

Committee Substitute for Senate Bill No. 948

An act relating to medical practitioners; amending s. 20.43, F.S.; providing for the transfer of the functions for complaints, investigations, and prosecutions to the Department of Health; amending s. 11 of chapter 96-403, L.O.F.; providing for the transfer of the functions for complaints, investigations, and prosecutions to the Department of Health; requiring physicians, osteopathic physicians, podiatrists, and chiropractors to furnish specified biographical and other data to the Department of Health; requiring the department to verify certain of the information and compile the information submitted and other public record information into a practitioner profile of each licensee and to make the profiles available to the public; providing for rules; providing duties of practitioners to update information and duties of the department to update profiles; providing for retention of information in superseded profiles; amending ss. 458.311, 458.313, 458.319, F.S.; requiring applicants for licensure or relicensure as physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 459.0055, 459.008, F.S.; requiring applicants for licensure or relicensure as osteopathic physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 460.406, 460.407, F.S.; requiring applicants for licensure or relicensure as chiropractors to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 461.006, 461.007, F.S.; requiring applicants for licensure or relicensure as podiatrists to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending ss. 458.320, 459.0085, F.S.; requiring the agency to issue an emergency order suspending the license of a physician or osteopathic physician for certain violations; amending s. 455.2285, F.S.; requiring additional information in the annual report by the department and by the agency; creating s. 455.2478, F.S.; providing that reports on professional liability actions and information relating to bankruptcy proceedings of specified health care practitioners which are in the possession of the Department of Health are public records; requiring the department to make such information available to persons who request it; amending s. 627.912, F.S.; providing for insurer reporting of professional liability claims and actions; revising the timeframe for reporting; providing penalties; providing for a toll-free telephone number for reporting complaints relating to medical care; providing applicability; amending ss. 458.316, 458.3165, 458.317, F.S.; conforming cross-references; providing an effective date.

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

Section 1. 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:

(a) Division of Administration.

(b) Division of Environmental Health.

(c) Division of Disease Control.

(d) Division of Family Services.

(e) Division of Children's Medical Services.

(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, created under chapter 480.
22. The Board of Clinical Laboratory Personnel, created under part IV of chapter 483.
23. Medical physicists, as provided under part 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 ~~may~~ 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 2. Section 11 of chapter 96-403, Laws of Florida, is amended to read:

Section 11. Effective July 1, 1997, the regulation of nursing assistants, as provided under s. 400.211, Florida Statutes; health care services pools, as provided under s. 402.48, Florida Statutes; the Board of Acupuncture, created under chapter 457, Florida Statutes; the Board of Medicine, created under chapter 458, Florida Statutes; the Board of Osteopathic Medicine, created under chapter 459, Florida Statutes; the Board of Chiropractic, created under chapter 460, Florida Statutes; the Board of Podiatric Medicine, created under chapter 461, Florida Statutes; naturopathy, as provided under chapter 462, Florida Statutes; the Board of Optometry, created under chapter 463, Florida Statutes; the Board of Nursing, created under chapter 464, Florida Statutes; the Board of Pharmacy, created under chapter 465, Florida Statutes; the Board of Dentistry, created under chapter 466, Florida Statutes; midwifery, as provided under chapter 467, Florida Statutes; the Board of Speech-Language Pathology and Audiology, created under part I of chapter 468, Florida Statutes; the Board of Nursing Home Administrators, created under part II of chapter 468, Florida Statutes; occupational therapy, as provided under part III of chapter 468, Florida Statutes; respiratory therapy, as provided under part V of chapter 468, Florida Statutes;

dietetics and nutrition practice, as provided under part X of chapter 468, Florida Statutes; electrolysis, as provided under chapter 478, Florida Statutes; the Board of Clinical Laboratory Personnel, created under part IV of chapter 483, Florida Statutes; medical physicists, as provided under part V of chapter 483, Florida Statutes; the Board of Opticianry, created under part I of chapter 484, Florida Statutes; the Board of Physical Therapy Practice, created under chapter 486, Florida Statutes; the Board of Psychology, created under chapter 490, Florida Statutes; and the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491, Florida Statutes, under the Division of Health Quality Assurance of the Agency for Health Care Administration, or under the agency, within the Department of Business and Professional Regulation, but not including personnel, property, and unexpended balances of appropriations related to consumer complaints, investigative and prosecutorial services, including all licensing, examination, publication, administrative, and management information services, but not consumer complaint, investigative, or prosecutorial services, provided by the Agency for Health Care Administration, is transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, and assigned to the Division of Medical Quality Assurance within the Department of Health, as created by this act.

Section 3. (1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:

(a)1. The name of each medical school that the applicant has attended, with the dates of attendance and the date of graduation, and a description of all graduate medical education completed by the applicant, excluding any coursework taken to satisfy medical licensure continuing education requirements.

2. The name of each hospital at which the applicant has privileges.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification that the applicant has received from a specialty board that is recognized by the board to which the applicant is applying.

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent 10 years.

7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to

which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, upon disposition of the appeal, submit to the department a copy of the final written order of disposition.

8. A description of any final disciplinary action taken within the previous 10 years against the applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialities, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of medical staff membership or the restriction of privileges at a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

(b) In addition to the information required under paragraph (a), each applicant who seeks licensure under chapter 458, chapter 459, or chapter 461, Florida Statutes, and who has practiced previously in this state or in another jurisdiction or a foreign country must provide the information required of licensees under those chapters pursuant to section 455.247, Florida Statutes. An applicant for licensure under chapter 460, Florida Statutes, who has practiced previously in this state or in another jurisdiction or a foreign country must provide the same information as is required of licensees under chapter 458, Florida Statutes, pursuant to section 455.247, Florida Statutes.

(2) Before the issuance of the licensure renewal notice required by section 455.273, Florida Statutes, the Department of Health shall send a notice to each person licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, at the licensee's last known address of record with the department, regarding the requirements for information to be submitted by those practitioners pursuant to this section in conjunction with the renewal of such license and under procedures adopted by the department.

(3) Each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply

with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under each respective licensing chapter and section 455.227(1)(k), Florida Statutes. For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

(a) Refuse to issue a license to any person applying for initial licensure who fails to submit and update the required information.

(b) Issue a citation to any licensee who fails to submit and update the required information and may fine the licensee up to \$50 for each day that the licensee is not in compliance with this subsection. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to follow the procedure under section 455.225, Florida Statutes. If the licensee disputes the matter in the citation, the procedures set forth in section 455.225, Florida Statutes, must be followed. However, if the licensee does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the licensee's last known address.

(4)(a) An applicant for initial licensure must submit a set of fingerprints to the Department of Health in accordance with section 458.311, section 458.313, section 459.0055, section 460.406, or section 461.006, Florida Statutes.

(b) An applicant for renewed licensure must submit a set of fingerprints for the initial renewal of his or her license after January 1, 2000, to the agency regulating that profession in accordance with procedures established under section 458.319, section 459.008, section 460.407, or section 461.007, Florida Statutes.

(c) The Department of Health shall submit the fingerprints provided by an applicant for initial licensure to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The department shall submit the fingerprints provided by an applicant for a renewed license to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check for the initial renewal of the applicant's license after January 1, 2000; for any subsequent renewal of the applicant's license the department shall submit the required information for a statewide criminal history check of the applicant.

(5) Each person who is required to submit information pursuant to this section may submit additional information. Such information may include, but is not limited to:

(a) Information regarding publications in peer-reviewed medical literature within the previous 10 years.

(b) Information regarding professional or community-service activities or awards.

(c) Languages, other than English, used by the applicant to communicate with patients and identification of any translating service that may be available at the place where the applicant primarily conducts his or her practice.

(d) An indication of whether the person participates in the Medicaid program.

Section 4. (1) Beginning July 1, 1999, the Department of Health shall compile the information submitted pursuant to section 1 into a practitioner profile of the applicant submitting the information, except that the Department of Health may develop a format to compile uniformly any information submitted under paragraph 1(4)(b).

(2) On the profile required under subsection (1), the department shall indicate if the information provided under section 1(1)(a)7. is not corroborated by a criminal history check conducted according to this subsection. If the information provided under section 1(1)(a)7. is corroborated by the criminal history check, the fact that the criminal history check was performed need not be indicated on the profile. The department, or the board having regulatory authority over the practitioner acting on behalf of the department, shall investigate any information received by the department or the board when it has reasonable grounds to believe that the practitioner has violated any law that relates to the practitioner's practice.

(3) The Department of Health may include in each practitioner's practitioner profile that criminal information that directly relates to the practitioner's ability to competently practice his or her profession. The department must include in each practitioner's practitioner profile the following statement: "The criminal history information, if any exists, may be incomplete; federal criminal history information is not available to the public."

(4) The Department of Health shall include, with respect to a practitioner licensed under chapter 458 or chapter 459, Florida Statutes, a statement of how the practitioner has elected to comply with the financial responsibility requirements of section 458.320 or section 459.0085, Florida Statutes. The department shall include, with respect to practitioners licensed under chapter 458, chapter 459, or chapter 461, Florida Statutes, information relating to liability actions which has been reported under section 455.247 or section 627.912, Florida Statutes, within the previous 10 years for any paid claim that exceeds \$5,000. Such claims information shall be reported in the context of comparing an individual practitioner's claims to the experience of other physicians within the same specialty to the extent such information is available to the Department of Health. If information relating to a liability action is included in a practitioner's practitioner profile, the profile must also include the following statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

(5) The Department of Health may include in the practitioner's practitioner profile any other information that is a public record of any governmental entity and that relates to a practitioner's ability to competently practice his or her profession. However, the department must consult with the board having regulatory authority over the practitioner before such information is included in his or her profile.

(6) Upon the completion of a practitioner profile under this section, the Department of Health shall furnish the practitioner who is the subject of the profile a copy of it. The practitioner has a period of 30 days in which to review the profile and to correct any factual inaccuracies in it. The Department of Health shall make the profile available to the public at the end of the 30-day period. The department shall make the profiles available to the public through the World Wide Web and other commonly used means of distribution.

(7) Making a practitioner profile available to the public under this section does not constitute agency action for which a hearing under section 120.57, Florida Statutes, may be sought.

Section 5. The Department of Health shall update each practitioner's practitioner profile periodically. An updated profile is subject to the same requirements as an original profile with respect to the period within which the practitioner may review the profile for the purpose of correcting factual inaccuracies.

Section 6. Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The department must develop, by the year 2000, a schedule and procedures for each practitioner within a health care profession regulated within the Division of Medical Quality Assurance to submit relevant information to be compiled into a profile to be made available to the public. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119, Florida Statutes, and Section 24(a), Article I of the State Constitution, so that the Department of Health may corroborate any information that physicians are required to report under section 1 of this act.

Section 7. Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, Florida Statutes, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be

submitted under this act may adopt by rule a form for the submission of the information required under section 1.

Section 8. Information in superseded practitioner profiles must be maintained by the Department of Health, in accordance with general law and the rules of the Department of State.

Section 9. Paragraph (g) is added to subsection (1) of section 458.311, Florida Statutes, 1996 Supplement, 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:

(g) Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 10. Subsection (1) of 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 that he:

(a) Has met the qualifications for licensure in s. 458.311(1)(b)-(g) ~~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), the United States Medical Licensing Examination (USMLE), or the examination of the National Board of Medical Examiners, or on a combination thereof, provided 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) Shows evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year preceding the filing of an application for licensure.

Section 11. 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 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 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. An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to \$50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 12. Subsection (1) of section 459.0055, Florida Statutes, 1996 Supplement, is amended to read:

459.0055 General licensure requirements.—

(1) Except as otherwise provided herein, any person desiring to be licensed or certified as an osteopathic physician pursuant to this chapter shall:

(a) Complete an application form and submit the appropriate fee to the department;

- (b) Be at least 21 years of age;
- (c) Be of good moral character;
- (d) Have completed at least 3 years of preprofessional postsecondary education;
- (e) Have not previously committed any act which would constitute a violation of this chapter, unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;
- (f) Not be under investigation in any jurisdiction for an act which would constitute a violation of this chapter. If, upon completion of such investigation, it is determined that the applicant has committed an act which would constitute a violation of this chapter, the applicant shall be ineligible for licensure unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;
- (g) Have not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction unless the board determines that the grounds on which such action was taken do not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. A licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician, shall be considered action against the osteopathic physician's license;
- (h) Have met the criteria set forth in s. 459.006, s. 459.007, s. 459.0075, s. 459.0077, or s. 459.021, whichever is applicable;:-

(i) Submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 13. Subsection (1) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(1) The department shall renew a license or certificate upon receipt of the renewal application and fee. An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department for a national criminal background check of the applicant for the initial renewal of his or her license

after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to \$50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 14. Paragraph (g) is added to subsection (1) of section 460.406, Florida Statutes, 1996 Supplement, to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician shall apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed \$100 which shall be nonrefundable. There shall also be an examination fee not to exceed \$500 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has:

(g) Submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 15. Subsection (1) of section 460.407, Florida Statutes, is amended to read:

460.407 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed \$500. An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the

applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to \$50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 16. Paragraph (f) is added to subsection (1) of section 461.006, Florida Statutes, to read:

461.006 Licensure by examination.—

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

(f) Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 17. Subsection (1) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and a fee not to exceed \$350 set by the board. An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department,

along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to \$50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 18. Section 455.225, Florida Statutes, 1996 Supplement, is 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.

(1)(a) The department or the Agency for Health Care Administration, for the boards under their respective jurisdictions, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department or the agency, or of any rule adopted by the department, the agency, or a regulatory board in the department or the agency has occurred. In order to determine legal sufficiency, the department or the agency may require supporting information or documentation. The department or the agency may investigate, and the department, the agency, or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department or the agency may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department or the agency has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department or the agency may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department or the

agency has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department or the agency may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, a rule of the agency, or a rule of a board.

(b) Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department or the agency shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chairman of the respective board or the chairman of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department or the agency may withhold notification. The department or the agency may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(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, should 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 of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department 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.

(3) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department or the agency may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department or the agency if there is no board, shall establish by rule those minor violations under this provision which do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(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.

(5) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The administrative law judge shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed settlement shall be subject to the approval of the department or the agency.

(7) The department or the Agency for Health Care Administration, as appropriate, shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall

be conducted by the Secretary of Business and Professional Regulation or his designee or the Director of Health Care Administration or his designee, as appropriate, who shall issue the final summary order.

(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 and:

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 may be 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.

(10) The complaint and all information obtained pursuant to the investigation by the department or the Agency for Health Care Administration are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department or the agency, or until the regulated professional or subject of the investigation waives his privilege of confidentiality, whichever occurs first. Upon completion of the investigation and pursuant to a written request by the subject, the department or the agency shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 455.241, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation, if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 455.241. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department or the agency. This subsection does not prohibit the department or the Agency for Health Care Administration from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a) No person who reports in any capacity, whether or not required by law, information to the department or the Division of Health Quality Assurance of the Agency for Health Care Administration with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the agency about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c) In any civil suit brought outside the protections of paragraphs (a) and (b), where intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.

Section 19. Present subsections (8) and (9) of section 455.2285, Florida Statutes, are renumbered 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 20. Subsection (5) of section 458.320, Florida Statutes, 1996 Supplement, is 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(14).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 458.317 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at an accredited medical school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the medical school.

(e) Any person holding an active license under this chapter who is not practicing medicine in this state. If such person initiates or resumes any practice of medicine in this state, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of medicine or maintains a part-time practice of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding \$10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the medical practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time; probation for a period of 3 years or longer; or a fine of \$500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory

agency's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign 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. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(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. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

~~3.2.~~ 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.

~~4.3.~~ 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.

~~5.4.~~ 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 or provide a written statement to any person to whom medical services are being provided. Such sign 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 21. Subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, is 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, 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(14).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 459.0075 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at a college of osteopathic medicine. Such person may engage in the practice of osteopathic medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the college of osteopathic medicine.

(e) Any person holding an active license under this chapter who is not practicing osteopathic medicine in this state. If such person initiates or resumes any practice of osteopathic medicine in this state, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding \$10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time, probation for a period of 3 years or longer, or a fine of \$500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department a certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom medical services are being provided. Such sign 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. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(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. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

~~3.2-~~ 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.

~~4.3-~~ 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.

~~5.4-~~ 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 or provide a written statement to any person to whom medical services are being provided. Such sign 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 22. Section 455.2478, Florida Statutes, is created to read:

455.2478 Reports of professional liability actions; bankruptcies; Department of Health's responsibility to provide.—

(1) The report of a claim or action for damages for personal injury which is required to be provided to the Department of Health under s. 455.247 or s. 627.912 is public information except for the name of the claimant or injured person, which remains confidential as provided in s. 455.247(2)(d) and s. 627.912(2)(e). The Department of Health shall, upon request, make such report available to any person.

(2) Any information in the possession of the Department of Health which relates to a bankruptcy proceeding by a practitioner of medicine licensed under chapter 458, a practitioner of osteopathic medicine licensed under chapter 459, a podiatrist licensed under chapter 461, or a dentist licensed under chapter 466 is public information. The Department of Health shall, upon request, make such information available to any person.

Section 23. Section 627.912, Florida Statutes, 1996 Supplement, is amended to read:

627.912 Professional liability claims and actions; reports by insurers.—

(1) Each self-insurer authorized under s. 627.357 and each insurer or joint underwriting association providing professional liability insurance to a practitioner of medicine licensed ~~under pursuant to the provisions of~~ chapter 458, to a practitioner of osteopathic medicine licensed ~~under pursuant to the provisions of~~ chapter 459, to a podiatrist licensed ~~under pursuant to the provisions of~~ chapter 461, to a dentist licensed ~~under pursuant to the provisions of~~ chapter 466, to a hospital licensed ~~under pursuant to the provisions of~~ chapter 395, to a crisis stabilization unit licensed under part IV of chapter 394, to a health maintenance organization certificated under part I of chapter 641, to clinics included in chapter 390, to an ambulatory surgical center as defined in s. 395.002, or to a member of The Florida Bar shall report in duplicate to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:

- (a) A final judgment in any amount.
- (b) A settlement in any amount.
- (c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department and, if the insured party is licensed ~~under pursuant to~~ chapter 458, chapter 459, chapter 461, or chapter 466, with the Agency for Health Care Administration Department of Business and Professional Regulation, no later than ~~30~~ 60 days following the

occurrence of any event listed in paragraph (a), paragraph (b), or paragraph (c). The ~~Agency for Health Care Administration Department of Business and Professional Regulation~~ shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply. The Agency for Health Care Administration Department of Business and Professional Regulation, as part of the annual report required by s. 455.2285, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the agency Department of Business and Professional Regulation or the appropriate regulatory board.

(2) The reports required by subsection (1) shall contain:

(a) The name, address, and specialty coverage of the insured.

(b) The insured's policy number.

(c) The date of the occurrence which created the claim.

(d) The date the claim was reported to the insurer or self-insurer.

(e) The name and address of the injured person. This information is confidential and exempt from the provisions of s. 119.07(1), and must not be disclosed by the department without the injured person's consent, except for disclosure by the department to the Agency for Health Care Administration Department of Business and Professional Regulation. This information may be used by the department for purposes of identifying multiple or duplicate claims arising out of the same occurrence.

(f) The date of suit, if filed.

(g) The injured person's age and sex.

(h) The total number and names of all defendants involved in the claim.

(i) The date and amount of judgment or settlement, if any, including the itemization of the verdict ~~as required under s. 768.48~~, together with a copy of the settlement or judgment.

(j) In the case of a settlement, such information as the department may require with regard to the injured person's incurred and anticipated medical expense, wage loss, and other expenses.

(k) The loss adjustment expense paid to defense counsel, and all other allocated loss adjustment expense paid.

(l) The date and reason for final disposition, if no judgment or settlement.

(m) A summary of the occurrence which created the claim, which shall include:

1. The name of the institution, if any, and the location within the institution at which the injury occurred.

2. The final diagnosis for which treatment was sought or rendered, including the patient's actual condition.
3. A description of the misdiagnosis made, if any, of the patient's actual condition.
4. The operation, diagnostic, or treatment procedure causing the injury.
5. A description of the principal injury giving rise to the claim.
6. The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future.

(n) Any other information required by the department to analyze and evaluate the nature, causes, location, cost, and damages involved in professional liability cases.

(3) Upon request by the Agency for Health Care Administration Department of Business and Professional Regulation, the department shall provide ~~the that agency department~~ with any information received under pursuant to this section related to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466. For purposes of safety management, the department shall annually provide the Department of Health and Rehabilitative Services with copies of the reports in cases resulting in an indemnity being paid to the claimants.

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting hereunder or its agents or employees or the department or its employees for any action taken by them under pursuant to this section. The department may impose a fine of \$250 per day per case, but not to exceed a total of \$1,000 per case against an insurer that violates the requirements of this section. This subsection applies to claims accruing on or after October 1, 1997.

Section 24. The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.

Section 25. Subsection (1) of section 458.316, Florida Statutes, is amended to read:

458.316 Public health certificate.—

(1) Any person desiring to obtain a public health certificate shall submit an application fee not to exceed \$300 and shall demonstrate to the board that he is a graduate of an accredited medical school and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, or is licensed to practice medicine without restriction in another jurisdiction in the United States and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, and shall meet the requirements in s. 458.311(1)(a)-(g) ~~s. 458.311(1)(a)-(f)~~ and (5).

Section 26. Section 458.3165, Florida Statutes, is amended to read:

458.3165 Public psychiatry certificate.—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed \$300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in s. 458.311(1)(a)-(g) ~~s. 458.311(1)(a)-(f)~~ and (5).

(1) Such certificate shall:

(a) Authorize the holder to practice only in a public mental health facility or program funded in part or entirely by state funds.

(b) Be issued and renewable biennially if the secretary of the Department of Health and Rehabilitative Services and the chairman of the department of psychiatry at one of the public medical schools or the chairman of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

(c) Automatically expire if the holder's relationship with a public mental health facility or program expires.

(d) Not be issued to a person who has been adjudged unqualified or guilty of any of the prohibited acts in this chapter.

(2) The board may take disciplinary action against a certificateholder for noncompliance with any part of this section or for any reason for which a regular licensee may be subject to discipline.

Section 27. Paragraph (a) of subsection (1) of section 458.317, Florida Statutes, is 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. 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.

2. Meet the requirements in s. 458.311(1)(b)-(g) ~~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).

Section 28. Except as otherwise provided in this act, this act shall take effect October 1, 1997.

Approved by the Governor May 30, 1997.

Filed in Office Secretary of State May 30, 1997.