:

1. “Achieving functional outcomes” means to maximize the independence and the maintenance of health of any individual who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or a learning disability, or an adverse environmental condition.

2. “Assessment” means the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.

(b) Occupational therapy services include, but are not limited to:

1. The assessment, treatment, and education of or consultation with the individual, family, or other persons.

2. Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills.

3. Providing for the development of: sensory-motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components of performance.

~~These services may require assessment of the need for use of interventions such as the design, development, adaptation, application, or training in the use of assistive technology devices; the design, fabrication, or application of rehabilitative technology such as selected orthotic devices; training in the use of assistive technology; orthotic or prosthetic devices; the application of physical agent modalities as an adjunct to or in preparation for purposeful activity; the use of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness the evaluation and treatment of individuals whose ability to cope with the tasks of living are threatened or impaired by developmental deficits, the aging process, poverty and cultural differences, physical injury or illness, or psychological and social disability. The treatment utilizes task-oriented activities to prevent or correct physical or emotional deficits or to minimize the disabling effect of these deficits in the life of the individual. Specific occupational therapy techniques include, but are not limited to,~~

activities of daily living (ADL), the fabrication and application of splints, perceptual-motor activities, the use of specifically designed crafts, guidance in the selection and use of adaptive equipment, exercises to enhance functional performance, and prevocational evaluation and treatment. Such techniques are applied in the treatment of individual patients or clients, in groups, or through social systems.

(c) The use of devices subject to 21 C.F.R. s. 801.109 and identified by the board is expressly prohibited except by an occupational therapist or occupational therapy assistant who has received training as specified by the board. The board shall adopt rules to carry out the purpose of this provision.

(5) “Occupational therapy aide” means a person who assists in the practice of occupational therapy, who works under the direct supervision of a person licensed occupational therapist or to practice occupational therapy assistant, and whose activities require a general an understanding of occupational therapy pursuant to board rules but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

Section 124. Section 468.205, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.205, F.S., for present text.)

468.205 Board of Occupational Therapy Practice.—

(1) There is created within the department the Board of Occupational Therapy Practice, composed of seven members appointed by the Governor, subject to confirmation by the Senate.

(2) Four members shall be licensed occupational therapists in good standing in this state who are residents of this state and have been engaged in the practice of occupational therapy for at least 4 years immediately prior to their appointment. One member shall be a licensed occupational therapy assistant in good standing in this state who is a resident of the state and has been engaged in the practice of occupational therapy for at least 4 years immediately prior to the appointment. Two members shall be consumers who are residents of the state who are not connected with the practice of occupational therapy.

(3) Within 90 days after the effective date of this act, the Governor shall appoint the board as follows:

(a) Two members for terms of 2 years each.

(b) Two members for terms of 3 years each.

(c) Three members for terms of 4 years each.

(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years and such members shall serve until their successors are appointed.

(5) All provisions of chapter 455 relating to activities of the board shall apply.

Section 125. Section 468.209, Florida Statutes, is amended to read:

468.209 Requirements for licensure.—

(1) An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application, accompanied by the application for licensure fee prescribed in s. 468.221, on forms provided by the department ~~board~~, showing to the satisfaction of the board that he:

(a) Is of good moral character.

(b) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, with concentration in biologic or physical science, psychology, and sociology, and with education in selected manual skills. ~~For an occupational therapist, Such a program shall be accredited by the American Medical Association in collaboration with the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, or its successor Association. For an occupational therapy assistant, such a program shall be approved by the American Occupational Therapy Association.~~

(c) Has successfully completed a period of supervised fieldwork experience at a recognized educational institution or a training program approved by the educational institution where he met the academic requirements. For an occupational therapist, a minimum of 6 months of supervised fieldwork experience is required. For an occupational therapy assistant, a minimum of 2 months of supervised fieldwork experience is required.

(d) Has passed an examination conducted or adopted by the board as provided in s. 468.211.

(2) An applicant who has practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for 4 years and who, ~~prior to January 24, 1988, has~~ completed a minimum of 6 months of supervised occupational-therapist-level fieldwork experience may take the examination to be licensed as an occupational therapist without meeting the educational requirements for occupational therapists made otherwise applicable under paragraph (1)(b).

(3) If the board determines that an applicant is qualified to be licensed by endorsement under s. 468.213, the board may issue the applicant a temporary permit to practice occupational therapy until the next board meeting at which license applications are to be considered, but not for a longer period of time. Only one temporary permit by endorsement shall be issued to an applicant, and it shall not be renewable.

(4) If the board determines that the applicant has not passed an examination, which examination is recognized by the board, to determine competence to practice occupational therapy and is not qualified to be licensed by

endorsement, but has otherwise met all the requirements of this section and has made application for the next scheduled examination, the board may issue the applicant a temporary permit allowing him to practice occupational therapy under the supervision of a licensed occupational therapist until notification of the results of the examination. An individual who has passed the examination may continue to practice occupational therapy under his temporary permit until the next meeting of the board. An individual who has failed the examination shall not continue to practice occupational therapy under his temporary permit; and such permit shall be deemed revoked upon notification to the board of the examination results and the subsequent, immediate notification by the board to the applicant of the revocation. Only one temporary permit by examination shall be issued to an applicant, and it shall not be renewable. However, applicants enrolled in a full-time advanced master's occupational therapy education program who have completed all requirements for licensure except examination shall, upon written request, be granted a temporary permit valid for 6 months even if that period extends beyond the next examination, provided the applicant has not failed the examination. This permit shall remain valid only while the applicant remains a full-time student and, upon written request, shall be renewed once for an additional 6 months.

(5) An applicant seeking reentry into the profession who has not been in active practice within the last 5 years must, prior to applying for licensure, submit to the board documentation of continuing education as prescribed by rule.

Section 126. Subsection (6) is added to section 468.211, Florida Statutes, to read:

468.211 Examination for licensure.—

(6) If an applicant fails to pass the examination in three attempts, the applicant shall not be eligible for reexamination unless the applicant completes additional education or training requirements prescribed by the board. An applicant who has completed the additional education or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, the applicant is no longer eligible to take the examination.

Section 127. Section 468.213, Florida Statutes, is amended to read:

468.213 Licensure by endorsement.—

(1) The board may waive the examination and grant a license to any person who presents proof of current certification as an occupational therapist or occupational therapy assistant by a national certifying organization ~~the American Occupational Therapy Association~~ if the board determines the requirements for such certification to be equivalent to the requirements for licensure in this act.

(2) The board may waive the examination and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Co-

lumbia, or any a territory or jurisdiction of the United States or foreign national jurisdiction which requires standards for licensure determined by the board to be equivalent to the requirements for licensure in this act.

Section 128. Section 468.225, Florida Statutes, is amended to read:

468.225 Exemptions ~~Persons and practices not affected.~~—

(1) Nothing in this act shall be construed as preventing or restricting the practice, services, or activities of:

(a) Any person licensed in this state by any other law from engaging in the profession or occupation for which he is licensed.

(b) Any person employed as an occupational therapist or occupational therapy assistant by the United States, if such person provides occupational therapy solely under the direction or control of the organization by which he is employed.

(c) Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee.

(d) Any person fulfilling the supervised fieldwork experience requirements of s. 468.209, if such activities and services constitute a part of the experience necessary to meet the requirements of that section.

~~(e) Any person employed by, or working under the direct supervision of, an occupational therapist as an occupational therapy aide.~~

(2) No provision of this act shall be construed to prohibit physicians, physician assistants, nurses, physical therapists, osteopathic physicians or surgeons, or clinical psychologists, speech-language pathologists, or audiologists from using occupational therapy as a part of or incidental to their profession, when they practice their profession under the statutes applicable to their profession.

Section 129. Section 468.351, Florida Statutes, is amended to read:

468.351 Purpose and intent; application.—

(1)(a) The purpose in enacting this part is to provide for the licensure certification and registration of persons who deliver respiratory care services and who meet certain requirements. The delivery of respiratory care services by persons licensed certified or registered pursuant to this part shall not be construed to permit the practice of medicine.

(b) It is the finding of the Legislature that the delivery of respiratory care services by unskilled and incompetent persons presents a danger to the public health and safety. Because it is difficult for the public to make informed choices related to respiratory care services and since the consequences of wrong choices can seriously endanger public health and safety,

it is the intent of the Legislature to prohibit the delivery of respiratory care services by persons who are determined to possess less than minimum competencies or who otherwise present a danger to the public.

(2) It is the intent of the Legislature that the department of ~~Health and Rehabilitative Services shall continue to~~ regulate blood gas laboratories and that the supervision of health ~~respiratory care practitioners, clinical laboratory personnel, and other persons~~ performing blood gas analysis and specimen collection for the purpose of such analysis be specified in rules pursuant to the applicable practice act ~~chapter 483~~. Further, it is the intent of the Legislature that personnel licensed ~~certified or registered~~ pursuant to this part shall be exempt from the licensure provisions of chapter 483.

Section 130. Subsections (2), (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:

(2) “Department” means the Department of Health Business and Professional Regulation.

(8) “Respiratory therapist” means any person licensed ~~registered~~ 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) “Respiratory care practitioner” means any person licensed ~~certified~~ 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 131. Paragraph (a) of subsection (5) of section 468.354, Florida Statutes, is amended to read:

468.354 Advisory Council on Respiratory Care; organization; function.—

(5)(a) The council shall recommend to the department a code of ethics for those persons licensed ~~certified or registered~~ pursuant to this part.

Section 132. Section 468.355, Florida Statutes, is amended to read:

468.355 Eligibility for licensure ~~certification or registration~~; temporary licensure ~~certification~~.—

(1) To be eligible for licensure ~~certification~~ by the board as a 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 Committee on Accreditation of Allied Health Education Programs and ~~Accreditation of the American Medical Association~~, 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.

4. The applicant is currently employed in this state as a respiratory care practitioner or respiratory therapist on October 1, 1984.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall annually 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 registration by the board as a respiratory therapist, 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 therapists approved by the Commission Committee on Accreditation of Allied Health Education Programs and ~~Accreditation of the American Medical Association~~, 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 annually review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(3) With respect to the delivery of respiratory care services, the board shall establish procedures for temporary licensure certification of eligible individuals entering the state and temporary licensure certification of those persons who have graduated from a program approved by the board. Such temporary licensure certification shall be for a period not to exceed 1 year.

Section 133. Section 468.356, Florida Statutes, is amended to read:

468.356 Approval of educational programs.—

(1) Approval of educational programs shall be in accordance with the Joint Review Committee for Respiratory Therapy Education through the Commission Committee on Accreditation of Allied Health Education Programs, or other accrediting agency recognized by the United States Office of Education and Accreditation of the American Medical Association.

(2) In the event that an educational program has not yet received full American Medical Association approval, the board, at its discretion, may require appropriate documentation of the intent to achieve full accreditation within a specified time period. Temporary approval for graduates of such programs to sit for state ~~licensure certification or registration~~ examinations may then be granted by the board.

Section 134. Section 468.357, Florida Statutes, is amended to read:

468.357 Licensure Certification by examination.—

(1) A person who desires to be licensed certified as a respiratory care practitioner may submit an application to the department ~~board~~ to take the examination to be administered by the department.

(a) The department shall examine each applicant who is determined by the board to have:

1. Completed the application form and remitted the applicable applica- ~~tion~~ fee set by the board;
2. Submitted required documentation as required in s. 468.355; and
3. Remitted an examination fee set by the board.

(b) The department shall conduct examinations for licensure certification of respiratory care practitioners no less than two times a year in such geographical locations as are deemed advantageous to the majority of the applicants. ~~However, the examination shall be conducted no less than three times a year through 1988 and in such geographical locations as are deemed advantageous to the majority of the applicants.~~

(c) The examination given for respiratory care practitioners shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory 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 licen- ~~sure certification~~ as a respiratory care practitioner, and the department shall issue a license certificate 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 certificate 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.

(3)(a) Any person who was employed in this state on or before September 30, 1983, as a respiratory therapy technician or respiratory therapist, and who has performed services in such professional capacity for 4 years or more by October 1, 1987, under the supervision of a licensed physician or in a hospital or licensed health care facility, shall be issued a license certificate without examination, if such person provides acceptable documentation of performance of such services to the board. Such documentation shall include certification by a physician licensed pursuant to chapter 458 or chapter 459 who has direct knowledge of the practice of, or who has supervised, the person. If such person is not determined to have performed critical care respiratory services for at least 4 years, the board may limit the license certificate of such person to the performance of noncritical care respiratory services. ~~Any person issued a certificate pursuant to this paragraph shall complete at least 20 contact hours of continuing education each year.~~

~~(b) Any person first employed in this state as a respiratory therapy technician or respiratory therapist on or after October 1, 1984, and prior to October 1, 1987, shall have until December 31, 1988, to pass the examination for certification under this part if the person has applied to take the examination before March 1, 1988, and such person shall be permitted to continue to perform respiratory care services until December 31, 1988.~~

Section 135. Section 468.358, Florida Statutes, is amended to read:

468.358 Licensure Certification ~~or registration~~ by endorsement.—

(1) Licensure Certification as a respiratory care practitioner shall be granted by endorsement to an individual who holds the “Certified Respiratory Therapy Technician” credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure Certification by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(2) Licensure Registration as a 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 Registration by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(3) An individual who has been granted licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care services in another state or country may petition the board for consideration for licensure certification or registration in this state and, upon verification by oath and submission of evidence of licensure, certification, registration, or other authority acceptable to the board, may be granted licensure certification or registration by endorsement.

(4) Licensure Certification or registration shall not be granted by endorsement as provided in this section without the submission of a proper application and the payment of the requisite fees therefor.

Section 136. Subsections (1), (2), and (5) of section 468.359, Florida Statutes, are amended to read:

468.359 Assumption of title and use of abbreviations.—

(1) Only persons who are licensed ~~certified~~ 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 ~~registered~~ pursuant to this part as respiratory therapists have the right to use the title “Registered Respiratory Therapist” and the abbreviation “RRT,” provided such persons have passed the Registry Examination for Respiratory Therapists given by the National Board for Respiratory Care.

(5) No person in this state shall deliver respiratory care services; advertise as, or assume the title of, respiratory care practitioner or respiratory therapist; or use the abbreviation “RCP” or take any other action that would lead the public to believe that such person is licensed ~~certified or registered~~ pursuant to this part unless such person is so licensed ~~certified or registered~~.

Section 137. Section 468.36, Florida Statutes, is amended to read:

468.36 Primary place of service delivery; notice of address or change of address.—Every licensee ~~certificateholder or registrant~~ shall file with the department the licensee's current residence address as defined by board rule ~~of his primary place of service delivery within the state prior to engaging in such service delivery. Prior to changing such address, he shall notify the department of the address of his new primary place of service delivery, whether or not within the state.~~

Section 138. Section 468.362, Florida Statutes, is repealed, and section 468.361, Florida Statutes, is amended to read:

468.361 Renewal of licensure ~~certification or registration~~; continuing education.—

(1) The department shall provide by rule a method for the biennial renewal of licensure ~~certification or registration~~ at fees set by the board.

(2) The board shall prescribe by rule continuing education requirements, not to exceed 24 hours biennially, as a condition for renewal of licensure ~~certification or registration~~. The program criteria with respect thereto shall be approved by the board.

(3) The board shall approve continuing education courses which may be accepted in meeting the requirements of this part. Providers of such courses shall also be approved by the board.

(4) The board may make exceptions from the requirements of this section in emergency or hardship cases.

Section 139. Section 468.363, Florida Statutes, is amended to read:

468.363 ~~Reactivation of licensure certification or registration; continuing education.~~—The board shall prescribe by rule continuing education requirements as a condition of reactivating a license certificate or registration. The continuing education requirements for reactivating a license certificate or registration may not exceed 12 classroom hours for each year the license certificate or registration was inactive.

Section 140. Subsection (1) of section 468.364, Florida Statutes, is amended to read:

468.364 Fees; establishment; disposition.—

(1) The board shall establish by rule fees for the following purposes:

(a) Application, ~~fee~~; a fee not to exceed \$50.

(b) Examination, ~~fee~~; a fee not to exceed \$125 plus the actual per applicant cost to the department for purchase of the examination from the National Board for Respiratory Care or a similar national organization.

(c) Initial licensure, certification or registration ~~fee~~; a fee not to exceed \$200.

(d) Renewal of licensure, certification or registration ~~fee~~; a fee not to exceed \$200 biennially.

(e) Renewal of inactive licensure, certification or registration; a fee not to exceed \$50.

(f) Reactivation, ~~fee~~; a fee not to exceed \$50.

Section 141. Section 468.365, Florida Statutes, is amended to read:

468.365 Disciplinary grounds and actions.—

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

(a) Procuring, attempting to procure, or renewing a license certificate or registration 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 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, ~~of~~ 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 certified respiratory care practitioner or a respiratory therapist licensed ~~registered~~ 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 and the Advisory Council on Respiratory Care 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.

(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 455.

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

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

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

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

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

(p) 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.

(q) 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, 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 certificateholder or registrant from receiving a fee for professional consultation services.

(r) 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.

(s) 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 certificateholders or registrants within the community.

(t) 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.

(u) Failing to keep written respiratory care records justifying the reason for the action taken by the licensee certificateholder or registrant.

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

(w) 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.

(x) 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 certificateholder or registrant 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 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 his control. A respiratory care practitioner or

respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent delivery of respiratory care services with reasonable skill and safety to his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory care practitioner or respiratory therapist in any other proceeding.

(2) 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 ~~certification or registration~~.
- (b) Revocation or suspension of licensure ~~certification or registration~~.
- (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.

(3) The board shall not reinstate licensure ~~certification or registration~~, or cause a license ~~certificate or registration~~ to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that the respiratory care practitioner or respiratory therapist is capable of safely engaging in the delivery of respiratory care services.

(4) The board may, by rule, establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision on probation, or conditions upon probation or reissuance of a license ~~certificate or registration~~.

Section 142. Subsection (1) of section 468.366, Florida Statutes, is amended to read:

468.366 Penalties for violations.—

(1) It is a violation of law for any person, including any firm, association, or corporation, to:

(a) Sell or fraudulently obtain, attempt to obtain, or furnish to any person a diploma, license, ~~certificate, registration~~, or record, or aid or abet in the sale, procurement, or attempted procurement thereof.

(b) Deliver respiratory care services, as defined by this part or by rule of the board, under cover of any diploma, license, ~~certificate, registration,~~ or record that was illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation.

(c) Deliver respiratory care services, as defined by this part or by rule of the board, unless such person is duly licensed ~~certified or registered~~ to do so under the provisions of this part or unless such person is exempted pursuant to s. 468.368.

(d) Use, in connection with his name, any designation tending to imply that he is a respiratory care practitioner or a respiratory therapist, duly licensed ~~certified or registered~~ under the provisions of this part, unless he is so licensed ~~certified or registered~~.

(e) Advertise an educational program as meeting the requirements of this part, or conduct an educational program for the preparation of respiratory care practitioners or respiratory therapists, unless such program has been approved by the board.

(f) Knowingly employ unlicensed ~~uncertified or unregistered~~ persons in the delivery of respiratory care services, unless exempted by this part.

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

Section 143. Subsection (8) of section 468.368, Florida Statutes, is amended to read:

468.368 Exemptions.—Nothing in this part shall be construed to prohibit:

(8) The employment by a health care facility of a student enrolled in the clinical portion of an approved respiratory care educational program (who has demonstrated such enrollment to the board by submission of evidence satisfactory to the board) to deliver limited respiratory care support services under the supervision of personnel licensed ~~certified or registered~~ pursuant to this part. Such exemption shall also apply to the graduates of such programs until the receipt of temporary licensure ~~certification~~ issued pursuant to the provisions of s. 468.355(3). However, such employees shall not perform invasive procedures or procedures related to critical respiratory care, including therapeutic, diagnostic, and palliative procedures, nor shall they participate in delivering certain services requiring unsupervised patient contact, as determined by the board.

Section 144. Subsection (3) of section 478.42, Florida Statutes, is amended to read:

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

(3) “Department” means the Department of Health ~~Business and Professional Regulation~~.

Section 145. Section 478.45, Florida Statutes, is amended to read:

478.45 Requirements for licensure.—

(1) An applicant applying for licensure as an electrologist shall file a written application, accompanied by the application for licensure fee prescribed in s. 478.55, on a form provided by the board, showing to the satisfaction of the board that the applicant:

- (a) Is at least 18 years old.
- (b) Is of good moral character.
- ~~(c) Is a resident of the state.~~

~~(c)(d)~~ Possesses a high school diploma or a graduate equivalency diploma.

~~(d)(e)~~ Has not committed an act in any jurisdiction which would constitute grounds for disciplining an electrologist in this state.

~~(e)(f)1.~~ Has successfully completed the academic requirements of an electrolysis training program, not to exceed 120 hours, and the practical application thereof as approved by the board; ~~or~~

~~2. Was engaged in the practice of electrology prior to October 1, 1991, and filed an application for licensure within 90 days after the date established by the board or by February 1, 1995, whichever comes last.~~

(2) Each applicant for licensure shall successfully pass a written examination developed by the department or a national examination that has, both of which have been approved by the board. The examinations shall test the applicant's knowledge relating to the practice of electrology, including the applicant's professional skills and judgment in the use of electrolysis techniques and methods, and any other subjects which are useful to determine the applicant's fitness to practice.

(3) The department, upon approval of the board, may adopt a the American Electrology Association examination or any other national examination in lieu of any part of the examination required by this section. The board, with the assistance of the council, shall establish standards for acceptable performance.

(4) The department shall issue a license to practice electrology to any applicant who passes the examination, pays the licensure fee as set forth in s. 478.55, and otherwise meets the requirements of this chapter.

(5) The department shall conduct licensure examinations at least two times a year biannually at locations set by the board. However, such examinations may be conducted at least three times each year through 1995. The ~~department board~~ shall give public notice of the time and place of each examination at least 60 days before it is administered and shall mail notice of such examination to each applicant whose application is timely filed, pursuant to board rule.

(6) The department may not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would be a violation of this chapter, until such investigation is complete. Upon completion of such investigation, if the applicant is found guilty of such offense, the board shall apply the applicable provisions of s. 478.52.

Section 146. Subsection (1) of section 478.46, Florida Statutes, is amended to read:

478.46 Temporary permits.—

(1) If the ~~department executive director of the board~~ determines that an applicant is qualified to be licensed under s. ~~478.47~~ 478.45, the ~~department board~~ may issue the applicant a temporary permit to practice electrolysis electrology until the next board meeting at which license applications are to be considered, but not for a longer period of time. Only one temporary permit shall be issued to an applicant, and it shall not be renewable.

Section 147. Section 478.47, Florida Statutes, is amended to read:

478.47 Licensure by endorsement.—The department shall issue a license by endorsement to any applicant who submits an application and the required fees as set forth in s. 478.55 and who ~~the board certifies has met the qualifications of s. 478.45(1) or who holds an active license or other authority to practice electrology in a jurisdiction whose licensure requirements are determined by the board to be equivalent to the requirements for licensure in this state.~~

Section 148. Paragraph (d) of subsection (2) of section 478.52, Florida Statutes, is amended, and paragraph (u) is added to subsection (1) of said section, to read:

478.52 Disciplinary proceedings.—

(1) The following acts are grounds for which the disciplinary actions in subsection (2) may be taken:

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

(2) 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:

(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.

Section 149. Subsections (1) and (2) of section 480.033, Florida Statutes, are amended to read:

480.033 Definitions.—As used in this act:

(1) “Board” means the Board of Massage Therapy.

(2) “Department” means the Department of Health Business and Professional Regulation.

Section 150. Section 480.034, Florida Statutes, is amended to read:

480.034 Exemptions.—

(1) Nothing in this act shall modify or repeal any provision of chapters 458-464, inclusive, or of chapter 476, chapter 477, or chapter 486.

(2) Athletic trainers employed by or on behalf of a professional athletic team performing or training within this state shall be exempt from the provisions of this act.

(3) The state and its political subdivisions are exempt from the registration requirements of this act.

~~(4) Treatments for the purpose of cleansing and beautifying the skin or in conjunction with a weight loss program, including herbal wraps, body scrubs, paraffin wax treatments, and seaweed wraps, shall be exempt from the provisions of this act.~~

~~(4)(5)~~ An exemption granted is effective to the extent that an exempted person’s practice or profession overlaps with the practice of massage.

Section 151. Subsection (1) of section 480.035, Florida Statutes, is amended to read:

480.035 Board of Massage Therapy.—

(1) The Board of Massage Therapy is created within the department. The board shall consist of seven members, who shall be appointed by the Governor and whose function it shall be to carry out the provisions of this act.

Section 152. Section 480.041, Florida Statutes, is amended to read:

480.041 Massage therapists; qualifications; licensure; endorsement; provisional licensure.—

(1) Any person is qualified for licensure as a massage therapist under this act who:

(a) Is at least 18 years of age or has received a high school diploma or graduate equivalency diploma;

(b) Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board; and

(c) Has received a passing grade on an examination administered by the department.

(2) Every person desiring to be examined for licensure as a massage therapist shall apply to the department in writing upon forms prepared and furnished by the department. Such applicants shall be subject to the provisions of s. 480.046(1). Applicants may take an examination administered by the department only upon meeting the requirements of this section as determined by the board.

(3) Upon an applicant's passing the examination and paying the initial licensure fee, the department shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage.

~~(4)(a) The board may issue to an applicant, without examination, a provisional license to practice massage, provided such applicant meets all other conditions and requirements relating to qualification for licensure and submits a fee pursuant to s. 480.044. Such applicant for a provisional license shall be associated with a licensed massage therapist and shall practice only under the supervision of such licensed massage therapist at a licensed establishment.~~

~~(b) The provisional license, when granted, shall include the name and address of the licensed massage therapist with whom the applicant is associated. No licensed massage therapist may supervise more than one provisional licenseholder at the same time.~~

~~(c) The applicant must appear at the next examination for licensure for which the applicant can be scheduled according to the rules of the board and department. The provisional license shall expire upon written notification by the department that the applicant has failed the examination or on the date of the scheduled examination, should the applicant fail to appear. Acceptance of a provisional license by an applicant shall be deemed to be consent for expiration of that license in accordance with the provisions of this chapter.~~

~~(d) No more than one provisional license may be issued to an individual. No provisional license shall be issued to an applicant who has previously failed the examination.~~

~~(4)(5)~~ The board shall adopt rules:

(a) Establishing a minimum training program for apprentices.

~~(b) Specifying standards and procedures for issuance of a provisional license.~~

~~(b)(c)~~ Providing for educational standards, examination, and certification for the practice of colonic irrigation, as defined in s. 480.033(6), by massage therapists.

~~(c)(d)~~ Specifying licensing procedures for practitioners desiring to be licensed in this state who hold an active license and have practiced in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction which has licensing standards substantially similar to, equivalent to, or more stringent than the standards of this state.

Section 153. Section 480.0415, Florida Statutes, is amended to read:

480.0415 License renewal.—The board shall prescribe by rule the method for renewal of biennial licensure which shall include continuing education requirements not to exceed 25 ~~42~~ classroom hours per biennium. The board shall by rule establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the board may include correspondence courses that meet the criteria for continuing education courses held in a classroom setting.

Section 154. Subsection (1) of section 480.042, Florida Statutes, is amended to read:

480.042 Examinations.—

(1) The board shall specify by rule the general areas of competency to be covered by examinations for licensure. These rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The board shall ensure that examinations adequately measure ~~both an applicant's competency and his knowledge of related statutory requirements~~. Professional testing services may be utilized to formulate the examinations.

Section 155. Section 480.0425, Florida Statutes, as amended by chapter 94-119, Laws of Florida, is repealed.

Section 156. Subsection (7) of section 480.043, Florida Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure; inspection.—

(7)(a) ~~Once issued, no license for operation of a massage establishment may be transferred from one owner person, corporation, name, or location to another.~~

(b) A license may be transferred from one location to another only after inspection and approval by the board and receipt of an application and inspection fee set by rule of the board, not to exceed \$125.

(c) A license may be transferred from one business name to another after approval by the board and receipt of an application fee set by rule of the board, not to exceed \$25.

Section 157. Subsection (1) of section 480.044, Florida Statutes, is amended to read:

480.044 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

(a) Massage therapist application and examination fee: not to exceed \$250.

(b) Massage therapist initial licensure fee: not to exceed \$150.

- (c) Establishment application fee: not to exceed \$200.
- (d) Establishment licensure fee: not to exceed \$150.
- (e) Biennial establishment renewal fee: not to exceed \$150.
- (f) Biennial massage therapist licensure renewal fee: not to exceed \$200.
- (g) Massage therapist reexamination fee: not to exceed \$250.
- (h) Fee for apprentice: not to exceed \$100.
- (i) Colonics examination fee: not to exceed \$100.
- (j) Colonics reexamination fee: not to exceed \$100.
- ~~(k) Application and provisional licensure fee: not to exceed \$50.~~

~~(k)(4)~~ Application and reactivation for inactive status of a massage therapist license fee: not to exceed \$250.

~~(l)(m)~~ Renewal fee for inactive status: not to exceed \$250.

Section 158. Paragraph (a) of subsection (1) of section 480.047, Florida Statutes, is amended to read:

480.047 Penalties.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a massage therapist or to practice massage unless duly licensed under this chapter or unless otherwise specifically exempted from licensure under this chapter as provided herein.

Section 159. Section 480.0485, Florida Statutes, is created to read:

480.0485 Sexual misconduct in the practice of massage therapy.—The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of massage therapy is prohibited.

Section 160. Paragraph (f) of subsection (3) of section 20.43, Florida Statutes, 1996 Supplement, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(f) ~~Effective July 1, 1997,~~ Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

1. Nursing assistants, as provided under s. 400.211.
2. Health care services pools, as provided under s. 402.48.
3. The Board of Acupuncture, created under chapter 457.
4. The Board of Medicine, created under chapter 458.
5. The Board of Osteopathic Medicine, created under chapter 459.
6. The Board of Chiropractic, created under chapter 460.
7. The Board of Podiatric Medicine, created under chapter 461.
8. Naturopathy, as provided under chapter 462.
9. The Board of Optometry, created under chapter 463.
10. The Board of Nursing, created under chapter 464.
11. The Board of Pharmacy, created under chapter 465.
12. The Board of Dentistry, created under chapter 466.
13. Midwifery, as provided under chapter 467.
14. The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.
15. The Board of Nursing Home Administrators, created under part II of chapter 468.
16. Occupational therapy, as provided under part III of chapter 468.
17. Respiratory therapy, as provided under part V of chapter 468.
18. Dietetics and nutrition practice, as provided under part X of chapter 468.
19. Athletic trainers, as provided under part XIV of chapter 468.
20. Electrolysis, as provided under chapter 478.
21. The Board of Massage Therapy, created under chapter 480.
22. The Board of Clinical Laboratory Personnel, created under part III IV of chapter 483.
23. Medical physicists, as provided under part IV V of chapter 483.
24. The Board of Opticianry, created under part I of chapter 484.
25. The Board of Hearing Aid Specialists, created under part II of chapter 484.
26. The Board of Physical Therapy Practice, created under chapter 486.

27. The Board of Psychology, created under chapter 490.

28. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

The department shall contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

Section 161. Paragraph (b) of subsection (2) of section 381.81, Florida Statutes, is amended to read:

381.81 Minority Health Improvement Act.—

(2) DEFINITIONS.—As used in this section, the following words and terms shall have the following meanings, unless the context indicates another meaning or intent:

(b) “Health profession” means any regulated health profession, including occupational therapy, as regulated under part III of chapter 468; respiratory therapy, as regulated under part V of chapter 468; physical therapy, as regulated under chapter 486; midwifery, as regulated under chapter 467; dietetics and nutrition practice, as regulated under part X of chapter 468; electrolysis, as regulated under chapter 478; nursing assistants, as regulated under s. 400.211; and those professions regulated by: the Board of Medicine, created under chapter 458; the Board of Osteopathic Medicine, created under chapter 459; the Board of Acupuncture, created under chapter 457; the Board of Chiropractic, created under chapter 460; the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491; the Board of Dentistry, created under chapter 466; the Board of Optometry, created under chapter 463; the Board of Podiatric Medicine, created under chapter 461; the Board of Nursing, created by chapter 464; the Board of Psychological Examiners, created under chapter 490; the Board of Speech-Language Pathology and Audiology, created under part I of chapter 468; the Board of Nursing Home Administrators, created under part II of chapter 468; the Board of Clinical Laboratory Personnel, created under part ~~III~~ IV of chapter 483; ~~and~~ the Board of Opticianry, created under part I of chapter 484; ~~and~~ the Board of Hearing Aid Specialists, created under part II of chapter 484.

Section 162. Section 483.800, Florida Statutes, is amended to read:

483.800 Declaration of policy and statement of purpose.—The purpose of this part is to protect the public health, safety, and welfare of the people of this state from the hazards of improper performance by clinical laboratory personnel. Clinical laboratories provide essential services to practitioners of the healing arts by furnishing vital information that is essential to a determination of the nature, cause, and extent of the condition involved. Unreliable and inaccurate reports may cause unnecessary anxiety, suffering, and financial burdens and may even contribute directly to death. The protection of public and individual health requires the licensure of clinical laboratory

personnel who meet minimum requirements for safe practice. The Legislature finds that laboratory testing technology continues to advance rapidly. The Legislature also finds that a hospital training program under the direction of the hospital clinical laboratory director offers an opportunity for individuals already trained in health care professions to expand the scope of their careers. The Legislature further finds that there is an immediate need for properly trained personnel to ensure patient access to testing. Therefore, the Legislature recognizes the patient-focused benefits of hospital-based training for laboratory and nonlaboratory personnel for testing within hospitals and commercial laboratories ~~the laboratory and at alternate sites,~~ and recognizes the benefits of a training program approved by the Board of Clinical Laboratory Personnel under the direction of the hospital clinical laboratory director.

Section 163. Subsection (3) is added to section 483.801, Florida Statutes, to read:

483.801 Exemptions.—This part applies to all clinical laboratories and clinical laboratory personnel within this state, except:

(3) Advanced registered nurse practitioners licensed under chapter 464 who perform provider-performed microscopy procedures (PPMP) in an exclusive-use laboratory setting.

Section 164. Section 483.803, Florida Statutes, is amended to read:

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

(1) “Board” means the Board of Clinical Laboratory Personnel.

(2) “Clinical laboratory” means a clinical laboratory as defined in s. 483.041(2).

(3) “Clinical laboratory examination” means an examination performed on materials or specimens of the human body to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition.

~~(4)~~(3) “Clinical laboratory personnel” includes a clinical laboratory director, supervisor, technologist, blood gas analyst, or technician who performs or is responsible for laboratory test procedures, but the term does not include trainees, persons who perform screening for blood banks or plasmapheresis centers, phlebotomists, or persons employed by a clinical laboratory to perform manual pretesting duties or clerical, personnel, or other administrative responsibilities.

~~(5)~~(4) “Clinical laboratory trainee” means any person having qualifying education who is enrolled in a clinical laboratory training program approved pursuant to s. 483.811 and who is seeking experience required to meet minimum qualifications for licensing in this state. Trainees may perform procedures under direct and responsible supervision of duly licensed clinical laboratory personnel, but they may not report test results.

(6)(5) “Department” means the Department of Health Business and Professional Regulation.

(7)(6) “Licensed practitioner of the healing arts” means a physician licensed pursuant to chapter 458, chapter 459, or chapter 460; a dentist licensed pursuant to chapter 466; or a person licensed pursuant to chapter 461 or chapter 462.

(8) “Public health laboratory scientist” means any licensed director, supervisor, technologist, or technician engaged in laboratory testing of human specimens in a state, county, or municipal public health laboratory.

Section 165. Subsections (1) and (2) of section 483.809, Florida Statutes, are amended to read:

483.809 Licensure; examinations; registration of trainees; approval of curricula.—

(1) LICENSING; QUALIFICATIONS.—

(a) The department shall provide biennial licensure of all clinical laboratory personnel who the board certifies have met ~~meeting~~ the requirements of this part ~~and shall prescribe the qualifications necessary for such licensure~~. The license of any person who fails to pay a required fee or otherwise fails to qualify within 60 days after the date of expiration of such license shall be automatically canceled without notice or further proceedings unless the individual has made application for inactive status pursuant to s. 483.819.

~~(b) Personnel qualifications may require appropriate education, training, or experience or the passing of an examination in appropriate subjects or any combination of these, but no practitioner of the healing arts licensed to practice in this state is required to obtain any license under this part or to pay any fee hereunder except the fee required for clinical laboratory licensure.~~

(2) EXAMINATIONS.—The department shall conduct examinations required by board rules to determine in part the qualification of clinical laboratory personnel for licensure. An approved national certification examination may be accepted in lieu of state examination for public health scientists.

Section 166. Section 483.812, Florida Statutes, is created to read:

483.812 Public health laboratory scientists; licensure.—

(1) Applicants at the director and supervisor level in the category of public health who are registered by the National Registry of Clinical Chemistry Certification or the American Society of Microbiology may qualify under board rules by passing the appropriate supervision and administration examination.

(2)(a) A technologist applicant for licensure in the category of public health microbiology, with a baccalaureate degree in one of the biological sciences from an accredited institution, may use the American Society of

Microbiology or the National Registry of Microbiology Certification in Public Health Microbiology to qualify for a technologist license in public health microbiology. Such a technologist may work in a public health microbiology laboratory.

(b) A technologist applicant for licensure in the category of public health chemistry, with a baccalaureate degree in one of the chemical, biological, or physical sciences from an accredited institution, may use the National Registry of Clinical Chemistry Certification to qualify for a technologist license in public health chemistry. Such a technologist may work in a public health chemistry laboratory.

(c) A technician applicant for licensure in the category of public health, with a baccalaureate degree in one of the chemical or biological sciences from an accredited institution, may obtain a one-time, 3-year, conditional public health technician license pending national certification by the American Society of Microbiology or the National Registry of Clinical Chemistry Certification. Such a technician may perform testing only under the direct supervision of a licensed pathologist, director, supervisor, or technologist.

(3) A person licensed by the Board of Clinical Laboratory Personnel may work in a public health laboratory at the appropriate level and specialty.

Section 167. Section 483.813, Florida Statutes, is amended to read:

483.813 Clinical laboratory personnel license.—A person may not conduct a clinical laboratory examination or report the results of such examination unless such person is licensed under this part to perform such procedures. However, this provision does not apply to any practitioner of the healing arts authorized to practice in this state. The department may grant a temporary license to any candidate it deems properly qualified, for a period not to exceed 1 year, or a conditional license for a period not to exceed 3 years ~~6 months~~.

Section 168. Section 483.823, Florida Statutes, is amended to read:

483.823 Qualifications of clinical laboratory personnel.—

(1) The board shall prescribe minimal qualifications for clinical laboratory personnel and shall issue a license to any person who meets the minimum qualifications and who demonstrates that he possesses the character, training, and ability to qualify in those areas for which the license is sought.

(2) Personnel qualifications may require appropriate education, training, or experience or the passing of an examination in appropriate subjects or any combination of these, but no practitioner of the healing arts licensed to practice in this state is required to obtain any license under this part or to pay any fee hereunder except the fee required for clinical laboratory licensure.

Section 169. Section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action ~~against clinical laboratory personnel~~.—The following acts constitute grounds for which disciplinary ac-

tions specified in s. 483.827 may be taken against applicants, registrants, and licensees under this part ~~clinical laboratory personnel~~:

(1) Attempting to obtain, obtaining, or renewing a license or registration under this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board ~~Making a fraudulent statement on an application for a license or any other document required by the department.~~

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

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

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

(5) Having been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(6) Having been adjudged mentally or physically incompetent.

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

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

(9) Knowingly advertising false services or credentials.

(10) 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.

(11) Failing to report to the board, in writing, within 30 days if action under subsection (10) has been taken against one's license to practice as clinical laboratory personnel in another state, territory, or country.

(12) 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 paragraph, 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 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 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 he or she can resume competent practice with reasonable skill and safety to patients.

(13) 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.

Section 170. Section 483.828, Florida Statutes, is created to read:

483.828 Penalty for violations.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing as clinical laboratory personnel without an active license.

(b) Using or attempting to use a license to practice as clinical laboratory personnel which is suspended or revoked.

(c) Attempting to obtain or obtaining a license to practice as clinical laboratory personnel by knowing misrepresentation.

(2) Each of the following act constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Knowingly concealing information relating to violations of this part.

(b) Making any willfully false oath or affirmation whenever an oath or affirmation is required by this part.

(c) Leading the public to believe that one is licensed as clinical laboratory personnel, or is engaged in licensed practice as clinical laboratory personnel, without holding a valid, active license.

Section 171. Section 483.901, Florida Statutes, is amended to read:

483.901 Medical physicists; definitions; licensure.—

(1) SHORT TITLE.—This section may be cited as the "Florida Medical Physicists Act."

(2) DECLARATION OF LEGISLATIVE POLICY.—The Legislature finds that the practice of medical physics by incompetent persons is a threat to the public health and safety. It is, therefore, the responsibility of this state to protect the public health and safety from the harmful effects of excessive and unnecessary radiation by ensuring that the practice of medical physics is entrusted only to persons who are licensed under this section.

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

(a) ~~“Agency” means the Agency for Health Care Administration or its successor.~~

(a)(b) “Council” means the Advisory Council of Medical Physicists in the Department of Health Agency for Health Care Administration.

(b) “Department” means the Department of Health.

(c) “Diagnostic radiological physics” means the specialty of medical physics which deals with the diagnostic application and safe use of X rays, gamma rays from sealed sources, ultrasonic radiation, radio frequency radiation, or magnetic fields, and the use of equipment associated with the production, use, measurement, and evaluation of the radiation and the quality of the diagnostic image resulting from its production and use.

(d) “License” means a certificate issued by the department agency which authorizes the holder to practice medical physics.

(e) “Licensed medical physicist” means a person who holds a license issued under this section.

(f) “Medical health physics” means the specialty of medical physics which deals with the safe use of X rays, gamma rays, electron or other charged particle beams, neutrons, radionuclides, and radiation from sealed sources, for both diagnostic and therapeutic purposes in human beings and the use of equipment required to perform appropriate tests and measurements that do not involve the direct application of radiation to humans for diagnostic or therapeutic procedures.

(g) “Medical nuclear radiological physics” means the specialty of medical physics which deals with the therapeutic and diagnostic application and safe use of radionuclides, except those used in sealed sources for therapeutic purposes, and the use of equipment associated with the production, use, measurement, and evaluation of radionuclides.

(h) “Medical physics” means the branch of physics which is associated with the practice of medicine. It includes the fields of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, and medical health physics.

(i) “Physician” means a doctor of medicine, osteopathic medicine osteopathy, podiatry, dentistry, or chiropractic who is licensed in this state and who prescribes a radiological procedure.

(j) “Practice of medical physics” means the use of principles and accepted protocols of physics to ensure ~~assure~~ the correct quality, quantity, and placement of radiation during the performance of a radiological procedure prescribed by a physician which will protect the patient and others from harmful excessive radiation. The term includes radiation beam calibration and characterization quality assurance, instrument specification, acceptance testing, shielding design, protection analysis on radiation-emitting equip-

ment and radiopharmaceuticals, and consultation with a physician to ensure ~~assure~~ accurate radiation dosage to a specific patient.

(k) “Radiation” means ionizing or nonionizing radiation above background levels which is used to perform a diagnostic or therapeutic medical or dental radiological procedure.

(l) “Radiological procedure” means a test, measurement, calculation, or radiation exposure used in the diagnosis or treatment of diseases or other medical or dental conditions in human beings that includes therapeutic radiation, diagnostic radiation, nuclear magnetic resonance, or nuclear medicine procedures.

(m) “Therapeutic radiological physics” means that specialty of medical physics which deals with the therapeutic application and safe use of X rays, gamma rays, electron or other charged particle beams, neutrons, or radiation from radionuclide sources, and the use of equipment associated with the production, use, measurement, and evaluation of that radiation.

(4) COUNCIL.—The Advisory Council of Medical Physicists is created in the Department of Health Agency for Health Care Administration to advise the department in regulating ~~regulate~~ the practice of medical physics in this state.

(a) The council shall be composed of nine ~~seven~~ members appointed by the secretary of the department ~~director~~ as follows:

1. A licensed medical physicist who specializes in diagnostic radiological physics.

2. A licensed medical physicist who specializes in therapeutic radiological physics.

3. A licensed medical physicist who specializes in medical nuclear radiological physics.

4. A physician who is board certified by the American Board of Radiology or its equivalent.

5. A physician who is board certified by the American Osteopathic Board of Radiology or its equivalent.

6. A physician who is board certified by the American Chiropractic Radiology Board of ~~Chiropractic Radiology~~ or its equivalent.

7. Three ~~A consumer members member~~ who are ~~is~~ not, and have ~~has~~ never been, licensed as a medical physicist or licensed in any closely related profession.

(b) The secretary of the department ~~director~~ shall appoint the medical physicist members of the council from a list of candidates who are licensed to practice medical physics.

(c) The secretary of the department ~~director~~ shall appoint the physician members ~~member~~ of the council from a list of candidates who are licensed

to practice medicine in this state and are board certified in diagnostic radiology, therapeutic radiology, or radiation oncology.

(d) The secretary of the department ~~director~~ shall appoint the public members ~~member~~ of the council.

(e) As the term of each member expires, the secretary of the department ~~director~~ shall appoint the successor for a term of 4 ~~3~~ years. A member shall serve until the member's ~~his~~ successor is appointed, unless physically unable to do so.

(f) An individual is ineligible to serve more than two full consecutive 4- ~~year~~ 3-year terms.

(g) If a vacancy on the council occurs, the director shall appoint a member to serve for a 4-year ~~3-year~~ term.

(h) A council member must be a United States citizen and must have been a resident of this state for 2 consecutive years immediately before being appointed.

1. A member of the council who is a medical physicist must have practiced for at least 6 years before being appointed or be board certified for the specialty in which the member practices.

2. A member of the council who is a physician must be licensed to practice medicine in this state and must have practiced diagnostic radiology or radiation oncology in this state for at least 2 years before being appointed.

3. The public members ~~member~~ of the council must not have a financial interest in any endeavor related to the practice of medical physics.

(i) Notwithstanding any other provision of this subsection, no later than January 1, 1996, the secretary of the department ~~director~~ shall make the initial appointments to the council as follows:

1. One member who is engaged in the practice of medical physics, one physician member, and one public member, each of whom is to be appointed to serve until June 30, 1996;

2. One member who is engaged in the practice of medical physics and one physician member, each of whom is to be appointed to serve until June 30, 1997; and

3. One member who is engaged in the practice of medical physics and one physician member, each of whom is to be appointed to serve until June 30, 1998.

(j) A council member may be removed from the council if the member:

1. Did not have the required qualifications at the time of appointment;
2. Does not maintain the required qualifications while serving on the council; or

3. Fails to attend the regularly scheduled council meetings in a calendar year as required by s. 455.207.

(k) Members of the council may not receive compensation for their services; however, they are entitled to reimbursement, from funds deposited in the Medical Quality Assurance Health-Care Trust Fund, for necessary travel expenses as specified in s. 112.061 for each day they engage in the business of the council.

(l) At the first regularly scheduled meeting of each calendar year, the council shall elect a presiding officer and an assistant presiding officer from among its members. The council shall meet at least once each year and at other times in accordance with department requirements agency rules.

(m) The department agency shall provide administrative support to the council for all licensing activities.

(n) The council may conduct its meetings electronically.

(5) POWERS OF COUNCIL.—The council shall:

(a) Recommend rules to administer this section.

(b) Recommend practice standards for the practice of medical physics which are consistent with the Guidelines for Ethical Practice for Medical Physicists prepared by the American Association of Physicists in Medicine and disciplinary guidelines adopted under s. 455.2273.

(c) Develop and recommend continuing education requirements for licensed medical physicists.

(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 agency for the appropriate specialty.

(a) The department agency 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 agency continuing education requirements that shall be a condition of license renewal. The department agency 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 agency. The application must be on a form prescribed by the department agency 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 agency issues or renews 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 agency shall review each completed application for a license which the department agency receives.

~~(e) The agency may issue a license to an eligible applicant if the applicant meets all license requirements.~~

~~1. Licenses must be uniform and must include:~~

~~a. The name of the licensee;~~

~~b. The medical physics specialty that the licensee may practice; and~~

~~c. The expiration date of the license.~~

~~2. A license certificate is the property of the agency and must be surrendered on demand.~~

~~3. The agency shall adopt rules establishing a procedure for the biennial renewal of licenses.~~

~~4. A person may renew an unexpired license by meeting the renewal requirements, paying the nonrefundable renewal fee before the expiration of the license, and meeting continuing education requirements.~~

~~5. The cost to renew a license within 90 days after the license has expired is the normal renewal fee plus a penalty in the amount of half the renewal fee.~~

~~6. The cost to renew a license that has been expired for more than 90 days but less than 2 years is the normal renewal fee plus a penalty in the amount of the renewal fee.~~

~~7. A license may not be renewed after it has been expired for more than 2 years. To be relicensed, a person must comply with all current application requirements to practice medical physics and must submit a new application and nonrefundable application fee to the agency.~~

~~(e)(f)~~ On receipt of an application and fee as specified in this section, the department agency may issue a license to practice medical physics in this state:

1. Until October 1, 1997, to a person who meets any of the following requirements:

a. Earned from an accredited college or university a doctoral degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering and has at least 2 years' experience in the practice of the medical physics specialty for which application is made.

b. Earned from an accredited college or university a master's degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering and has at least 3 years' experience in the practice of the medical physics specialty for which application is made.

c. Earned from an accredited college or university a bachelor's degree in physics and has at least 5 years' experience in the practice of the medical physics specialty for which application is made.

d. Has at least 8 years' experience in the practice of the medical physics specialty for which application is made, 2 years of which must have been earned within the 4 years immediately preceding application for licensure.

e. 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 or the Canadian Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the agency.

~~1. Until October 1, 1997, to a person who has earned from an accredited college or university a master's degree or doctoral degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering, and has at least 2 years of experience in the practice of the medical physics specialty for which application is made during the 4 years immediately before the application is made.~~

2. On or after October 1, 1997, to a person who:

a.— Holds a license to practice medical physics in this state; or

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

(f)(g) 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 agency.

(g) The following acts are grounds for 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.

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

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

10. 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.

11. 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.

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

13. Judicially determined mental incompetency.

14. 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 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.

(h) 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.

(h) The agency may refuse to issue or renew a license, suspend or revoke a license, or reprimand the licensee for the following:

1.—Obtaining or renewing a license by means of fraud, misrepresentation, or concealment of material fact;

2.—Having made an application for or held a license issued by the licensing authority of another state, territory, or jurisdiction which was denied, suspended, or revoked by that licensing authority without so informing the agency;

3.—Engaging in unprofessional conduct related to the practice of medical physics that has endangered or is likely to endanger the health, safety, or welfare of the public;

4.—Violating this section, a rule of the agency, or the practice standards for medical physics; or

5.—Being convicted of a felony or of a misdemeanor that directly relates to a person's duties and responsibilities as a licensed medical physicist.

(j)(i) The department agency may issue a temporary license to an applicant pending completion of the application process.

(7) FEES.—The fee for the initial license application shall be \$500 and is nonrefundable. The fee for license renewal may not be more than \$500. These fees may cover only the costs incurred by the department agency and the council to administer this section. By July 1 each year, the department agency shall advise the council if the fees are insufficient to administer this section.

(8) DISPOSITION OF FEES.—The department agency shall deposit all funds received into the Health Care Trust Fund.

(9) PENALTY FOR VIOLATIONS.—It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to:

(a) Practice or attempt to practice medical physics or hold oneself out to be a licensed medical physicist without holding an active license.

(b) Practice or attempt to practice medical physics under a name other than one's own.

(c) Use or attempt to use a revoked or suspended license or the license of another.

~~(9) OFFENSES.—A person is in violation of this section if the person intentionally or knowingly:~~

~~(a) Practices medical physics in violation of this section; or~~

~~(b) Uses letters, terminology, symbols, or signs to indicate or imply qualifications or licensure to practice medical physics in any manner for which the person is not licensed.~~

~~(10) PENALTIES.—~~

~~(a) A person who violates this section or any rule adopted under this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(b) The agency may modify, deny, suspend, or revoke a license, or may impose an administrative fine not to exceed \$1,000 per violation, for the violation of any provision of this section, rule adopted under this section, or terms or conditions of any license issued by the agency. The agency shall develop specific disciplinary guidelines in accordance with s. 455.2273.~~

~~1. In determining the amount of a fine that is to be levied for a violation, the following factors must be considered:~~

~~a. The severity of the violation and the extent to which this section, any rule adopted under this section, or any term or condition of any license was violated.~~

~~b. Any action taken by the licensee to correct the violation.~~

~~e.—Any previous violation by the licensee.~~

~~2.—All amounts collected under this section must be deposited in the Health Care Trust Fund.~~

~~(c) If the agency determines that the licensee presents a clear and present danger to the public health or safety, the agency may issue an emergency order that immediately suspends or revokes his license.~~

~~(10)(14) EXEMPTIONS.—This section does not apply to:~~

~~(a) A physician who is licensed by this state to the extent that the physician he practices within the scope of the physician's his training, education, and licensure;~~

~~(b) A person who is licensed under part IV of chapter 468 to the extent that the person he practices within the scope of the person's his training, education, and licensure;~~

~~(c) A person who performs beam calibration and characterization, quality assurance, instrument specification, acceptance testing, shielding design, or protection analysis on radiation-emitting equipment or radiopharmaceuticals in connection with procedures that are not involved with the diagnosis or treatment of disease or other medical or dental conditions in humans;~~

~~(d) A person who is employed by a federal or state regulatory agency and is performing duties within the scope of the person's employment;~~

~~(e) A student or intern who practices medical physics in conjunction with a program at an accredited college or university to the extent that the student or intern is adequately supervised by a licensed medical physicist or licensed physician; or~~

~~(f) A dentist or any person working under the dentist's his supervision pursuant to chapter 466 to the extent that the dentist or the person supervised by the dentist is practicing within the scope of his or her training, education, and licensure.~~

~~(12) LICENSURE EXCEPTION.—Notwithstanding the provisions of subsections (1)-(11), any medical physicist who, as of July 1, 1995, has practiced medical physics for 5 years or longer is entitled to continue to so practice and need not be licensed as a medical physicist.~~

Section 172. Subsection (2) of section 484.041, Florida Statutes, is amended to read:

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

(2) "Department" means the Department of Health Business and Professional Regulation.

Section 173. Subsection (1) of section 484.042, Florida Statutes, is amended to read:

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

(1) The Board of Hearing Aid Specialists is created within the Department of ~~Health Business and Professional Regulation~~ and shall consist of nine members to be appointed by the Governor and confirmed by the Senate.

Section 174. Subsection (2) of section 484.051, Florida Statutes, is amended to read:

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

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

Section 175. Subsection (2) of section 486.021, Florida Statutes, is amended to read:

486.021 Definitions.—In this chapter, unless the context otherwise requires, the term:

(2) "Department" means the Department of ~~Health Business and Professional Regulation~~.

Section 176. Section 486.023, Florida Statutes, is amended to read:

486.023 Board of Physical Therapy Practice.—

(1) There is created within the department the Board of Physical Therapy Practice, composed of seven members, ~~recommended by the Florida Physical Therapy Association and~~ appointed by the Governor and, subject to confirmation by the Senate.

(2) Five board members shall be licensed physical therapists in good standing in this state who are residents of this state and who have been engaged in the practice of physical therapy for at least 4 years immediately

prior to their appointment. One licensed physical therapist board member may be a full-time faculty member teaching in a physical therapy curriculum in an educational institution in this state. ~~One of The two remaining members shall be residents a resident of this state who have has never been a licensed health care practitioners practitioner. One of the two remaining members shall be a health care practitioner licensed under chapter 458 or chapter 459 who is a resident of this state and has been engaged as a licensed health care practitioner for at least 4 years immediately prior to his or her appointment.~~

~~(3) Within 90 days after October 1, 1989, the Governor shall appoint the board as follows:~~

- ~~(a) Two members for terms of 2 years each.~~
- ~~(b) Two members for terms of 3 years each.~~
- ~~(c) Three members for terms of 4 years each.~~

~~(3)(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed.~~

~~(4)(5) All provisions of chapter 455 relating to activities of the board shall apply.~~

Section 177. Section 486.031, Florida Statutes, is amended to read:

486.031 Physical therapist; licensing requirements.—To be eligible for licensing as a physical therapist, an applicant must:

- (1) Be at least 18 years old;
- (2) Be of good moral character; and

~~(3)(a) Have been graduated from a school of physical therapy which has been approved for the educational preparation of physical therapists by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation (formerly the National Commission on Accrediting and the Federation of Regional Accrediting Commissions of Higher Education) or the United States Department of Education at the time of his graduation and have passed, to the satisfaction of the board, the American Registry Examination prior to 1971 or a national an examination approved administered by the board department to determine his fitness for practice as a physical therapist as hereinafter provided; or~~

~~(b) Have received a diploma from a program in physical therapy in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapists in this country, as recognized by the appropriate agency as identified by the board, and have passed to the satisfaction of the board an examination administered by the department to determine his fitness for practice as a physical therapist as hereinafter provided; or~~

(c) Be entitled to licensure without examination as provided in s. 486.081.

Section 178. Section 486.041, Florida Statutes, is amended to read:

486.041 Physical therapist; application for license; fee; temporary permit.—

(1) A person who desires to be licensed as a physical therapist shall apply to the department board in writing on a form furnished by the department. He shall embody in that application evidence under oath, satisfactory to the board, of his possessing the qualifications preliminary to examination required by s. 486.031. He shall pay to the department at the time of filing his application a fee not to exceed \$100, as fixed by the board, ~~plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Services for the American Physical Therapist's Association or a similar national organization. If an applicant is deemed ineligible to take the examination, that part of his application fee which is to be used for examination expenses shall be returned.~~

(2) If a person desires to practice physical therapy before becoming licensed through examination, he shall apply ~~to the board~~ for a temporary permit in accordance with rules adopted pursuant to this chapter.

(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.

(b) An applicant for licensure by examination and practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.

Section 179. Section 486.051, Florida Statutes, is amended to read:

486.051 Physical therapist; examination of applicant.—~~The department shall provide for examination of applicants for licensing as physical therapists at least once a year, and more often at the discretion of the board, at a time and place to be determined by the department. The examinations of an applicant for licensing as a physical therapist shall be administered by the department, in accordance with rules adopted by the board, to test the applicant's qualifications and shall include the taking of a written test by the applicant. If an applicant fails to pass the examination in three attempts, he shall not be eligible for reexamination unless he completes additional educational or training requirements prescribed by the board. An applicant who has completed the additional educational or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, he is no longer eligible to take the examination.~~

Section 180. Section 486.081, Florida Statutes, is amended to read:

486.081 Physical therapist; issuance of license without examination to person passing examination of another authorized examining board; temporary permit; fee.—

(1) The board may cause a license to be issued through the department without examination to any applicant who presents evidence satisfactory to the board of having passed the American Registry Examination prior to 1971 or an examination in physical therapy before a similar lawfully authorized examining board of another state, the District of Columbia, a territory, or a foreign country, if the standards for licensure in physical therapy in such other state, district, territory, or foreign country are determined by the board to be as high as those of this state, as established by rules adopted pursuant to this chapter. Any person who holds a license pursuant to this section may use the words "physical therapist" or "physiotherapist," or the letters "P.T.," in connection with his name or place of business to denote his licensure hereunder.

(2) At the time of making application for licensure without examination pursuant to the terms of this section, the applicant shall pay to the department a fee not to exceed \$175 as fixed by the board, no part of which will be returned.

(3) If a person desires to practice physical therapy before becoming licensed through endorsement, he shall apply to the board for a temporary permit in accordance with rules adopted pursuant to this chapter. A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable.

Section 181. Section 486.102, Florida Statutes, is amended to read:

486.102 Physical therapist assistant; licensing requirements.—To be eligible for licensing by the board as a physical therapist assistant, an applicant must:

- (1) Be at least 18 years old;
- (2) Be of good moral character; and

(3)(a) Have been graduated from a school giving a course of not less than 2 years for physical therapist assistants, which has been approved for the educational preparation of physical therapist assistants by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation (~~formerly the National Commission on Accrediting and the Federation of Regional Accrediting Commissions of Higher Education~~) or the United States Department of Education at the time of his graduation and have passed to the satisfaction of the board an examination ~~administered by the department~~ to determine his fitness for practice as a physical therapist assistant as hereinafter provided; ~~or~~

(b) Have been graduated from a school giving a course for physical therapist assistants in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapist assistants in this country, as recognized by the appropriate agency as identified by the board, and passed to the satisfaction of the board an examination ~~conducted by the department~~ to determine his fitness for practice as a physical therapist assistant as hereinafter provided; or

(c) Be entitled to licensure without examination as provided in s. 486.107.

Section 182. Section 486.103, Florida Statutes, is amended to read:

486.103 Physical therapist assistant; application for license; fee; temporary permit.—

(1) A person who desires to be licensed as a physical therapist assistant shall apply to the department board in writing on a form furnished by the department. He shall embody in that application evidence under oath, satisfactory to the board, of his possessing the qualifications preliminary to examination required by s. 486.104. He shall pay to the department at the time of filing his application a fee not to exceed \$100, as fixed by the board, ~~plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Services for the American Physical Therapist's Association or a similar national organization.~~ If an applicant is deemed ineligible to take the examination, that part of his application fee which is to be used for examination expenses shall be returned.

(2) If a person desires to work as a physical therapist assistant before being licensed through examination, he shall apply for a temporary permit in accordance with rules adopted pursuant to this chapter.

(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.

(b) An applicant for licensure by examination who is practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.

Section 183. Section 486.104, Florida Statutes, is amended to read:

486.104 Physical therapist assistant; examination of applicant.—~~The department shall provide for examination of applicants for licensing as physical therapist assistants at least once a year, and more often at the discretion of the board, at a time and place to be determined by the department.~~ The examination of an applicant for licensing as a physical therapist assistant shall be ~~provided by the department,~~ in accordance with rules adopted by the board, to test the applicant's qualifications and shall include the taking of a ~~written~~ test by the applicant. If an applicant fails to pass the examination in three attempts, he shall not be eligible for reexamination unless he completes additional educational or training requirements prescribed by the board. An applicant who has completed the additional educational or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, he is no longer eligible to take the examination.

Section 184. Section 486.123, Florida Statutes, is created to read:

486.123 Sexual misconduct in the practice of physical therapy.—The physical therapist-patient relationship is founded on mutual trust. Sexual

misconduct in the practice of physical therapy means violation of the physical therapist-patient relationship through which the physical therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of physical therapy is prohibited.

Section 185. Paragraph (g) is added to subsection (2) of section 486.125, Florida Statutes, to read:

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

(2) 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:

(g) Recovery of actual costs of investigation and prosecution.

Section 186. Subsection (11) is added to section 641.495, Florida Statutes, 1996 Supplement, to read:

641.495 Requirements for issuance and maintenance of certificate.—

(11) The organization shall designate a medical director who is a physician licensed under chapter 458 or chapter 459.

Section 187. Subsection (3) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

(3)(a) A person that engages in wholesale distribution of prescription drugs in this state must have a wholesale distributor's permit issued by the department, except as noted in this section. Each establishment must be separately permitted except as noted in this subsection.

(a) A separate establishment permit is not required when a permitted prescription drug wholesaler consigns a prescription drug to a pharmacy that is permitted under chapter 465 and located in this state, provided that:

1. The consignor wholesaler notifies the department in writing of the contract to consign prescription drugs to a pharmacy along with the identity and location of each consignee pharmacy;

2. The pharmacy maintains its permit under chapter 465;

3. The consignor wholesaler, which has no legal authority to dispense prescription drugs, complies with all wholesale distribution requirements of s. 499.0121 with respect to the consigned drugs and maintains records documenting the transfer of title or other completion of the wholesale distribution of the consigned prescription drugs;

4. The distribution of the prescription drug is otherwise lawful under this chapter and other applicable law;

5. Open packages containing prescription drugs within a pharmacy are the responsibility of the pharmacy, regardless of how the drugs are titled; and

6. The pharmacy dispenses the consigned prescription drug in accordance with the limitations of its permit under chapter 465 or returns the consigned prescription drug to the consignor wholesaler. In addition, a person who holds title to prescription drugs may transfer the drugs to a person permitted or licensed to handle the reverse distribution or destruction of drugs. Any other distribution by and means of the consigned prescription drug by any person, not limited to the consignor wholesaler or consignee pharmacy, to any other person is prohibited.

(b) A wholesale distributor's permit is not required for the one-time transfer of title of a pharmacy's lawfully acquired prescription drug inventory by a pharmacy with a valid permit issued under chapter 465 to a consignor prescription drug wholesaler, permitted under this chapter, in accordance with a written consignment agreement between the pharmacy and that wholesaler if: the permitted pharmacy and the permitted prescription drug wholesaler comply with all of the provisions of paragraph (3)(a) and the prescription drugs continue to be within the permitted pharmacy's inventory for dispensing in accordance with the limitations of the pharmacy permit under chapter 465. A consignor drug wholesaler may not use the pharmacy as a wholesale distributor through which it distributes the legend drugs to other pharmacies. Nothing in this section is intended to prevent a wholesale drug distributor from obtaining this inventory in the event of nonpayment by the pharmacy.

~~(c)(b)~~ The department shall require information from each wholesale distributor as part of the permit and renewal of such permit, as required under s. 499.01.

Section 188. The Board of Medicine shall adopt rules to establish practice guidelines for physicians to safely prescribe phentermine, fenfluramine, and other drugs used to treat obesity.

Section 189. The Board of Osteopathic Medicine shall adopt rules to establish practice guidelines for physicians to safely prescribe phentermine, fenfluramine, and other drugs used to treat obesity.

Section 190. Subsections (6) through (11) of section 409.9122, Florida Statutes, 1996 Supplement, are redesignated as subsections (7) through (12), respectively, and a new subsection (6) is added to that section to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(6) MediPass enrolled recipients may receive up to 10 visits of reimbursable services by participating Medicaid physicians licensed under chapter 460 and up to four visits of reimbursable services by participating Medicaid

physicians licensed under chapter 461. Any further visits must be by prior authorization by the MediPass primary care provider. However, nothing in this subsection may be construed to increase the total number of visits or the total amount of dollars per year per person under current Medicaid rules, unless otherwise provided for in the General Appropriations Act.

Section 191. (1) There is created within the Department of Health a Task Force on Exemptions from Licensure under section 468.505(1)(k), Florida Statutes. The Department of Health shall provide staff support for the task force. The task force shall consist of not more than 15 members nominated by the associations and entities named in this section and appointed by the Secretary of Health. Members of the task force shall not receive compensation, per diem, or reimbursement for travel expenses for service on the task force. Participation in the task force is optional and at the discretion of each identified group or entity. If all identified groups and entities participate, the task force shall include:

(a) One representative from each of the following associations:

1. The Florida Dietetic Association.
2. The Florida Health Care Association.
3. The Florida Association of Homes for the Aging.
4. The Florida Assisted Living Association.
5. The Florida League of Health Systems.
6. The Association of Community Hospitals and Health Systems of Florida, Inc.
7. The Florida Hospital Association.
8. The Florida Medical Association.
9. The Florida Osteopathic Medical Association.

(b) One representative from each of the following entities:

1. The Department of Health.
2. The Dietetics and Nutrition Practice Council.
3. The Board of Medicine, which representative must be a member of the board who is licensed under chapter 458, Florida Statutes.
4. The Board of Osteopathic Medicine, which representative must be a member of the board who is licensed under chapter 459, Florida Statutes.
5. The Department of Elderly Affairs.
6. The Agency for Health Care Administration.

(2) The task force shall hold its first meeting no later than August 1, 1997, and shall report its findings to the President of the Senate, the

Speaker of the House of Representatives, and the chairs of the applicable legislative committees of substance not later than December 31, 1997. All task force meetings must be held in Tallahassee at the Department of Health in order to minimize costs to the state.

(3) The task force shall be charged with the responsibility to:

(a) Determine the number of licensed dietitians, the number of registered dietitians, and the number of dietitians who are neither licensed nor registered who are employed by or under contract with a hospital licensed under chapter 395, Florida Statutes, a nursing home or assisted living facility licensed under part II or part III of chapter 400, Florida Statutes, or a continuing care facility certified under chapter 651, Florida Statutes; and

(b) Assess the need and make recommendations for retaining the exemptions from licensure under section 468.505(1)(k), Florida Statutes, in light of the legislative purpose and intent of licensure as set forth in section 468.502, Florida Statutes, and review the quality of dietetic and nutrition services provided in the settings set forth in section 468.505(1)(k), Florida Statutes.

(4) The task force is dissolved effective January 1, 1998.

Section 192. Section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—No person other than a licensed pharmacist or pharmacy intern may engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to nonlicensed pharmacy technicians those duties, tasks, and functions which do not fall within the purview of s. 465.003(12). All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his or her supervision. A pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests. No licensed pharmacist shall supervise more than one pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than three ~~two~~ pharmacy technicians.

Section 193. Subsection (3) of section 456.32, Florida Statutes, is amended to read:

456.32 Definitions.—In construing this chapter, the words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

(3) “Practitioner of the healing arts” shall mean a person licensed under the laws of the state to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic, naturopathy, podiatry, chiropody, psychology, clinical social work, marriage and family therapy, mental health

counseling, or optometry within the scope of his professional training and competence and within the purview of the statutes applicable to his respective profession, and who may refer a patient for treatment by a qualified person, who shall employ hypnotic techniques under the supervision, direction, prescription, and responsibility of such referring practitioner.

Section 194. Section 490.003, Florida Statutes, is amended to read:

490.003 Definitions.—As used in this chapter:

~~(1)~~(2) “Board” means the Board of Psychology.

~~(2)~~(4) “Department” means the Department of Health Business and Professional Regulation.

~~(3)~~(7)(a) Prior to July 1, 1999, “doctoral-level psychological education” and “doctoral degree in psychology” mean a Psy.D., an and Ed.D. in psychology, or a Ph.D. in psychology from:

1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an accrediting agency recognized and approved by the United States Department of Education or was comparable to such programs.

(b) Effective July 1, 1999, “doctoral-level psychological education” and “doctoral degree in psychology” mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:

1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an agency recognized and approved by the United States Department of Education.

(4) “Practice of psychology” means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health. The ethical practice of psychology includes, but is not limited to, psychological testing and the

evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning, including evaluation of mental competency to manage one's affairs and to participate in legal proceedings; counseling, psychoanalysis, all forms of psychotherapy, sex therapy, hypnosis, biofeedback, and behavioral analysis and therapy; psychoeducational evaluation, therapy, remediation, and consultation; and use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.

(a) Psychological services may be rendered to individuals, couples, families, groups, and the public without regard to place of service.

(b) The use of specific modalities within the practice of psychology is restricted to psychologists appropriately trained in the use of such modalities.

(c) The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is requested or received for services rendered.

(5)(6) "Practice of school psychology" means the rendering or offering to render to an individual, a group, an organization, a government agency, or the public any of the following services:

(a) Assessment, which includes psychoeducational, developmental, and vocational assessment; evaluation and interpretation of intelligence, aptitudes, interests, academic achievement, adjustment, and motivations, or any other attributes, in individuals or groups, that relate to learning, educational, or adjustment needs.

(b) Counseling, which includes short-term situation-oriented professional interaction with children, parents, or other adults for amelioration or prevention of learning and adjustment problems. Counseling services relative to the practice of school psychology include verbal interaction, interviewing, behavior techniques, developmental and vocational intervention, environmental management, and group processes.

(c) Consultation, which includes psychoeducational, developmental, and vocational assistance or direct educational services to schools, agencies, organizations, families, or individuals related to learning problems and adjustments to those problems.

(d) Development of programs, which includes designing, implementing, or evaluating educationally and psychologically sound learning environments; acting as a catalyst for teacher involvement in adaptations and innovations; and facilitating the psychoeducational development of individual families or groups.

(6) “Provisional psychologist licensee” means a person provisionally licensed under this chapter to provide psychological services under supervision.

~~(7)~~(3) “Psychologist” means a person licensed pursuant to s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida.

~~(8)~~(5) “School psychologist” means a person licensed pursuant to s. 490.005(2), s. 490.006, or the provision identified as s. 490.013(1) in s. 1, chapter 81-235, Laws of Florida.

Section 195. Paragraph (b) of subsection (1) of section 490.005, Florida Statutes, is amended to read:

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has:

(b) Submitted proof satisfactory to the board that the applicant has:

1. Received doctoral-level psychological education, as defined in s. 490.003~~(3)~~(7);

2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003~~(3)~~(7), from a program at a school or university located outside the United States of America and Canada, which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The burden of establishing that the requirements of this provision have been met shall be upon the applicant; or

3. Received and submitted to the board, prior to July 1, 1999, certification of an augmented doctoral-level psychological education from the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education.

Section 196. Section 490.0051, Florida Statutes, is created to read:

490.0051 Provisional licensure; requirements.—

(1) The department shall issue a provisional psychology license to each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed \$250, as set by board rule.

(b) Earned a doctoral degree in psychology as defined in s. 490.003(3).

(c) Met any additional requirements established by board rule.

(2) A provisional licensee must work under the supervision of a licensed psychologist until the provisional licensee is in receipt of a license or a letter from the department stating that he or she is licensed as a psychologist.

(3) A provisional license expires 24 months after the date it is issued and may not be renewed or reissued.

Section 197. Section 490.008, Florida Statutes, as amended by chapter 94-119, Laws of Florida, is repealed.

Section 198. Section 490.009, Florida Statutes, 1996 Supplement, 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.

(2) The following acts of a licensee, provisional licensee, or applicant are grounds for 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 profession or the ability to practice his profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the 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 whom~~ 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 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 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 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, his 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 can resume the competent practice for which he is licensed with reasonable skill and safety to patients.

(q) Violating provisions of this chapter, or of chapter 455, or any rules adopted pursuant thereto.

(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.

(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 is not qualified by training or experience.

(t) 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.

(u) Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(v) 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 by written permission or in the face of a clear and immediate probability of bodily harm to the patient or client or to others.~~

(w) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

Section 199. Section 490.012, Florida Statutes, is amended to read:

490.012 Violations; penalties; injunction.—

(1)(a) No person shall hold himself out by any title or description incorporating the words, or permutations of them, “psychologist,” “psychology,” “psychological,” “psychodiagnostic,” or “school psychologist,” 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.

(b) No person shall hold 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 ~~psychiatric/mental~~ health ~~nursing~~.

(c) No person licensed or provisionally licensed pursuant to this chapter shall hold himself out by any title or description which indicates licensure other than that which has been granted to him.

(2)(a) A licensed psychologist shall conspicuously display the valid, active license issued by the department or a true copy thereof at each location at which the licensee practices his or her profession.

(b) A licensed psychologist shall include the words “licensed psychologist” and his license number on all professional advertisements, including, but not limited to, advertisements in any newspaper, magazine, other print medium, airwave or broadcast transmission, or phone directory listing purchased by or on behalf of a person licensed according to this chapter.

(3)(a) A person provisionally licensed under this chapter as a provisional psychologist licensee shall conspicuously display the valid provisional license issued by the department or a true copy thereof at each location at which the provisional licensee is providing services.

(b) A provisional psychologist licensee shall include the words “provisional psychologist licensee” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the provisional licensee.

(4)(3) Any person who violates any provision of this section, except for subsections (2) and (3), commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates any provision of subsection (2) or subsection (3) is subject to disciplinary action under s. 490.009.

(5)(4) The department may institute appropriate proceedings to enjoin violation of subsection (1).

~~(6)(5) Beginning October 1, 1992,~~ No person shall practice psychology in this state, as such practice is defined in s. 490.003(4), for compensation, unless such person holds an active, valid license to practice psychology issued pursuant to this chapter. Nothing in this subsection shall be construed to limit the practice of school psychology, as such practice is defined in s. 490.003(5)(6).

~~(7)(6) Beginning October 1, 1992,~~ No person shall practice school psychology in this state, as such practice is defined in s. 490.003(5)(6), for compensation, unless such person holds an active, valid license to practice school psychology issued pursuant to this chapter.

Section 200. Section 490.014, 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 protected by this chapter. Nothing in this 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 415; accredited academic institution; or research institution, if such employee is performing duties for which he was trained and hired solely within the confines of such agency, facility, or institution.

(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 was trained and hired.

(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 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 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 clergyman of any religious denomination or sect when engaging in activities which are within the scope of the performance of his 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.

(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 does not hold himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

(4) Nothing in this section shall exempt any person from the provision 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.

~~(5) Any person who is not licensed under this chapter by October 1, 1992, and who desires to become so licensed shall register with the department that person's intent to become fully licensed no later than October 1, 1995. The costs to the department of such registration shall be borne by the registrant. The department may require affidavits and supporting documentation sufficient to demonstrate that the registrant is preparing for examination by October 1, 1995, under this chapter. The department may adopt rules to implement this section. Upon receipt of the department's notice of registration, the registrant may practice services as defined in s. 490.003(4) and (6), provided that the registrant uses "trainee" or "intern" with any title or description of the registrant's work and on any business correspondence~~

and work product, including, but not limited to, a business card, letterhead, sign, billing, or report unless exempt pursuant to this chapter.

Section 201. Section 491.003, Florida Statutes, is amended to read:

491.003 Definitions.—As used in this chapter:

(1)(2) “Board” means the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.

(2)(3) “Clinical social worker” means a person licensed under this chapter to practice clinical social work.

(3)(4) “Clinical social work experience” is defined as a period during which the applicant provides clinical social work services, including assessment, diagnosis, treatment, and evaluation of clients; provided that at least 50 percent of the hours worked consist of providing psychotherapy and counseling services directly to clients.

(4)(4) “Department” means the Department of Health Business and Professional Regulation.

(5) “Marriage and family therapist” means a person licensed under this chapter to practice marriage and family therapy.

(6) “Mental health counselor” means a person licensed under this chapter to practice mental health counseling.

(7) The “practice of clinical social work” is defined as the use of scientific and applied knowledge, theories, and methods for the purpose of describing, preventing, evaluating, and treating individual, couple, marital, family, or group behavior, based on the person-in-situation perspective of psychosocial development, normal and abnormal behavior, psychopathology, unconscious motivation, interpersonal relationships, environmental stress, differential assessment, differential planning, and data gathering. The purpose of such services is the prevention and treatment of undesired behavior and enhancement of mental health. The Such practice of clinical social work includes the use of methods of a psychological nature used to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions, (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, and substance abuse. The practice of clinical social work includes, but is not limited to, psychotherapy, hypnotherapy, and sex therapy. The practice of clinical social work also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, or substance abuse. The practice of clinical social work may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

(a) ~~Clinical social work treatment includes, but is not limited to:~~

- 1.—~~Counseling.~~
- 2.—~~Psychotherapy.~~
- 3.—~~Behavior modification.~~
- 4.—~~Hypnotherapy.~~
- 5.—~~Sex therapy.~~
- 6.—~~Consultation.~~
- 7.—~~Client-centered advocacy.~~
- 8.—~~Crisis intervention.~~
- 9.—~~Providing needed information and education to clients.~~

(a)(b) Clinical social work may be rendered to individuals, including individuals affected by the termination of marriage, and to marriages, couples, families, groups, organizations, and communities.

(b)(c) The use of specific methods, techniques, or modalities within the practice of clinical social work is restricted to clinical social workers appropriately trained in the use of such methods, techniques, or modalities.

(c)(d) The terms “diagnose” and “treat,” as used in this chapter, when considered in isolation or in conjunction with any provision of the rules of the board, shall not be construed to permit the performance of any act which clinical social workers are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures pursuant to chapter 483, or radiological procedures, or use of electroconvulsive therapy. In addition, this definition shall not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as “psychological,” except to relate specifically to the definition of practice authorized in this subsection.

(d)(e) The definition of “clinical social work” contained in this subsection includes all services offered directly to the general public or through organizations, whether public or private, and applies whether payment is requested or received for services rendered.

(8) The “practice of marriage and family therapy” is defined as the use of scientific and applied marriage and family theories, methods, and procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior, within the context of marital and family systems, including the context of marital formation and dissolution, and is based on marriage and family systems theory, marriage and family development, human development, normal and abnormal behavior, psychopathology, human sexuality, psychotherapeutic and marriage and family therapy theories and techniques. The Such practice of marriage and family therapy

includes ~~the use of~~ methods of a psychological nature used to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders or dysfunctions, (whether cognitive, affective, or behavioral),_; sexual dysfunction,_; behavioral disorders,_; alcoholism,_; and substance abuse. The practice of marriage and family therapy includes, but is not limited to, marriage and family therapy, psychotherapy, including behavioral family therapy, hypnotherapy, and sex therapy. The practice of marriage and family therapy also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, or substance abuse. The practice of marriage and family therapy may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

~~(a) Marriage and family therapy treatment includes, but is not limited to:~~

- ~~1.—Marriage and family therapy.~~
- ~~2.—Counseling.~~
- ~~3.—Psychotherapy, including behavioral family therapy.~~
- ~~4.—Behavior modification.~~
- ~~5.—Hypnotherapy.~~
- ~~6.—Sex therapy.~~
- ~~7.—Consultation.~~
- ~~8.—Client advocacy.~~
- ~~9.—Crisis intervention.~~
- ~~10.—Providing needed information and education to clients.~~

~~(a)(b)~~ Marriage and family therapy may be rendered to individuals, including individuals affected by termination of marriage, to couples, whether married or unmarried, to families, or to groups.

~~(b)(c)~~ The use of specific methods, techniques, or modalities within the practice of marriage and family therapy is restricted to marriage and family therapists appropriately trained in the use of such methods, techniques, or modalities.

~~(c)(d)~~ The terms “diagnose” and “treat,” as used in this chapter, when considered in isolation or in conjunction with any provision of the rules of the board, shall not be construed to permit the performance of any act which marriage and family therapists are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment

of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures pursuant to chapter 483, or radiological procedures, or use of electroconvulsive therapy. In addition, this definition shall not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as “psychological,” except to relate specifically to the definition of practice authorized in this subsection.

~~(d)~~(e) The definition of “marriage and family therapy” contained in this subsection paragraphs (a)-(d) includes all services offered directly to the general public or through organizations, whether public or private, and applies whether payment is requested or received for services rendered.

(9) The “practice of mental health counseling” is defined as the use of scientific and applied behavioral science theories, methods, and techniques for the purpose of describing, preventing, and treating undesired behavior and enhancing mental health and human development and is based on the person-in-situation perspectives derived from research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation. The Such practice of mental health counseling includes the use of methods of a psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders, (whether cognitive, affective, or behavioral); behavioral disorders; interpersonal relationships; sexual dysfunction; alcoholism; and substance abuse. The practice of mental health counseling includes, but is not limited to, psychotherapy, hypnotherapy, and sex therapy. The practice of mental health counseling also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), behavioral disorders, sexual dysfunction, alcoholism, or substance abuse. The practice of mental health counseling may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

~~(a) Mental health counseling treatment includes, but is not limited to:~~

- ~~1.—Counseling.~~
- ~~2.—Psychotherapy.~~
- ~~3.—Behavior modification.~~
- ~~4.—Hypnotherapy.~~
- ~~5.—Sex therapy.~~
- ~~6.—Consultation.~~

~~7.—Client advocacy.~~

~~8.—Crisis intervention.~~

~~9.—Providing needed information and education to clients.~~

~~(a)(b)~~ Mental health counseling may be rendered to individuals, including individuals affected by the termination of marriage, and to couples, families, groups, organizations, and communities.

~~(b)(c)~~ The use of specific methods, techniques, or modalities within the practice of mental health counseling is restricted to mental health counselors appropriately trained in the use of such methods, techniques, or modalities.

~~(c)(d)~~ The terms “diagnose” and “treat,” as used in this chapter, when considered in isolation or in conjunction with any provision of the rules of the board, shall not be construed to permit the performance of any act which mental health counselors are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures pursuant to chapter 483, or radiological procedures, or use of electroconvulsive therapy. In addition, this definition shall not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as “psychological,” except to relate specifically to the definition of practice authorized in this subsection.

~~(d)~~ The definition of “mental health counseling” contained in this subsection includes all services offered directly to the general public or through organizations, whether public or private, and applies whether payment is requested or received for services rendered.

~~(10)~~ “Provisional clinical social worker licensee” means a person provisionally licensed under this chapter to provide clinical social work services under supervision.

~~(11)~~ “Provisional marriage and family therapist licensee” means a person provisionally licensed under this chapter to provide marriage and family therapy services under supervision.

~~(12)~~ “Provisional mental health counselor licensee” means a person provisionally licensed under this chapter to provide mental health counseling services under supervision.

~~(13)(14)~~ “Psychotherapist” means a clinical social worker, marriage and family therapist, or mental health counselor licensed pursuant to this chapter.

~~(14)~~ “Registered clinical social worker intern” means a person registered under this chapter who is completing the postgraduate clinical social work experience requirement specified in s. 491.005(1)(c).

(15) “Registered marriage and family therapist intern” means a person registered under this chapter who is completing the post-master’s clinical experience requirement specified in s. 491.005(3)(c).

(16) “Registered mental health counselor intern” means a person registered under this chapter who is completing the post-master’s clinical experience requirement specified in s. 491.005(4)(c).

Section 202. Section 491.0045, Florida Statutes, is created to read:

491.0045 Intern registration; requirements.—

(1) Effective January 1, 1998, an individual who intends to practice in Florida to satisfy the postgraduate or post-master’s level experience requirements, as specified in s. 491.005(1)(c), (3)(c), or (4)(c), must register as an intern in the profession for which he or she is seeking licensure prior to commencing the experience requirement.

(2) The department shall register as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed \$200, as set by board rule;

(b) Completed the education requirements as specified in s. 491.005 for the profession for which he or she is applying for licensure; and

(c) Identified a qualified supervisor.

(3) An individual registered under this section must remain under supervision until he or she is in receipt of a license or a letter from the department stating that he or she is licensed to practice the profession for which he or she applied.

Section 203. Section 491.0046, Florida Statutes, is created to read:

491.0046 Provisional license; requirements.—

(1) An individual who has satisfied the clinical experience requirements of s. 491.005 intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida while satisfying coursework or examination requirements for licensure must be provisionally licensed in the profession for which he or she is seeking licensure prior to beginning practice.

(2) The department shall issue a provisional clinical social worker license, provisional marriage and family therapist license, or provisional mental health counselor license to each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed \$100, as set by board rule; and

(b)1. Earned a graduate degree in social work, a graduate degree with a major emphasis in marriage and family therapy or a closely related field, or

a graduate degree in a major related to the practice of mental health counseling, and satisfied the clinical experience requirements for licensure pursuant to s. 491.005; or

2. Been approved for examination under the provisions for licensure by endorsement pursuant to s. 491.006.

(3) A provisional licensee must work under the supervision of a licensed mental health professional, as defined by the board, until the provisional licensee is in receipt of a license or a letter from the department stating that he or she is licensed as a clinical social worker, marriage and family therapist, or mental health counselor.

(4) A provisional license expires 24 months after the date it is issued and may not be renewed or reissued.

Section 204. Section 491.005, Florida Statutes, is amended to read:

491.005 Licensure by examination.—

(1) Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the American Association of State Social Worker's Boards or a similar national organization, the department shall issue a license as a clinical social worker to an applicant who the board certifies:

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

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

a.1. Was accredited by the Council on Social Work Education;

b.2. Was accredited by the Canadian Association of Schools of Social Work; or

c.3. Has been determined to have been a program equivalent to programs approved by the Council on Social Work Education by the Foreign Equivalency Determination Service of the Council on Social Work Education. An applicant who graduated from a program at a university or college outside of the United States or Canada must present documentation of the equivalency determination from the council in order to qualify.

2. The applicant's graduate program must have emphasized direct clinical patient or client health care services, ~~as provided in subsection (2),~~ including, but not limited to, coursework in clinical social work, psychiatric social work, medical social work, social casework, psychotherapy, or group therapy. The applicant's graduate program must have included all of the following coursework:

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

b. Completion of 24 semester hours or 37 quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, including a minimum of one course in psychopathology taken in a school of social work accredited or approved pursuant to subparagraph (b)1.

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

(c) Has had not less than 2 at least 3 years of clinical social work experience, 2 years of which must be experience which took place subsequent to completion of a graduate degree in social work at an institution meeting the accreditation requirements of this section, under the supervision of a licensed clinical social worker or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy clinical experience requirements must register pursuant to s. 491.0045 prior to commencing practice. If the applicant's graduate program was not a program which emphasized direct clinical patient or client health care services as described in s. 491.003, the supervised experience requirement must take place after the applicant has completed a minimum of 15 semester hours or 22 quarter hours of the coursework required. A doctoral internship may be applied toward the clinical social work experience supervision requirement. The experience requirement may be met by work performed on or off the premises of the supervising clinical social worker or the equivalent, provided the off-premises work is not the independent private practice rendering of clinical social work that does not have a licensed mental health professional clinical social worker or the equivalent, as determined by the board, as a member of the group actually rendering services on the premises at the same time the intern is providing services.

(d) Has passed a theory and practice an examination provided by the department for this purpose.

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

(2)(a) The applicant's program shall be considered to be a program which emphasized direct clinical patient or client health care services if it included all of the following coursework:

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

(b)1. Completion of 24 semester hours or 37 quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, including a minimum of one course in psychopathology taken in a

~~school of social work accredited by the Council on Social Work Education. However, applicants who had completed the required graduate-level degree in social work prior to October 1, 1990, and who submit a completed application for licensure prior to January 1, 1993, shall be required to complete only 21 of the 24 required semester hours or 31 of the 37 required quarter hours in clinically oriented services. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.~~

2. Notwithstanding the provisions of paragraph (1)(b) subparagraph 1., coursework which was taken at a baccalaureate level shall not be considered toward completion of education requirements for licensure unless an official of the graduate program certifies in writing on the graduate school's stationery that a specific course, which students enrolled in the same graduate program were ordinarily required to complete at the graduate level, was waived or exempted based on completion of a similar course at the baccalaureate level. If this condition is met, the board shall apply the baccalaureate course named toward the education requirements.

(b) An applicant from a master's or doctoral program in social work which did not emphasize direct patient or client services may complete the clinical curriculum content requirement by returning to a graduate program accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or to a clinical social work graduate program with comparable standards, in order to complete the education requirements for examination. However, a maximum of 6 semester or 9 quarter hours of the clinical curriculum content requirement may be completed by credit awarded for independent study coursework as defined by board rule.

(3) Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual cost to the department for the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization, the department shall issue a license as a marriage and family therapist to an applicant who the board certifies:

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

(b)1. Has a minimum of a master's degree with major emphasis in marriage and family therapy, or a closely related field, and has completed all of the following requirements:

a.1. Twenty-seven semester hours or 41 quarter hours of graduate coursework, which must include a minimum of 2 semester hours or 3 quarter hours of graduate-level course credits in each of the following nine areas: dynamics of marriage and family systems; marriage therapy and counseling theory and techniques; family therapy and counseling theory and techniques; individual human development theories throughout the life cycle; personality theory; psychopathology; human sexuality theory and counseling techniques; general counseling theory and techniques; and psychosocial theory. Content may be combined, provided no more than two of the nine

content areas are included in any one graduate-level course and the applicant can document that the equivalent of 2 semester hours of coursework was devoted to each content area. Courses in research, evaluation, appraisal, assessment, or testing theories and procedures; thesis or dissertation work; or practicums, internships, or fieldwork may not be applied toward this requirement.

b.2. A minimum of one graduate-level course of 2 semester hours or 3 quarter hours in legal, ethical, and professional standards issues in the practice of marriage and family therapy or a course determined by the board to be equivalent.

c.3. A minimum of one graduate-level course of 2 semester hours or 3 quarter hours in diagnosis, appraisal, assessment, and testing for individual or interpersonal disorder or dysfunction; and a minimum of one 2-semester-hour or 3-quarter-hour graduate-level course in behavioral research which focuses on the interpretation and application of research data as it applies to clinical practice. Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

d.4. A minimum of one supervised clinical practicum, internship, or field experience in a marriage and family counseling setting, during which the student provided 180 direct client contact hours of marriage and family therapy services under the supervision of an individual who met the requirements for supervision under paragraph (c). This requirement may be met by a supervised practice experience which took place outside the academic arena, but which is certified as equivalent to a graduate-level practicum or internship program which required a minimum of 180 direct client contact hours of marriage and family therapy services currently offered within an academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education, or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada or a training institution accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education. Certification shall be required from an official of such college, university, or training institution.

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

The required master's degree must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the

United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board ~~may~~ shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. An applicant with a master's degree from a program which did not emphasize marriage and family therapy may complete the coursework requirement in a training institution fully accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education.

(c) Has had not less than ~~2~~ 3 years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services, ~~2~~ years of which must be at the post-master's level under the supervision of a licensed marriage and family therapist with at least 5 years of experience, or the equivalent, who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 prior to commencing practice. If a graduate has a master's degree with a major emphasis in marriage and family therapy or a closely related field that did not include all the coursework required under sub-subparagraphs (b)1.a.-c., credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of 10 of the courses required under sub-subparagraphs (b)1.a.-c., as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques. Within the 3 years of required experience for licensure as a marriage and family therapist, the applicant shall provide direct individual, group, or family therapy and counseling, to include the following categories of cases: unmarried dyads, married couples, separating and divorcing couples, and family groups including children. A doctoral internship may be applied toward the clinical experience supervision requirement. The clinical experience requirement may be met by work performed on or off the premises of the supervising marriage and family therapist or the equivalent, provided the off-premises work is not the independent private practice rendering of marriage and family therapy services that does not have a licensed mental health professional marriage and family therapist or the equivalent, as determined by the board, as a member of the group actually rendering services on the premises at the same time the intern is providing services.

(d) Has passed a theory and practice ~~an~~ examination provided by the department for this purpose.

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

(4) Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors or a similar national organization, the department shall issue a license as a mental health counselor to an applicant who the board certifies:

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

(b)1. Has received a minimum of an earned master's degree with a major related to the practice of mental health counseling, and has completed all of the following requirements:

a.1. Twenty-one semester hours or 32 quarter hours of graduate coursework, which must include a minimum of 2 semester hours or 3 quarter hours of graduate-level coursework in each of the following seven content areas: counseling theories and practice; human development theories; personality theory; psychopathology or abnormal psychology; human sexuality theories; group theories and practice; and individual evaluation and assessment. Content may be combined, provided no more than two of the seven content areas are included in any one graduate-level course and the applicant can document that the equivalent of 2 semester hours of content was devoted to each content area. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b.2. A minimum of one 2-semester-hour or 3-quarter-hour graduate-level course in research or in career or vocational counseling. Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

c.3. A minimum of 2 semester hours or 3 quarter hours of graduate-level coursework in legal, ethical, and professional standards issues in the practice of mental health counseling, which includes goals and objectives of professional counseling organizations, codes of ethics, legal considerations, standards of preparation, certifications and licensing, and the role identity of counselors. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

d.4. A minimum of one supervised practicum, internship, or field experience in a counseling setting. This requirement may be met by a supervised practice experience which takes place outside the academic arena, but which is certified as equivalent to a graduate-level practicum in a clinical mental health counseling setting currently offered within an academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education. Such certification shall be required from an official of such college or university.

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

Except as provided in sub-subparagraph 1.d. subparagraph 4., education and training in mental health counseling must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall ~~may~~ require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country.

(c) Has had not less than 2 years of a minimum of 3 years' clinical experience in mental health counseling, ~~2 years of which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 prior to commencing practice. If a graduate has a master's degree with a major related to the practice of mental health counseling which did not include all the coursework required under sub-subparagraphs (b)1.a.-c., credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (b)1.a.-c., as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience supervision requirement. The clinical experience requirement may be met by work performed on or off the premises of the supervising mental health counselor or the equivalent, provided the off-premises work is not the independent private practice rendering of services that does not have a licensed mental health professional counselor or the equivalent, as determined by the board, as a member of the group actually rendering services on the premises at the same time the intern is providing services.~~

(d) Has passed a theory and practice ~~an~~ examination provided by the department for this purpose.

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

Section 205. Effective January 1, 2001, paragraph (b) of subsection (3) and paragraphs (b) and (c) of subsection (4) of section 491.005, Florida Statutes, as amended by this act, are amended to read:

491.005 Licensure by examination.—

(3) Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual cost to the department for the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization, the department shall issue a license as a marriage and family therapist to an applicant who the board certifies:

(b)1. Has a minimum of a master's degree with major emphasis in marriage and family therapy, or a closely related field, and has completed all of the following requirements:

a. Thirty-six ~~Twenty-seven~~ semester hours or 48 ~~41~~ quarter hours of graduate coursework, which must include a minimum of 3 ~~2~~ semester hours or 4 ~~3~~ quarter hours of graduate-level course credits in each of the following nine areas: dynamics of marriage and family systems; marriage therapy and counseling theory and techniques; family therapy and counseling theory and techniques; individual human development theories throughout the life cycle; personality theory or general counseling theory and techniques; psychopathology; human sexuality theory and counseling techniques; general counseling theory and techniques; and psychosocial theory; and substance abuse theory and counseling techniques. ~~Content may be combined, provided no more than two of the nine content areas are included in any one graduate-level course and the applicant can document that the equivalent of 2 semester hours of coursework was devoted to each content area.~~ Courses in research, evaluation, appraisal, assessment, or testing theories and procedures; thesis or dissertation work; or practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of one graduate-level course of 3 ~~2~~ semester hours or 4 ~~3~~ quarter hours in legal, ethical, and professional standards issues in the practice of marriage and family therapy or a course determined by the board to be equivalent.

c. A minimum of one graduate-level course of 3 ~~2~~ semester hours or 4 ~~3~~ quarter hours in diagnosis, appraisal, assessment, and testing for individual or interpersonal disorder or dysfunction; and a minimum of one 3-semester-hour ~~2-semester-hour~~ or 4-quarter-hour ~~3-quarter-hour~~ graduate-level course in behavioral research which focuses on the interpretation and application of research data as it applies to clinical practice. Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

d. A minimum of one supervised clinical practicum, internship, or field experience in a marriage and family counseling setting, during which the student provided 180 direct client contact hours of marriage and family therapy services under the supervision of an individual who met the requirements for supervision under paragraph (c). This requirement may be met by a supervised practice experience which took place outside the academic arena, but which is certified as equivalent to a graduate-level practicum or internship program which required a minimum of 180 direct client contact hours of marriage and family therapy services currently offered within an

academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education, or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada or a training institution accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education. Certification shall be required from an official of such college, university, or training institution.

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

The required master's degree must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. An applicant with a master's degree from a program which did not emphasize marriage and family therapy may complete the coursework requirement in a training institution fully accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education.

(4) Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors or a similar national organization, the department shall issue a license as a mental health counselor to an applicant who the board certifies:

(b)1. ~~Has received a minimum of an earned master's degree from a with a major related to the practice of mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs that consists of at least 60 semester hours or 80 quarter~~

hours of clinical and didactic instruction, including a course in human sexuality and substance abuse. If the master's degree is earned from a program related to the practice of mental health counseling that is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and practicum, internship, or fieldwork must meet, and has completed all of the following requirements:

a. ~~Thirty-six~~ Twenty-one semester hours or ~~48~~ 32 quarter hours of graduate coursework, which must include a minimum of ~~3~~ 2 semester hours or ~~4~~ 3 quarter hours of graduate-level coursework in each of the following 12 ~~seven~~ content areas: counseling theories and practice; human growth and development theories; personality theory; diagnosis and treatment of psychopathology or abnormal psychology; human sexuality theories; group theories and practice; and individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; foundations of mental health counseling; counseling in community settings; and substance abuse. Content may be combined, provided no more than two of the seven content areas are included in any one graduate-level course and the applicant can document that the equivalent of 2 ~~2~~ semester hours of content was devoted to each content area. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. ~~A minimum of one 2-semester-hour or 3-quarter-hour graduate-level course in research or in career or vocational counseling. Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.~~

b.c. A minimum of 3 ~~2~~ semester hours or 4 ~~3~~ quarter hours of graduate-level coursework in legal, ethical, and professional standards issues in the practice of mental health counseling, which includes goals, ~~and~~ objectives, and practices of professional counseling organizations, codes of ethics, legal considerations, standards of preparation, certifications and licensing, and the role identity and professional obligations of mental health counselors. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

c.d. The equivalent of at least 1,000 hours of university-sponsored A minimum of one supervised clinical practicum, internship, or field experience as required in the accrediting standards of the Council for Accreditation of Counseling and Related Educational Programs for mental health counseling programs. If the academic practicum, internship, or field experience was less than 1,000 hours, experience gained outside the academic arena in clinical mental health settings under the supervision of a qualified supervisor as determined by the board may be applied. This experience may not be used to satisfy the post-master's clinical experience requirement in a counseling setting. This requirement may be met by a supervised practice experience which takes place outside the academic arena, but which is certified as equivalent to a graduate-level practicum in a clinical mental health counseling setting currently offered within an academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education. Such certification shall be required from an official of such college or university.

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

~~Except as provided in subparagraph 4.,~~ Education and training in mental health counseling must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country.

(c) Has had not less than 2 years of clinical experience in mental health counseling, which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 prior to commencing practice. If a graduate has a master's degree with a major related to the practice of mental health counseling that did not include all the coursework required under sub-subparagraphs ~~(b)1.a.-b.~~ (b)1.a.-c., credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs ~~(b)1.a.-b.~~ (b)1.a.-c., as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement. The clinical experience requirement may be met by work performed on or off the premises of the supervising mental health counselor or the equivalent, provided the off-premises work is not the independent private practice rendering of services that does not have a licensed mental health professional, as determined by the board, on the premises at the same time the intern is providing services.

Section 206. Section 491.0057, Florida Statutes, is created to read:

491.0057 Dual licensure as a marriage and family therapist.—The department shall license as a marriage and family therapist any person who demonstrates to the board that he or she:

(1) Holds a valid, active license as a psychologist under chapter 490 or as a clinical social worker or mental health counselor under this chapter, or is certified under s. 464.012 as an advanced registered nurse practitioner who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

(2) Has held a valid, active license for at least 3 years.

(3) Has passed the examination provided by the department for marriage and family therapy.

Section 207. Subsection (3) is added to section 491.007, Florida Statutes, to read:

491.007 Renewal of license, registration, or certificate.—

(3) The board or department shall prescribe by rule a method for the biennial renewal of an intern registration at a fee set by rule, not to exceed \$100.

Section 208. Section 491.009, Florida Statutes, 1996 Supplement, is amended to read:

491.009 Discipline.—

(1) 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.

(2) The following acts of a licensee, provisional licensee, registered intern, certificateholder, or applicant are grounds for 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 profession or the ability to practice his 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~~ whom 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 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 the certificateholder's conduct or background.

(p) Being unable to practice the profession for which he 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, his 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 can resume the competent practice for which he is licensed, registered, or certified with reasonable skill and safety to patients.

(q) Violating provisions of this chapter, or of chapter 455, or any rules adopted pursuant thereto.

(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.

(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.

(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.

(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.

(v) 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 by written permission or in the face of a clear and immediate probability of bodily harm to the patient or client or to others.

(w) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

Section 209. Section 491.012, Florida Statutes, is amended to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(a) Use the following titles or any combination thereof, unless he holds a valid, active license as a clinical social worker issued pursuant to this chapter:

1. "Licensed clinical social worker."
2. "Clinical social worker."
3. "Licensed social worker."
4. "Psychiatric social worker."
5. "Psychosocial worker."

(b) Use the following titles or any combination thereof, unless he holds a valid, active license as a marriage and family therapist issued pursuant to this chapter:

1. "Licensed marriage and family therapist."

2. "Marriage and family therapist."
3. "Marriage counselor."
4. "Marriage consultant."
5. "Family therapist."
6. "Family counselor."
7. "Family consultant."

(c) Use the following titles or any combination thereof, unless he holds a valid, active license as a mental health counselor issued pursuant to this chapter:

1. "Licensed mental health counselor."
2. "Mental health counselor."
3. "Mental health therapist."
4. "Mental health consultant."

(d) Use the terms psychotherapist or sex therapist, unless such person is licensed pursuant to this chapter or chapter 490, or is certified under s. 464.012 as an advanced registered nurse practitioner who has been determined by the Board of Nursing as a specialist in the category of psychiatric mental health and the use of such terms is within the scope of his practice based on education, training, and licensure.

(e) Present as his own the clinical social work, marriage and family therapy, or mental health counseling license of another.

(f) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a license.

(g) Use or attempt to use a license issued pursuant to this chapter which has been revoked or is under suspension.

(h) Knowingly conceal information relative to violations of this chapter.

(i) ~~Beginning October 1, 1992,~~ 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, ~~an~~ active license to practice clinical social work issued pursuant to this chapter.

(j) ~~Beginning October 1, 1992,~~ 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, ~~an~~ active license to practice marriage and family therapy issued pursuant to this chapter.

(k) ~~Beginning October 1, 1992,~~ Practice mental health counseling in this state, as the practice is defined in s. 491.003(9), for compensation, unless the

person holds a valid, an active license to practice mental health counseling issued pursuant to this chapter.

(l) Use the following titles or any combination thereof, unless he or she holds a valid registration as an intern issued pursuant to this chapter:

1. “Registered clinical social worker intern.”
2. “Registered marriage and family therapist intern.”
3. “Registered mental health counselor intern.”

(m) Use the following titles or any combination thereof, unless he or she holds a valid provisional license issued pursuant to this chapter:

1. “Provisional clinical social worker licensee.”
2. “Provisional marriage and family therapist licensee.”
3. “Provisional mental health counselor licensee.”

(2) It is unlawful and a violation of this chapter for any person to describe his services using the following terms or any derivative thereof, unless such person holds a valid, active license under this chapter or chapter 490, or is certified under s. 464.012 as an advanced registered nurse practitioner who has been determined by the Board of Nursing as a specialist in the category of psychiatric mental health under s. 464.012, and the use of such terms is within the scope of his practice based on education, training, and licensure:

- (a) “Psychotherapy.”
- (b) “Sex therapy.”
- (c) “Sex counseling.”
- (d) “Clinical social work.”
- (e) “Psychiatric social work.”
- (f) “Marriage and family therapy.”
- (g) “Marriage and family counseling.”
- (h) “Marriage counseling.”
- (i) “Family counseling.”
- (j) “Mental health counseling.”

(3) Any person who violates any provision of subsection (1) or subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) The department may institute appropriate judicial proceedings to enjoin violation of this section.

Section 210. Section 491.014, Florida Statutes, is amended to read:

491.014 Exemptions.—

(1) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459, or psychologists licensed pursuant to chapter 490, so long as they do not unlawfully hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a professional title protected by this chapter.

(2) No provision of this chapter shall be construed to limit the practice of nursing, school psychology, or psychology, or to prevent qualified members of other professions from doing work of a nature consistent with their training and licensure, so long as they do not hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a title protected by this chapter.

(3) No provision of this chapter shall be construed to limit the performance of activities of a rabbi, priest, minister, or clergyman of any religious denomination or sect, or use of the terms “Christian counselor” or “Christian clinical counselor” when the activities are within the scope of the performance of his regular or specialized ministerial duties and no compensation is received by him, or when such activities are performed, with or without compensation, by a person 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.

(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 415; accredited academic institution; or research institution, if such employee is performing duties for which he was trained and hired solely within the confines of such agency, facility, or institution.

(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 was trained and hired.

(c) Is a student providing services regulated under this chapter 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 and associated activities constitute part of a supervised course of study, and or is a graduate accumulating the~~

~~experience required for any licensure or certification under this chapter, provided such graduate or student is designated by the a title such as "student intern," or "trainee" which clearly indicates the in-training status of the student.~~

(d) Is not a resident of this 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 to practice the services provided by a state or territory of the United States or by a foreign country or province.

(5) 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 does not hold himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

(6) Nothing in subsections (2)-(4) shall exempt any person from the provisions of s. 491.012(1)(a)-(c), (l), and (m).

~~(7) Any person who is not licensed under this chapter by October 1, 1992, and who desires to become so licensed shall register with the department that person's intent to become fully licensed no later than October 1, 1995. The costs to the department of such registration shall be borne by the registrant. The department may require affidavits and supporting documentation sufficient to demonstrate that the registrant is preparing for examination by October 1, 1995, under this chapter. The department may adopt rules to implement this section. Upon receipt of the department's notice of registration, the registrant may practice services as defined in s. 491.003(7), (8), and (9), provided that the registrant uses "trainee" or "intern" with any title or description of the registrant's work and on any business correspondence and work product, including, but not limited to, a business card, letterhead, sign, billing, or report unless exempt pursuant to this chapter.~~

(7)(8) Except as stipulated by the board, the exemptions contained in this section subsection (4) do not apply to any person licensed under this chapter whose license has been suspended or revoked by the board or another jurisdiction.

~~(8)(9) Nothing in this section shall be construed to exempt a person from meeting the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the person is not qualified by training or experience.~~

Section 211. Section 491.0149, Florida Statutes, is amended to read:

491.0149 Display of license; use of professional title on promotional materials.—

(1)(a) A person licensed under this chapter as a clinical social worker, marriage and family therapist, or mental health counselor, or certified as a

master social worker shall conspicuously display the valid license issued by the department or a true copy thereof at each location at which the licensee practices his profession.

~~(b)1.(2)~~ A licensed clinical social worker shall include the words “licensed clinical social worker” or the letters “LCSW” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.

~~2.(4)~~ A licensed marriage and family therapist shall include the words “licensed marriage and family therapist” or the letters “LMFT” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.

~~3.(3)~~ A licensed mental health counselor shall include the words “licensed mental health counselor” or the letters “LMHC” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.

(2)(a) A person registered under this chapter as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern shall conspicuously display the valid registration issued by the department or a true copy thereof at each location at which the registered intern is completing the experience requirements.

(b) A registered clinical social worker intern shall include the words “registered clinical social worker intern,” a registered marriage and family therapist intern shall include the words “registered marriage and family therapist intern,” and a registered mental health counselor intern shall include the words “registered mental health counselor intern” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the registered intern.

(3)(a) A person provisionally licensed under this chapter as a provisional clinical social worker licensee, provisional marriage and family therapist licensee, or provisional mental health counselor licensee shall conspicuously display the valid provisional license issued by the department or a true copy thereof at each location at which the provisional licensee is providing services.

(b) A provisional clinical social worker licensee shall include the words “provisional clinical social worker licensee,” a provisional marriage and family therapist licensee shall include the words “provisional marriage and family therapist licensee,” and a provisional mental health counselor licensee shall include the words “provisional mental health counselor licensee” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the provisional licensee.

Section 212. Paragraph (b) of subsection (4) of section 232.02, Florida Statutes, is amended to read:

232.02 Regular school attendance.—Regular attendance is the actual attendance of a pupil during the school day as defined by law and regula-

tions of the state board. Regular attendance within the intent of s. 232.01 may be achieved by attendance in:

(4) A home education program as defined in s. 228.041, provided that at least one of the following conditions is met:

(b) The parent does not hold a valid regular Florida certificate to teach and complies with the following requirements:

1. Notifies the superintendent of schools of the county in which the parent resides of her or his intent to establish and maintain a home education program. The notice shall be in writing, signed by the parent, and shall include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice shall be filed in the superintendent's office within 30 days of the establishment of the home education program. A written notice of termination of the home education program shall be filed in the superintendent's office within 30 days of said termination.

2. Maintains a portfolio of records and materials. The portfolio shall consist of a log, made contemporaneously with the instruction, which designates by title the reading materials used and samples of any writings, worksheets, workbooks, and creative materials used or developed by the student. The portfolio shall be preserved by the parent for 2 years and shall be made available for inspection by the superintendent, or the superintendent's agent, upon 15 days' written notice.

3. Provides for an annual educational evaluation in which is documented the pupil's demonstration of educational progress at a level commensurate with her or his ability. A copy of the evaluation shall be filed annually with the district school board office in the county in which the pupil resides. The annual educational evaluation shall consist of one of the following:

a. A teacher selected by the parent shall evaluate the pupil's educational progress upon review of the portfolio and discussion with the pupil. Such teacher shall hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level. The teacher shall submit a written evaluation to the school superintendent;

b. The pupil shall take any nationally normed student achievement test used by the district and administered by a certified teacher. Such test results shall be reported to the school superintendent;

c. The pupil shall take a state student assessment test. Such test results shall be reported to the school superintendent;

d. The pupil shall be evaluated by an individual holding a valid, active license pursuant to the provisions of s. 490.003(7)(~~3~~) or (8)(5). Such results shall be reported to the school superintendent; or

e. The pupil shall be evaluated with any other valid measurement tool as mutually agreed upon by the school superintendent of the district in which the pupil resides and the pupil's parent or guardian. Such results shall be reported to the superintendent.

The school superintendent shall review and accept the results of the annual educational evaluation of the pupil in a home education program. If the pupil does not demonstrate educational progress at a level commensurate with her or his ability, the superintendent shall notify the parent, in writing, that such progress has not been achieved. The parent shall have 1 year from the date of receipt of the written notification to provide remedial instruction to the pupil. At the end of the 1-year probationary period, the pupil shall be reevaluated as specified in this subparagraph. Continuation in a home education program shall be contingent upon the pupil demonstrating educational progress commensurate with her or his ability at the end of the probationary period.

Section 213. Subsection (2) of section 394.455, Florida Statutes, 1996 Supplement, is amended to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(2) “Clinical psychologist” means a psychologist as defined in s. 490.003(7)(3) with 3 years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility under this part.

Section 214. Section 458.3124, Florida Statutes, is created to read:

458.3124 Restricted license; certain experienced foreign-trained physicians.—

(1) A person who was trained in a medical school that is listed in the World Directory of Medical Schools published by the World Health Organization and is located in a country other than the United States, Canada, or Puerto Rico may apply to take Step III of the United States Medical Licensing Examination, if the person:

(a) Legally practiced medicine for at least 5 years in the country in which the school is located;

(b) Has passed Steps I and II of the United States Medical Licensing Examination;

(c) Is certified by the Education Commission for Foreign Medical Graduates as qualified for a restricted license to practice medicine;

(d) Is not subject to discipline, investigation, or prosecution in any jurisdiction for acts that threaten the public health, safety, or welfare or violate chapters 455 or 458; and

(e) Has been a resident of this state since July 1, 1996.

(2) A person applying for licensure under this section must submit to the Department of Health on or before December 31, 1998:

(a) A completed application and documentation required by the Board of Medicine to prove compliance with subsection (1); and

(b) A nonrefundable application fee not to exceed \$500 and a nonrefundable examination fee not to exceed \$300 plus the actual cost to purchase and administer the examination.

(3) A person applying under this section may take the examination a maximum of 5 times within 5 years.

(4) A restricted licensee under this section must practice under the supervision of a licensee approved by the board, with the first year of licensure under direct supervision and the second year in community service under indirect supervision, including practicing with organizations that serve indigent populations, such as section 501(c)(3) agencies, public health units, prisons, or other organizations approved by the board.

(5) Notwithstanding s. 458.311(1)(f), a person who successfully meets the requirements of this section and who successfully passes Step III of the United States Medical Licensing Examination is eligible for full licensure as a physician.

(6) The board shall adopt rules to implement this section.

Section 215. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.