CHAPTER 99-397

House Bill No. 2125

An act relating to health care; providing for the issuance of Medicaid numbers to certain children; amending s. 20.43, F.S.; revising powers and the internal structure of the department; amending s. 110.205, F.S.; exempting certain positions from career service; amending s. 120.80, F.S.; exempting certain hearings within the department from the requirement of being conducted by an administrative law judge from the Division of Administrative Hearings; amending s. 154.504, F.S.; revising standards for eligibility to participate in a primary care for children and families challenge grant; amending s. 287.155, F.S.; authorizing the department to purchase vehicles and automotive equipment for county health departments; amending s. 372.6672, F.S.; deleting an obsolete reference to the Department of Health and Rehabilitative Services; amending s. 381.004, F.S.; prescribing conditions under which an HIV test may be performed without obtaining consent; amending s. 381.0051, F.S.; authorizing the Department of Health to adopt rules to implement the Comprehensive Family Planning Act; amending s. 381.006, F.S.; providing the department with rule authority relating to inspection of certain group care facilities; amending s. 381.0061, F.S.; providing the department with authority to impose certain fines; amending s. 381.0062, F.S.; redefining the term "private water system" and defining the term "multi-family water system"; providing that either type of system may include a rental residence in its service; regulating multi-family systems; amending s. 381.90, F.S.; revising membership of the Health Information Systems Council; prescribing its duties with respect to developing a review process; requiring a report; amending s. 382.003, F.S.; revising powers and duties of the department with respect to vital records; providing for forms and documents to be submitted under oath; amending s. 382.004, F.S.; restating the admissibility of copies of records; amending s. 382.008, F.S.; deleting provisions relating to restriction on disclosure of a decedent's social security number; amending s. 382.013, F.S.; revising provisions relating to who must file a birth registration; amending s. 382.015, F.S.; revising provisions relating to issuance of new birth certificates upon determination of paternity; amending s. 382.016, F.S.; prescribing procedures for amending records; amending s. 382.019, F.S.; providing for dismissal of an application for delayed registration which is not actively pursued; amending s. 382.025, F.S.; exempting certain birth records from confidentiality requirements; amending s. 382.0255, F.S.; revising provisions relating to disposition of the additional fee imposed on certification of birth records; amending s. 383.14, F.S.; conforming a reference to the name of a program; amending s. 385.202, F.S.; deleting provisions relating to reimbursing hospitals reporting information for the statewide cancer registry; amending s. 385.203, F.S.; establishing requirements and membership for the Diabetes Advisory Council; amending s. 391.028, F.S.; revising provisions relating to administration of the Children's Medical Services program; amending s.

391.0315, F.S.; revising standards for benefits provided under the program for certain children; amending s. 392.69, F.S.; providing for an advisory board for the A. G. Holley State Hospital; amending s. 401.25, F.S.; providing qualifications for licensure as basic or advanced life support service; amending s. 401.27, F.S.; providing standards for certification of emergency medical technicians and paramedics; creating s. 401.2701, F.S.; establishing criteria for emergency medical services training programs; creating s. 401.2715, F.S.; providing for recertification training of emergency medical technicians and paramedics; providing for fees; amending s. 401.30, F.S.; providing for use and maintenance of records; amending s. 401.35, F.S.; providing rulemaking authority; amending s. 409.9126, F.S.; revising requirements for capitation payments to Children's Medical Services programs; amending s. 465.019, F.S.; revising definitions; amending s. 499.005, F.S.; revising the elements of certain offenses relating to purchase or receipt of legend drugs, recordkeeping with respect to drugs, cosmetics, and household products, and permit and registration requirements; amending s. 499.007, F.S.; revising conditions under which a drug is considered misbranded; amending s. 499.028, F.S.; providing an exemption from the prohibition against possession of a drug sample; amending s. 499.069, F.S.; providing penalties for certain violations of s. 499.005, F.S.; amending s. 742.10, F.S.; revising procedures relating to establishing paternity for children born out of wedlock; amending ss. 39.303, 385.203, 391.021, 391.221, 391.222, 391.223, F.S., to conform to the renaming of the Division of Children's Medical Services; repealing s. 381.731(3), F.S., relating to the date for submission of a report; repealing s. 383.307(5), F.S., relating to licensure of birth center staff and consultants; repealing s. 404.20(7), F.S., relating to transportation of radioactive materials; repealing s. 409.9125, F.S., relating to the study of Medicaid alternative networks; naming a certain building in Jacksonville the "Wilson T. Sowder, M.D., Building"; naming a certain building in Tampa the "William G. 'Doc' Myers, M.D., Building"; naming the department headquarters building the "Charlton E. Prather, M.D., Building"; authorizing the Department of Health to become an accrediting authority for environmental laboratory standards; providing intent and rulemaking authority for the Department of Health to implement standards of the National Environmental Laboratory Accreditation Program Accreditation Program; amending s. 381.0022, F.S.; authorizing the Department of Health to share certain information on Medicaid recipients regarding payment for services; amending s. 383.011, F.S.; amending requirements for rules relating to the Child Care Food Program; amending s. 468.304, F.S.; revising the application fees to be paid for radiologic technology certification examination; amending s. 468.306, F.S.; revising certain fees for radiologic technology certification examination; amending s. 468.309, F.S.; amending the timing of biennial certification renewal for radiologic technologists; amending ss. 455.57 and 455.565, F.S.; ensuring that an intern in a hospital is not subject to the credentialing or profiling laws; providing for clinical trials to be conducted on the use of the drug Secretin by a

nonprofit provider; requiring a report; providing an appropriation; amending s. 232.435, F.S.; correcting a reference; amending s. 381.026, F.S.; providing a definition; amending s. 381.0261, F.S.; providing that the Department of Health or a regulatory board, rather than the Agency for Health Care Administration, may impose an administrative fine against any health care provider who fails to make available to patients a summary of their rights as required by law; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to develop a certified-match program for Healthy Start services under certain circumstances; amending s. 409.910, F.S.; providing for use of Medicare standard billing formats for certain data-exchange purposes; creating s. 409.9101, F.S.; providing a short title; providing legislative intent relating to Medicaid estate recovery; requiring certain notice of administration of the estate of a deceased Medicaid recipient; providing that receipt of Medicaid benefits creates a claim and interest by the agency against an estate; specifying the right of the agency to amend the amount of its claim based on medical claims submitted by providers subsequent to the agency's initial claim calculation; providing the basis of calculation of the amount of the agency's claim; specifying a claim's class standing; providing circumstances for nonenforcement of claims; providing criteria for use in considering hardship requests; providing for recovery when estate assets result from a claim against a third party; providing for estate recovery in instances involving real property; providing agency rulemaking authority; amending s. 409.912, F.S.; eliminating a requirement that a Medicaid provider service network demonstration project be located in Orange County; amending s. 409.913, F.S.; revising provisions relating to the agency's authority to withhold Medicaid payments pending completion of certain legal proceedings; providing for disbursement of withheld Medicaid provider payments; creating s. 409.9131, F.S.; providing legislative findings and intent relating to integrity of the Medicaid program; providing definitions; authorizing onsite reviews of physician records by the agency; requiring notice for such reviews; requiring notice of due process rights in certain circumstances; specifying procedures for determinations of overpayment; requiring a study of certain statistical models used by the agency; requiring a report; amending s. 455.501, F.S.; redefining the terms "health care practitioner" and "licensee"; amending s. 455.507, F.S.; revising provisions relating to good standing of members of the Armed Forces with administrative boards to provide applicability to the department when there is no board; providing gender neutral language; amending s. 455.521, F.S.; providing powers and duties of the department for the professions, rather than boards, under its jurisdiction; amending s. 455.557, F.S.; revising the credentials collection program for health care practitioners; revising and providing definitions; providing requirements for health care practitioners and the Department of Health under the program; renaming the advisory council and abolishing it at a future date; prohibiting duplication of data available from the department; authorizing collection of certain other information; revising requirements for registration of

credentials verification organizations; providing for biennial renewal of registration; providing grounds for suspension or revocation of registration; revising liability insurance requirements; revising rulemaking authority; specifying authority of the department after the council is abolished; amending s. 455.564, F.S.; prescribing the expiration date of an incomplete license application; revising the form and style of licenses; providing authority to the department when there is no board to adopt rules; revising and providing requirements relating to obtaining continuing education credit in risk management; correcting a reference; amending s. 455.5651, F.S.; prohibiting inclusion of certain information in practitioner profiles; amending s. 455.567, F.S.; defining sexual misconduct and prohibiting it in the practice of a health care profession; providing penalties; amending s. 455.574, F.S.; revising provisions relating to review of an examination after failure to pass it; amending s. 455.587, F.S.; providing authority to the department when there is no board to determine by rule the amount of license fees for the profession regulated; providing for a fee for issuance of a wall certificate to certain licensees or for a duplicate wall certificate; amending s. 455.601, F.S.; providing, for purposes of workers' compensation, a rebuttable presumption relating to blood-borne infections; amending s. 455.604, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of licensure and relicensure to practice dietetics and nutrition or nutrition counseling; amending s. 455.607, F.S.; correcting a reference; amending s. 455.624, F.S.; revising and providing grounds for discipline; providing penalties; providing for assessment of certain costs; amending s. 455.664, F.S.; requiring additional health care practitioners to include a certain statement in advertisements for free or discounted services; correcting terminology; amending s. 455.667, F.S.; authorizing the department to obtain patient records, billing records, insurance information, provider contracts, and all attachments thereto under certain circumstances for purposes of disciplinary proceedings; providing for charges for making reports or records available for digital scanning; amending s. 455.687, F.S.; providing for the suspension or restriction of the license of any health care practitioner who tests positive for drugs under certain circumstances; amending s. 455.694, F.S.; providing financial responsibility requirements for midwives; creating s. 455.712, F.S.; providing requirements for active status licensure of certain business establishments; amending s. 457.102, F.S.; defining the term "prescriptive rights" with respect to acupuncture; amending s. 458.307, F.S.; correcting terminology and a reference; removing an obsolete date; amending s. 458.309, F.S.; providing for registration and inspection of certain offices performing levels 2 and 3 surgery; amending s. 458.311, F.S.; revising provisions relating to licensure as a physician by examination; eliminating an obsolete provision relating to licensure of medical students from Nicaragua and another provision relating to taking the examination without applying for a license; amending s. 458.3115, F.S.; updating terminology; amending s. 458.313, F.S.; revising provisions relating to licensure by endorse-

ment; repealing provisions relating to reactivation of certain licenses issued by endorsement; amending s. 458.315, F.S.; providing additional requirements for recipients of a temporary certificate for practice in areas of critical need; amending s. 458.3165, F.S.; prescribing authorized employment for holders of public psychiatry certificates; correcting a reference; amending s. 458.317, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 458.319, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a physician; amending s. 458.331, F.S.; providing grounds for discipline; providing penalties; amending s. 458.347, F.S.; revising provisions relating to temporary licensure as a physician assistant; amending s. 459.005, F.S.; providing for registration and inspection of certain offices performing levels 2 and 3 surgery; amending s. 459.0075, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 459.008, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as an osteopathic physician; amending s. 459.015, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 460.402, F.S.; providing an exemption from regulation under ch. 460, F.S., relating to chiropractic, for certain students; amending s. 460.403, F.S.; defining the term "community-based internship" for purposes of ch. 460, F.S.; redefining the terms "direct supervision" and "registered chiropractic assistant"; amending s. 460.406, F.S.; revising requirements for licensure as a chiropractic physician by examination to remove a provision relating to a training program; amending s. 460.407, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a chiropractic physician; amending s. 460.413, F.S.; increasing the administrative fine; conforming cross-references; amending s. 460.4165, F.S.; revising requirements for certification of chiropractic physician's assistants; providing for supervision of registered chiropractic physician's assistants; providing for biennial renewal; providing fees; providing applicability to current certificateholders; amending s. 460.4166, F.S.; authorizing registered chiropractic assistants to be under the direct supervision of a certified chiropractic physician's assistant; amending s. 461.003, F.S.; defining the term "certified podiatric X-ray assistant" and the term "direct supervision" with respect thereto; redefining the term "practice of podiatric medicine"; amending s. 461.006, F.S.; revising the residency requirement to practice podiatric medicine; amending s. 461.007, F.S.; revising requirements for renewal of license to practice podiatric medicine; revising requirements for submitting fingerprints to the department for renewal of licensure; amending s. 461.013, F.S.; revising and providing grounds for discipline; providing penalties; creating s. 461.0135, F.S.; providing requirements for operation of X-ray machines by certified podiatric X-ray assistants; amending s. 464.008, F.S.; providing for remediation upon failure to pass the examination to practice nursing a specified number of times; amending s. 464.022, F.S.; providing an exemption from regulation relating to remedial courses; amending s. 465.003, F.S.; defining the term "data communication device"; revising the definition of

the term "practice of the profession of pharmacy"; amending s. 465.016, F.S.; authorizing the redispensing of unused or returned unit-dose medication by correctional facilities under certain conditions; providing a ground for which a pharmacist may be subject to discipline by the Board of Pharmacy; increasing the administrative fine; amending ss. 465.014, 465.015, 465.0196, 468.812, 499.003, F.S.; correcting cross-references, to conform; creating the Task Force for the Study of Collaborative Drug Therapy Management; providing for staff support from the department; providing for participation by specified associations and entities; providing responsibilities; requiring a report to the Legislature; amending s. 466.021, F.S.; revising requirements relating to dental work orders required of unlicensed persons; amending s. 468.1155, F.S.; revising requirements for provisional licensure to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathologist or audiologist assistant; amending s. 468.307, F.S.; authorizing the issuance of subcategory certificates in the field of radiologic technology; amending s. 468.506, F.S.; correcting references; amending s. 468.701, F.S.; revising and removing definitions; amending s. 468.703, F.S.; replacing the Council of Athletic Training with a Board of Athletic Training; providing for appointment of board members and their successors; providing for staggering of terms; providing for applicability of other provisions of law relating to activities of regulatory boards; providing for the board's headquarters; amending ss. 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, F.S., relating to rulemaking authority, licensure by examination, fees, continuing education, disciplinary actions, and certain regulatory transition; transferring to the board certain duties of the department relating to regulation of athletic trainers; amending s. 20.43, F.S.; placing the board under the Division of Medical Quality Assurance of the department; providing for termination of the council and the terms of council members; authorizing consideration of former council members for appointment to the board; amending s. 468.805, F.S.; revising grandfathering provisions for the practice of orthotics, prosthetics, or pedorthics; amending s. 468.806, F.S.; providing for approval of continuing education providers; amending s. 478.42, F.S.; redefining the term "electrolysis or electrology"; amending s. 483.041, F.S., redefining the terms "clinical laboratory" and "licensed practitioner" and defining the term "clinical laboratory examination"; amending s. 483.803, F.S.; redefining the terms "clinical laboratory examination" and "licensed practitioner of the healing arts"; revising a reference; amending s. 483.807, F.S.; revising provisions relating to fees for approval as a laboratory training program; amending s. 483.809, F.S.; revising requirements relating to examination of clinical laboratory personnel for licensure and to registration of clinical laboratory trainees; amending s. 483.812, F.S.; revising qualification requirements for licensure of public health laboratory scientists; amending s. 483.813, F.S.; eliminating a provision authorizing conditional licensure of clinical laboratory personnel for a specified period; amending s. 483.821, F.S.; authorizing continuing education or

retraining for candidates who fail an examination a specified number of times; amending s. 483.824, F.S.; revising qualifications of clinical laboratory directors; amending s. 483.825, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 483.901, F.S.; correcting a reference; eliminating a provision authorizing temporary licensure as a medical physicist; correcting the name of a trust fund; amending s. 484.007, F.S.; revising requirements for opticians who supervise apprentices; amending s. 484.0512, F.S.; requiring sellers of hearing aids to refund within a specified period all moneys required to be refunded under trial-period provisions; amending s. 484.053, F.S.; increasing the penalty applicable to prohibited acts relating to the dispensing of hearing aids; amending s. 484.056, F.S.; providing that violation of trial-period requirements is a ground for disciplinary action; providing penalties; amending ss. 486.041, 486.081, 486.103, and 486.107, F.S.; eliminating provisions authorizing issuance of a temporary permit to work as a physical therapist or physical therapist assistant; amending s. 490.005, F.S.; revising educational requirements for licensure as a psychologist by examination; changing a date, to defer certain educational requirements; amending s. 490.006, F.S.; providing additional requirements for licensure as a psychologist by endorsement; amending s. 490.0085, F.S.; correcting the name of a trust fund; amending s. 491.0045, F.S.; revising requirements for registration as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern; amending s. 491.0046, F.S.; revising requirements for provisional licensure of clinical social workers, marriage and family therapists, and mental health counselors; amending s. 491.005, F.S.; revising requirements for licensure of clinical social workers, marriage and family therapists, and mental health counselors; providing for certification of education of interns; providing rulemaking authority to implement education and experience requirements for licensure as a clinical social worker, marriage and family therapist, or mental health counselor; revising future licensure requirements for mental health counselors and providing rulemaking authority for implementation thereof; amending s. 491.006, F.S.; revising requirements for licensure or certification by endorsement; amending s. 491.0085, F.S.; requiring laws and rules courses and providing for approval thereof, including providers and programs; correcting the name of a trust fund; amending s. 491.014, F.S.; revising an exemption from regulation relating to certain temporally limited services; amending s. 499.012, F.S.; redefining the term “wholesale distribution,” relating to the distribution of prescription drugs, to provide for the exclusion of certain activities; amending ss. 626.883, 641.316, F.S.; requiring payments to a health care provider by a fiscal intermediary to include an explanation of services provided; creating a Task Force on Telehealth; providing its duties; requiring a report; amending s. 468.352, F.S.; redefining the term “board”; amending s. 468.353, F.S.; conforming provision; providing for the adoption of rules; amending s. 468.354, F.S.; creating the Board of Respiratory Care; providing for membership, powers, and duties; amending s. 468.355,

F.S.; providing for periodic rather than annual review of certain examinations and standards; amending s. 458.357, F.S.; conforming provisions; deleting obsolete provisions; amending s. 468.364, F.S.; deleting an examination fee; amending s. 468.365, F.S.; conforming provisions; amending s. 464.016, F.S., providing that the use of the title "nurse" without being licensed or certified is a crime; amending s. 458.3115, F.S.; revising requirements with respect to eligibility of certain foreign-licensed physicians to take and pass standardized examinations; amending s. 458.3124, F.S.; changing the date by which application for a restricted license must be submitted; amending s. 301, ch. 98-166, Laws of Florida; prescribing fees for foreign-licensed physicians taking a certain examination; providing for a detailed study and analysis of clinical laboratory services for kidney dialysis patients; amending s. 455.651, F.S.; providing for treble damages, reasonable attorney fees, and costs for improper disclosure of confidential information; amending ss. 641.261 and 641.411, F.S.; conforming references and cross-references; amending s. 733.212, F.S.; establishing the agency as a reasonably ascertainable creditor with respect to administration of certain estates; requiring that a task force be appointed to review sources of revenue for the trust fund; providing for appointments of its members and specifying topics to be studied; providing for its staffing; providing for meetings; requiring a report and recommendations; creating s. 395.40, F.S.; declaring legislative findings and intent with respect to creation of a statewide inclusive trauma system, as defined; amending s. 395.401, F.S.; deleting the definitions of the terms "local trauma agency" and "regional trauma agency"; defining the terms "trauma agency" and "trauma alert victim"; prescribing duties of the Department of Health with respect to implementation of inclusive trauma systems and trauma agency plans; amending s. 395.402, F.S.; removing legislative findings; prescribing duties of the department with respect to assignment of counties to trauma service areas; amending s. 395.4045, F.S.; prescribing transport requirements for emergency medical services providers; creating ss. 458.351 and 459.026, F.S.; requiring reports to the Department of Health of adverse incidents in specified settings; providing for review of such incidents and initiation of disciplinary proceedings, where appropriate; authorizing department access to certain records and preserving exemption from public access thereto; providing rulemaking authority; requiring the Department of Health to establish standards for compressed air used in recreational sport diving; providing that certain persons and entities are exempt from compliance with such standards; providing for testing compressed air; requiring that test results be provided to the department; requiring that persons or entities selling compressed air post a certificate of testing in a conspicuous location; providing a penalty; authorizing rules; creating the Minority HIV and AIDS Task Force within the Department of Health; requiring the task force to develop recommendations on ways to strengthen HIV and AIDS prevention and treatment programs in minority communities; requiring the Secretary of Health to appoint the members of the task force; requiring that the task

force include representatives of certain groups and organizations; providing for the members to serve without compensation; requiring a report to the Legislature; providing for the task force to be abolished on a specified date; requiring that the Department of Health develop and implement a statewide HIV and AIDS prevention campaign that is directed to minorities; providing requirements for the campaign; requiring the department to establish positions within the department for regional and statewide coordinators; requiring that the department conduct a Black Leadership Conference on HIV and AIDS by a specified date; providing an appropriation; amending s. 20.41, F.S.; providing that area agencies on aging are subject to ch. 119 and ss. 286.011-286.012, F.S., as specified; creating part XV of chapter 468, F.S.; providing definitions; requiring that the Department of Health maintain a state registry of certified nursing assistants; authorizing the department to contract for examination services; providing requirements for obtaining certification as a certified nursing assistant; requiring that the department adopt rules governing initial certification; specifying grounds for which the department may deny, suspend, or revoke a person's certification; authorizing the department to exempt an applicant or certificateholder from disqualification of certification; providing requirements for records and meetings held for disciplinary actions; exempting an employer from liability for terminating a certified nursing assistant under certain circumstances; providing penalties; providing for background screening; providing rulemaking authority; requiring persons who employ certified nursing assistants to make certain reports to the Department of Health; requiring that the department update the certified nursing assistant registry; providing for future repeal of such provisions; amending s. 400.211, F.S.; deleting obsolete provisions with respect to the regulation of certified nursing assistants; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to enter into agreements with certain organizations for purposes of providing vision screening; providing effective dates.

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

Section 1. <u>The Department of Children and Family Services and the Agency for Health Care Administration shall, by October 1, 1999, develop a system to allow unborn children of Medicaid-eligible mothers to be issued a Medicaid number that shall be used for billing purposes and for monitoring of care for the child beginning with the child's date of birth.</u>

Section 2. Paragraphs (e) and (f) of subsection (3) and paragraphs (a) and (b) of subsection (7) of section 20.43, Florida Statutes, 1998 Supplement, are amended, and paragraphs (h), (i), and (j) are added to subsection (3) of that section, 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:

(e) Division of Children's Medical Services Network.

(f) Division of Emergency Medical Services and Community Health Resources ~~Local Health Planning, Education, and Workforce Development~~.

(h) Division of Children's Medical Services Prevention and Intervention.

(i) Division of Information Resource Management.

(j) Division of Health Awareness and Tobacco.

(7) To protect and improve the public health, the department may use state or federal funds to:

(a) Provide incentives, including, but not limited to, the promotional items listed in paragraph (b), food and including food coupons, and ~~or~~ payment for travel expenses, for encouraging healthy lifestyle and disease prevention behaviors and patient compliance with medical treatment, such as tuberculosis therapy and smoking cessation programs. Such incentives shall be intended to cause individuals to take action to improve their health. Any incentive for food, food coupons, or travel expenses may not exceed the limitations in s. 112.061.

(b) Plan and conduct health education campaigns for the purpose of protecting or improving public health. The department may purchase promotional items, such as, but not limited to, t-shirts, hats, sports items such as water bottles and sweat bands, calendars, nutritional charts, baby bibs, growth charts, and other items printed with health-promotion messages, and advertising, such as space on billboards or in publications or radio or television time, for health information and promotional messages that recognize that the following behaviors, among others, are detrimental to public health: unprotected sexual intercourse, other than with one's spouse; cigarette and cigar smoking, use of smokeless tobacco products, and exposure to environmental tobacco smoke; alcohol consumption or other substance abuse during pregnancy; alcohol abuse or other substance abuse; lack of exercise and poor diet and nutrition habits; and failure to recognize and address a genetic tendency to suffer from sickle-cell anemia, diabetes, high blood pressure, cardiovascular disease, or cancer. For purposes of activities under this paragraph, the Department of Health may establish requirements for local matching funds or in-kind contributions to create and distribute advertisements, in either print or electronic format, which are concerned with each of the targeted behaviors, establish an independent evaluation and feedback system for the public health communication campaign, and monitor and evaluate the efforts to determine which of the techniques and methodologies are most effective.

Section 3. Paragraphs (l), (p), and (s) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for

positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, the Department of Children and Family Services, ~~and Rehabilitative Services~~ and the Department of Corrections that are assigned primary duties of serving as the superintendent of an institution: positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; and positions in the Department of Health ~~and Rehabilitative Services~~ that are assigned the duties ~~duty~~ of ~~an~~ Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

(p) The staff directors, assistant staff directors, district program managers, district program coordinators, district subdistrict administrators, district administrative services directors, district attorneys, ~~county health department directors, county health department administrators,~~ and the Deputy Director of Central Operations Services of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the county health department directors and county health department administrators of the Department of Health. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.

(s) The executive director of each board or commission established within the Department of Business and Professional Regulation or the Department of Health. Unless otherwise fixed by law, the department shall establish the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

Section 4. Subsection (15) of section 120.80, Florida Statutes, 1998 Supplement, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(15) DEPARTMENT OF HEALTH.—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the Secretary of Health, the director of the Agency for Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to the regulation of professions, as defined by part II of chapter 455. Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Health in execution of the Special Supplemental Nutrition Program for Women, Infants, and Children; Child

Care Food Program; Children's Medical Services Program; and the exemption from disqualification reviews for certified nurse assistants program need not be conducted by an administrative law judge assigned by the division. The Department of Health may contract with the Department of Children and Family Services for a hearing officer in these matters.

Section 5. Subsection (1) of section 154.504, Florida Statutes, 1998 Supplement, is amended to read:

154.504 Eligibility and benefits.—

(1) Any county or counties may apply for a primary care for children and families challenge grant to provide primary health care services to children and families with incomes of up to 150 percent of the federal poverty level. Participants shall pay no monthly premium for participation, but shall be required to pay a copayment at the time a service is provided. Copayments may be paid from sources other than the participant, including, but not limited to, the child's or parent's employer, or other private sources. Providers may enter into contracts pursuant to ~~As used in~~ s. 766.1115, provided copayments~~, the term "copayment"~~ may not be considered and may not be used as compensation for services to health care providers, and all funds generated from copayments shall be used by the governmental contractor and all other provisions in s. 766.1115 are met.

Section 6. Subsection (3) is added to section 287.155, Florida Statutes, to read:

287.155 Motor vehicles; purchase by Division of Universities, Department of Health and Rehabilitative Services, Department of Juvenile Justice, and Department of Corrections.—

(3) The Department of Health is authorized, subject to the approval of the Department of Management Services, to purchase automobiles, trucks, and other automotive equipment for use by county health departments.

Section 7. Subsection (3) of section 372.6672, Florida Statutes, 1998 Supplement, is amended to read:

372.6672 Alligator management and trapping program implementation; commission authority.—

(3) The powers and duties of the commission hereunder shall not be construed so as to supersede the regulatory authority or lawful responsibility of the ~~Department of Health and Rehabilitative Services, the~~ Department of Agriculture and Consumer Services, or any local governmental entity regarding the processing or handling of food products, but shall be deemed supplemental thereto.

Section 8. Paragraph (h) of subsection (3) of section 381.004, Florida Statutes, 1998 Supplement, is amended to read:

381.004 Testing for human immunodeficiency virus.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(h) Notwithstanding the provisions of paragraph (a), informed consent is not required:

1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations:

a. HIV testing pursuant to s. 796.08 of persons convicted of prostitution or of procuring another to commit prostitution.

b. Testing for HIV by a medical examiner in accordance with s. 406.11.

2. Those exceptions provided for blood, plasma, organs, skin, semen, or other human tissue pursuant to s. 381.0041.

3. For the performance of an HIV-related test by licensed medical personnel in bona fide medical emergencies when the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to the person being tested and the patient is unable to consent, as supported by documentation in the medical record. Notification of test results in accordance with paragraph (c) is required.

4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, obtaining informed consent would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. Notification of test results in accordance with paragraph (c) is required if it would not be detrimental to the patient. This subparagraph does not authorize the routine testing of patients for HIV infection without informed consent.

5. When HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04.

6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily, pursuant to court order for any purpose, or pursuant to the provisions of s. 775.0877, s. 951.27, or s. 960.003; however, the results of any HIV test performed shall be disclosed solely to the victim and the defendant, except as provided in ss. 775.0877, 951.27, and 960.003.

7. When an HIV test is mandated by court order.

8. For epidemiological research pursuant to s. 381.0032, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

9. When human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 732.9185 or enucleation of the eyes as authorized by s. 732.919.

10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice and where a blood sample is available that was taken from that individual voluntarily by medical personnel for other purposes. "Medical personnel" includes a licensed or certified health care professional; an employee of a health care professional, health care facility, or blood bank; and a paramedic or emergency medical technician as defined in s. 401.23.

a. Prior to performance of an HIV test on a voluntarily obtained blood sample, the individual from whom the blood was obtained shall be requested to consent to the performance of the test and to the release of the results. The individual's refusal to consent and all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. Reasonable attempts to locate the individual and to obtain consent shall be made and all attempts must be documented. If the individual cannot be found, an HIV test may be conducted on the available blood sample. If the individual does not voluntarily consent to the performance of an HIV test, the individual shall be informed that an HIV test will be performed, and counseling shall be furnished as provided in this section. However, HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel.

c. Costs of any HIV test of a blood sample performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel must either be tested for HIV pursuant to this section or provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample is not available, the medical personnel or the employer of such person acting on behalf of the employee may seek a court order

directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

11. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice of the medical personnel while the medical personnel provides emergency medical treatment to the individual; or who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition outside of a hospital or health care facility that provides physician care. The test may be performed only during the course of treatment for the medical emergency.

a. An individual who is capable of providing consent shall be requested to consent to an HIV test prior to the testing. The individual's refusal to consent, and all information concerning the performance of an HIV test and its result, shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel or nonmedical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

c. Costs of any HIV test performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel or nonmedical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample was not obtained during treatment for the medical emergency, the medical personnel, the employer of the medical personnel acting on behalf of the employee, or the nonmedical personnel may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

12. For the performance of an HIV test by the medical examiner or attending physician upon an ~~a deceased~~ individual who ~~is the source of a significant exposure to medical personnel or nonmedical personnel who provided emergency medical assistance and who~~ expired or could not be resuscitated while receiving ~~during treatment for the medical~~ emergency medical assistance or care and who was the source of a significant exposure to medical or nonmedical personnel providing such assistance or care.

a. HIV testing may be conducted only after a licensed physician documents in the medical record of the medical personnel or nonmedical personnel that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

b. Costs of any HIV test performed under this subparagraph may not be charged to the deceased or to the family of the deceased person.

c. For the provisions of this subparagraph to be applicable, the medical personnel or nonmedical personnel must be tested for HIV under this section or must provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative.

d. A person who receives the results of an HIV test pursuant to this subparagraph shall comply with paragraph (e).

13. For the performance of an HIV-related test medically indicated by licensed medical personnel for medical diagnosis of a hospitalized infant as necessary to provide appropriate care and treatment of the infant when, after a reasonable attempt, a parent cannot be contacted to provide consent. The medical records of the infant shall reflect the reason consent of the parent was not initially obtained. Test results shall be provided to the parent when the parent is located.

14. For the performance of HIV testing conducted to monitor the clinical progress of a patient previously diagnosed to be HIV positive.

15. For the performance of repeated HIV testing conducted to monitor possible conversion from a significant exposure.

Section 9. Subsection (7) is added to section 381.0051, Florida Statutes, to read:

381.0051 Family planning.—

(7) RULES.—The Department of Health may adopt rules to implement this section.

Section 10. Subsection (16) is added to section 381.006, Florida Statutes, 1998 Supplement, to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(16) A group-care-facilities function, where a group-care facility means any public or private school, housing, building or buildings, section of a building, or distinct part of a building or other place, whether operated for profit or not, which undertakes, through its ownership or management, to provide one or more personal services, care, protection, and supervision to persons who require such services and who are not related to the owner or administrator. The department may adopt rules necessary to protect the health and safety of residents, staff, and patrons of group-care facilities, such as child care facilities, family day-care homes, assisted-living facilities, adult day-care centers, adult family-care homes, hospices, residential treatment facilities, crisis-stabilization units, pediatric extended-care centers, intermediate-care facilities for the developmentally disabled, group-care homes, and, jointly with the Department of Education, private and public schools. These rules may include provisions relating to operation and maintenance of facilities, buildings, grounds, equipment, furnishings, and occupant-space requirements; lighting; heating, cooling, and ventilation; water supply, plumbing; sewage; sanitary facilities; insect and rodent control; garbage; safety; personnel health, hygiene, and work practices; and other matters the department finds are appropriate or necessary to protect the safety and health of the residents, staff, or patrons. The department may not adopt rules that conflict with rules adopted by the licensing or certifying agency. The department may enter and inspect at reasonable hours to determine compliance with applicable statutes or rules. In addition to any sanctions that the department may impose for violations of rules adopted under this section, the department shall also report such violations to any agency responsible for licensing or certifying the group-care facility. The licensing or certifying agency may also impose any sanction based solely on the findings of the department.

The department may adopt rules to carry out the provisions of this section.

Section 11. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which shall not exceed $500

for each violation, for a violation of s. 381.006(16), s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of any of the provisions of chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 12. Subsections (2), (3), (4), and (5) of section 381.0062, Florida Statutes, 1998 Supplement, are amended to read:

381.0062 Supervision; private and certain public water systems.—

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

(a) "Contaminant" means any physical, biological, chemical, or radiological substance or matter in water.

(b) "Department" means the Department of Health, including the county health departments.

(c) "Florida Safe Drinking Water Act" means part VI of chapter 403.

(d) "Health hazard" means any condition, contaminant, device, or practice in a water system or its operation which will create or has the potential to create an acute or chronic threat to the health and well-being of the water consumer.

(e) "Limited use commercial public water system" means a public water system not covered or included in the Florida Safe Drinking Water Act, which serves one or more nonresidential establishments and provides piped water.

(f) "Limited use community public water system" means a public water system not covered or included in the Florida Safe Drinking Water Act, which serves five or more ~~private~~ residences or two or more rental residences, and provides piped water.

(g) "Maximum contaminant level" means the maximum permissible level of a contaminant in potable water delivered to consumers.

(h) "Multi-family water system" means a water system that provides piped water to three or four residences, one of which may be a rental residence.

(i)~~(h)~~ "Person" means an individual, public or private corporation, company, association, partnership, municipality, agency of the state, district, federal, or any other legal entity, or its legal representative, agent, or assignee.

(j)~~(i)~~ "Potable water" means water that is satisfactory for human consumption, dermal contact, culinary purposes, or dishwashing as approved by the department.

(k)~~(j)~~ "Private water system" means a water system that provides piped water for one or two ~~no more than four nonrental~~ residences, one of which may be a rental residence.

(l)~~(k)~~ "Public consumption" means oral ingestion or physical contact with water by a person for any purpose other than cleaning work areas or simple handwashing. Examples of public consumption include, when making food or beverages available to the general public, water used for washing food, cooking utensils, or food service areas and water used for preparing food or beverages; washing surfaces accessed by children as in a child care center or similar setting; washing medical instruments or surfaces accessed by a patient; any water usage in health care facilities; emergency washing devices such as eye washing sinks; washing in food processing plants or establishments like slaughterhouses and packinghouses; and water used in schools.

(m)~~(l)~~ "Public water system" means a water system that is not included or covered under the Florida Safe Drinking Water Act, provides piped water to the public, and is not a private or multi-family water system. For purposes of this section, public water systems are classified as limited use community or limited use commercial.

(n)~~(m)~~ "Supplier of water" means the person, company, or corporation that owns or operates a limited use community or limited use commercial public water system, a multi-family water system, or a private water system.

(o)~~(n)~~ "Variance" means a sanction from the department affording a supplier of water an extended time to correct a maximum contaminant level violation caused by the raw water or to deviate from construction standards established by rule of the department.

(3) SUPERVISION.—The department and its agents shall have general supervision and control over all private water systems, multi-family water systems, and public water systems not covered or included in the Florida Safe Drinking Water Act (part VI of chapter 403), and over those aspects of the public water supply program for which it has the duties and responsibilities provided for in part VI of chapter 403. The department shall:

(a) Administer and enforce the provisions of this section and all rules and orders adopted or issued under this section, including water quality and monitoring standards.

(b) Require any person wishing to construct, modify, or operate a limited use community or limited use commercial public water system or a multi-family ~~private~~ water system to first make application to and obtain approval from the department on forms adopted by rule of the department.

(c) Review and act upon any application for the construction, modification, operation, or change of ownership of, and conduct surveillance, enforcement, and compliance investigations of, limited use community and limited use commercial public water systems, and multi-family ~~private~~ water systems.

(d) Require a fee from the supplier of water in an amount sufficient to cover the costs of reviewing and acting upon any application for the construction, modification, or operation of a limited use community and limited use commercial public water system, of not less than $10 or more than $90 annually.

(e) Require a fee from the supplier of water in an amount sufficient to cover the costs of reviewing and acting upon any application for the construction or change of ownership of a multi-family ~~private~~ water system ~~serving more than one residence~~, of not less than $10 or more than $90.

(f) Require a fee from the supplier of water in an amount sufficient to cover the costs of sample collection, review of analytical results, health-risk interpretations, and coordination with other agencies when such work is not included in paragraphs (b) and (c) and is requested by the supplier of water, of not less than $10 or more than $90.

(g) Require suppliers of water to collect samples of water, to submit such samples to a department-certified drinking water laboratory for contaminant analysis, and to keep sampling records as required by rule of the department.

(h) Require all fees collected by the department in accordance with the provisions of this section to be deposited in an appropriate trust fund of the department, and used exclusively for the payment of costs incurred in the administration of this section.

(i) Prohibit any supplier of water from, intentionally or otherwise, introducing any contaminant which poses a health hazard into a drinking water system.

(j) Require suppliers of water to give public notice of water problems and corrective measures under the conditions specified by rule of the department.

(k) Require a fee to cover the cost of reinspection of any system regulated under this section, which may not be less than $25 or more than $40.

(4) RIGHT OF ENTRY.—For purposes of this section, department personnel may enter, at any reasonable time and if they have reasonable cause to believe a violation of this section is occurring or about to occur, upon any and all parts of the premises of such limited use public and multi-family ~~private~~ drinking water systems ~~serving more than one residence~~, to make an examination and investigation to determine the sanitary and safety conditions of such systems. Any person who interferes with, hinders, or opposes any employee of the department in the discharge of his or her duties pursuant to the provisions of this section is subject to the penalties provided in s. 381.0025.

(5) ENFORCEMENT AND PENALTIES.—

(a) Any person who constructs, modifies, or operates a limited use community or limited use commercial public water system, a multi-family water

system, or a private water system, without first complying with the requirements of this section, who operates a water system in violation of department order, or who maintains or operates a water system after revocation of the permit is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) This section and rules adopted pursuant to this section may be enforced by injunction or restraining order granted by a circuit court as provided in s. 381.0012(2).

(c) Additional remedies available to county health department staff through any county or municipal ordinance may be applied, over and above the penalties set forth in this section, to any violation of this section or the rules adopted pursuant to this section.

Section 13. Subsections (3) and (7) of section 381.90, Florida Statutes, are amended to read:

381.90 Health Information Systems Council; legislative intent; creation, appointment, duties.—

(3) The council shall be composed of the following members or their senior executive-level designees:

(a) The secretary of the Department of Health;

(b) The secretary of the Department of Business and Professional Regulation;

(c) The secretary of the Department of Children and Family Services;

(d) The director of the Agency for Health Care Administration;

(e) The secretary of the Department of Corrections;

(f) The Attorney General;

(g) The executive director of the Correctional Medical Authority;

(h) Two members representing county health departments, one from a small county and one from a large county, appointed by the Governor; ~~and~~

(i) A representative from the Florida Association of Counties;~~.~~

(j) The State Treasurer and Insurance Commissioner;

(k) A representative from the Florida Healthy Kids Corporation;

(l) A representative from a school of public health chosen by the Board of Regents;

(m) The Commissioner of Education;

(n) The Secretary of the Department of Elderly Affairs; and

(o) The Secretary of the Department of Juvenile Justice.

Representatives of the Federal Government may serve without voting rights.

(7) The council's duties and responsibilities include, but are not limited to, the following:

(a) By March 1 of each year, to develop and approve a strategic plan pursuant to the requirements set forth in s. 186.022(9). Copies of the plan shall be transmitted electronically or in writing to the Executive Office of the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(b) To develop a mission statement, goals, and plan of action, based on the guiding principles specified in s. 282.3032, for the identification, collection, standardization, sharing, and coordination of health-related data across federal, state, and local government and private-sector entities.

(c) To develop a review process to ensure cooperative planning among agencies that collect or maintain health-related data. The council shall submit a report on the implementation of this requirement to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2000.

(d)~~(c)~~ To create ad hoc issue-oriented technical workgroups, on an as-needed basis, to make recommendations to the council.

Section 14. Subsection (10) of section 382.003, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

382.003 Powers and duties of the department.—The department may:

(10) Adopt, promulgate, and enforce rules necessary for the creation, issuance, recording, ~~rescinding,~~ maintenance, and processing of vital records and for carrying out the provisions of ss. 382.004-382.014 and ss. 382.016-382.019.

(11) By rule require that forms, documents, and information submitted to the department in the creation or amendment of a vital record be under oath.

Section 15. Subsection (3) of section 382.004, Florida Statutes, is amended to read:

382.004 Reproduction and destruction of records.—

(3) Photographs, microphotographs, or reproductions of any record in the form of film, prints, or electronically produced certifications made in compliance with the provisions of this chapter and certified by the department shall have the same force and effect as the originals thereof, shall be treated as originals for the purpose of their admissibility ~~in any court or case,~~ and shall be prima facie evidence ~~in all courts and cases~~ of the facts stated therein.

Section 16. Subsection (1) of section 382.008, Florida Statutes, 1998 Supplement, is amended to read:

382.008 Death and fetal death registration.—

(1) A certificate for each death and fetal death which occurs in this state shall be filed on a form prescribed by the department with the local registrar of the district in which the death occurred within 5 days after such death and prior to final disposition, and shall be registered by such registrar if it has been completed and filed in accordance with this chapter or adopted rules. The certificate shall include the decedent's social security number, if available. ~~Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and as otherwise provided by law.~~ In addition, each certificate of death or fetal death:

(a) If requested by the informant, shall include aliases or "also known as" (AKA) names of a decedent in addition to the decedent's name of record. Aliases shall be entered on the face of the death certificate in the space provided for name if there is sufficient space. If there is not sufficient space, aliases may be recorded on the back of the certificate and shall be considered part of the official record of death;

(b) If the place of death is unknown, shall be registered in the registration district in which the dead body or fetus is found within 5 days after such occurrence; and

(c) If death occurs in a moving conveyance, shall be registered in the registration district in which the dead body was first removed from such conveyance.

Section 17. Subsections (1), (2), and (4) of section 382.013, Florida Statutes, 1998 Supplement, are amended to read:

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

(1) FILING.—

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

(b) If a birth occurs outside a facility and <u>a physician licensed in this state, a certified nurse midwife, a midwife licensed in this state, or a public</u>

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

(c) If a birth occurs outside a facility and the delivery is not attended by one of the persons described in paragraph (b), the person in attendance, the mother, or the father shall report the birth to the registrar and provide proof of the facts of birth. The department may require such documents to be presented and such proof to be filed as it deems necessary and sufficient to establish the truth of the facts to be recorded by the certificate and may withhold registering the birth until its requirements are met. ~~the child is not taken to the facility within 3 days after delivery, the certificate shall be prepared and filed by one of the following persons in the indicated order of priority:~~

~~1. The physician or midwife in attendance during or immediately after the birth.~~

~~2. In the absence of persons described in subparagraph 1., any other person in attendance during or immediately after the birth.~~

~~3. In the absence of persons described in subparagraph 2., the father or mother.~~

~~4. In the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.~~

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

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

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

(g)~~(f)~~ Regardless of any plan to place a child for adoption after birth, the information on the birth certificate as required by this section must be as to the child's birth parents unless and until an application for a new birth record is made under s. 63.152.

(2) PATERNITY.—

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

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

(c) If the mother is not married at the time of birth, the name of the father may not be entered on the birth certificate without the execution of a consenting affidavit signed by both the mother and the person to be named as the father. After giving notice orally or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from signing an acknowledgment of paternity, the facility shall provide the mother and the person to be named as the father with the affidavit, as well as information provided by the Title IV-D agency established pursuant to s. 409.2557, regarding the benefits of voluntary establishment of paternity. Upon request of the mother and the person to be named as the father, the facility shall assist in the execution of the affidavit.

(d) If the paternity of the child is determined by a court of competent jurisdiction as provided under s. 382.015, the name of the father and the surname of the child shall be entered on the certificate in accordance with the finding and order of the court. If the court fails to specify a surname for the child, the surname shall be entered in accordance with subsection (3).

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

(4) UNDETERMINED PARENTAGE.—The person having custody of a child of undetermined parentage shall register a birth certificate ~~shall be registered for every child of undetermined parentage~~ showing all known or approximate facts relating to the birth. To assist in later determination, information concerning the place and circumstances under which the child was found shall be included on the portion of the birth certificate relating to marital status and medical details. In the event the child is later identified ~~to the satisfaction of the department~~, a new birth certificate shall be prepared which shall bear the same number as the original birth certificate, and the original certificate shall be sealed and filed, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be opened to inspection by, nor shall certified copies of the same be issued except by court order to, any person other than the registrant if of legal age.

Section 18. Section 382.015, Florida Statutes, is amended to read:

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

(1) ADOPTION AND ANNULMENT OF ADOPTION.—

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

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

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

(2) DETERMINATION OF PATERNITY.—

~~(a)~~ Upon receipt of the report or a certified copy of a final decree of determination of paternity, ~~or upon written request and receipt of a consenting affidavit signed by both parents acknowledging the paternity of the registrant,~~ together with sufficient information to identify the original certificate of live birth, the department shall prepare and file a new birth certificate which shall bear the same file number as the original birth certificate. ~~If paternity has been established pursuant to court order,~~ The registrant's name shall be entered as decreed by the court. ~~Otherwise, the surname of the registrant may be changed from that shown on the original birth certificate at the request of the parents or the registrant if of legal age.~~ The names and identifying information of the parents shall be entered as of the date of the registrant's birth.

~~(b) If the parents marry each other at any time after the registrant's birth, the department shall, upon request of the parents or registrant if of legal age and proof of the marriage, amend the certificate with regard to the parent's marital status as though the parents were married at the time of birth.~~

~~(c) If a father's name is already listed on the birth certificate, the birth certificate may only be amended to add a different father's name upon court order. If a change in the registrant's surname is also desired, such change must be included in the court order determining paternity or the name must be changed pursuant to s. 68.07.~~

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

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

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

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

Section 19. Subsections (3), (4), and (5) are added to section 382.016, Florida Statutes, to read:

382.016 Amendment of records.—

(3) Upon written request and receipt of an affidavit signed by the mother and father acknowledging the paternity of a registrant born out of wedlock, together with sufficient information to identify the original certificate of live birth, the department shall prepare a new birth certificate, which shall bear the same file number as the original birth certificate. The names and identifying information of the parents shall be entered as of the date of the registrant's birth. The surname of the registrant may be changed from that shown on the original birth certificate at the request of the mother and father of the registrant, or the registrant if of legal age. If the mother and father marry each other at any time after the registrant's birth, the department shall, upon the request of the mother and father or registrant if of legal age and proof of the marriage, amend the certificate with regard to the parents' marital status as though the parents were married at the time of birth.

(4) When a new certificate of birth is prepared pursuant to subsection (3), the department shall substitute the new certificate of birth for the original certificate on file. All copies of the original certificate of live birth in the custody of a local registrar or other state custodian of vital records shall be forwarded to the State Registrar. Thereafter, when a certified copy of the certificate of birth or portion thereof is issued, it shall be a copy of the new certificate of birth or portion thereof, except when a court order requires issuance of a certified copy of the original certificate of birth. The department shall place the original certificate of birth and all papers pertaining thereto under seal, not to be broken except by order of a court of competent jurisdiction or as otherwise provided by law.

(5) If a father's name is listed on the birth certificate, the birth certificate may only be amended to remove the father's name or to add a different father's name upon court order. If a change in the registrant's surname is also desired, such change must be included in the court order or the name must be changed pursuant to s. 68.07.

Section 20. Section 382.019, Florida Statutes, is amended to read:

382.019 Delayed registration; administrative procedures.—

(1) Registration after 1 year is a delayed registration, and the department may, upon receipt of an application and the fee required under s. 382.0255, and proof of the birth, death, or fetal death as prescribed by this section or rule, register a delayed certificate if the department does not already have a certificate of the birth, death, or fetal death on file.

(2) The department may require such supporting documents to be presented and such proof to be filed as it deems necessary and sufficient to establish the truth of the facts to be recorded by the certificate, and may withhold registering the birth, death, or fetal death certificate until its requirements are met.

(3) Certificates registered under this section are admissible as prima facie evidence of the facts recited therein with like force and effect as other vital records received or admitted in evidence.

(4) A delayed certificate of birth filed under this section shall include a summary statement of the evidence submitted in support of the delayed registration.

(5) A delayed certificate of birth submitted for registration under this section shall be signed before a notarizing official by the registrant if of legal age, or by the parent or guardian of a minor registrant.

(6) A person may not establish more than one birth certificate, and a delayed certificate of birth may not be registered for a deceased person.

(7) A delayed death or fetal death record shall be registered on a certificate of death or fetal death and marked "delayed."

(8) In addition to the rulemaking authority found at s. 382.003(10), the department may, by rule, provide for the dismissal of an application that is not pursued within 1 year.

Section 21. Subsections (1) and (2) of section 382.025, Florida Statutes, are amended to read:

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

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

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

1. To the registrant, if of legal age;

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

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

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

5. To a law enforcement agency for official purposes;

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

7. Upon order of any court of competent jurisdiction.

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

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

(2) OTHER RECORDS.—

(a) The department shall authorize the issuance of a certified copy of all or part of any marriage, dissolution of marriage, or death or fetal death certificate, excluding that portion which is confidential and exempt from the

provisions of s. 119.07(1) as provided under s. 382.008, to any person requesting it upon receipt of a request and payment of the fee prescribed by this section. A certification of the death or fetal death certificate which includes the confidential portions shall be issued only:

1. To the registrant's spouse or parent, or to the registrant's child, grandchild, or sibling, if of legal age, or to any person ~~family member~~ who provides a will that has been executed pursuant to s. 732.502, insurance policy, or other document that demonstrates his or her ~~the family member's~~ interest in the estate of the registrant, or to any person who provides documentation that he or she is acting on behalf of any of them;

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

3. Upon order of any court of competent jurisdiction.

(b) All portions of a certificate of death shall cease to be exempt from the provisions of s. 119.07(1) 50 years after the date of death.

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

Section 22. Subsection (2) of section 382.0255, Florida Statutes, is amended to read:

382.0255 Fees.—

(2) The fee charged for each request for a certification of a birth record issued by the department or by the local registrar shall be subject to an additional fee of $4 which shall be deposited in the appropriate departmental trust fund. On a quarterly basis, the department shall transfer ~~$2 of this additional fee to the General Revenue Fund and~~ $1.50 to the Child Welfare Training Trust Fund created in s. 402.40. ~~Fifty cents of the fee shall be available for appropriation to the department for administration of this chapter.~~

Section 23. Paragraph (e) of subsection (3) and subsection (5) of section 383.14, Florida Statutes, are amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department shall administer and provide certain services to implement the provisions of this section and shall:

(e) Supply the necessary dietary treatment products where practicable for diagnosed cases of phenylketonuria and other metabolic diseases for as

long as medically indicated when the products are not otherwise available. Provide nutrition education and supplemental foods to those families eligible for the Special Supplemental Nutrition ~~Food~~ Program for Women, Infants, and Children as provided in s. 383.011.

All provisions of this subsection must be coordinated with the provisions and plans established under this chapter, chapter 411, and Pub. L. No. 99-457.

(5) ADVISORY COUNCIL.—There is established a Genetics and Infant Screening Advisory Council made up of 12 members appointed by the Secretary of Health. The council shall be composed of two consumer members, three practicing pediatricians, at least one of whom must be a pediatric hematologist, one representative from each of the four medical schools in the state, the Secretary of Health or his or her designee, one representative from the Department of Health representing ~~Division of~~ Children's Medical Services, and one representative from the Developmental Services Program Office of the Department of Children and Family Services. All appointments shall be for a term of 4 years. The chairperson of the council shall be elected from the membership of the council and shall serve for a period of 2 years. The council shall meet at least semiannually or upon the call of the chairperson. The council may establish ad hoc or temporary technical advisory groups to assist the council with specific topics which come before the council. Council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members are entitled to be reimbursed for per diem and travel expenses. It is the purpose of the council to advise the department about:

(a) Conditions for which testing should be included under the screening program and the genetics program;

(b) Procedures for collection and transmission of specimens and recording of results; and

(c) Methods whereby screening programs and genetics services for children now provided or proposed to be offered in the state may be more effectively evaluated, coordinated, and consolidated.

Section 24. Subsection (4) of section 385.202, Florida Statutes, is amended to read:

385.202 Statewide cancer registry.—

(4) Funds appropriated for this section shall be used for establishing, administering, compiling, processing, and providing biometric and statistical analyses to the reporting facilities. Funds may also be used to ensure the quality and accuracy of the information reported and to provide management information to the reporting facilities. ~~Such reporting hospitals shall be reimbursed for reasonable costs.~~

Section 25. Section 385.203, Florida Statutes, is amended to read:

385.203 Diabetes Advisory Council; creation; function; membership.—

(1) To guide a statewide comprehensive approach to diabetes prevention, diagnosis, education, care, treatment, impact, and costs thereof, there is created a Diabetes Advisory Council that serves as the advisory unit to ~~the diabetes centers, the Board of Regents, and~~ the Department of Health, other governmental agencies, professional and other organizations, and the general public. The council shall:

(a) Provide statewide leadership to continuously improve the lives of Floridians with diabetes and reduce the burden of diabetes.

(b) Serve as a forum for the discussion and study of issues related to the public health approach for the delivery of health care services to persons with diabetes.

~~(b) Provide advice and consultation to the deans of the medical schools in which are located diabetes centers, and by June 30 of each year, the council shall submit written recommendations to the deans regarding the need for diabetes education, treatment, and research activities to promote the prevention and control of diabetes.~~

(c) By June 30 of each year, meet with the Secretary of Health or ~~his or her~~ designee to make specific recommendations regarding the public health aspects of the prevention and control of diabetes.

(2) The members of the council shall be appointed by the Governor with advice from ~~nominations by the Board of Regents, the Board of Trustees of the University of Miami, and~~ the Secretary of Health. Members shall serve 4-year terms or until their successors are appointed or qualified.

(3) The council shall be composed of 25 ~~18~~ citizens of the state who have knowledge of, or work in the area of diabetes mellitus as follows:

(a) Five interested citizens, three of whom are affected by diabetes.

(b) Twenty members, who must include one representative from each of the following areas: nursing with diabetes-educator certification; dietary with diabetes educator certification; podiatry; opthalmology or optometry; psychology; pharmacy; adult endocrinology; pediatric endocrinology; the American Diabetes Association (ADA); the Juvenile Diabetes Foundation (JDF); a community health center; a county health department; an American Diabetes Association-recognized community education program; each medical school in the state; an osteopathic medical school; the insurance industry; a Children's Medical Services diabetes regional program; and an employer.

(c) One or more representatives from the Department of Health, who shall serve on the council as ex officio members. ~~four practicing physicians; one representative from each medical school; seven interested citizens, at least three of whom shall be persons who have or have had diabetes mellitus or who have a child with diabetes mellitus; the Secretary of Health or his or her designee; one representative from the Division of Children's Medical Services of the Department of Health; and one professor of nutrition.~~

(4)(a) The council shall annually elect from its members a chair and vice chair ~~a secretary~~. The council shall meet at the chair's discretion; however, at least three meetings shall be held each year.

(b) In conducting its meetings, the council shall use accepted rules of procedure. A majority of the members of the council constitutes a quorum, and action by a majority of a quorum is necessary for the council to take any official action. The Department of Health ~~secretary~~ shall keep a complete record of the proceedings of each meeting. The record shall show the names of the members present and the actions taken. The records shall be kept on file with the department, and these and other documents about matters within the jurisdiction of the council may be inspected by members of the council.

(5) Members of the council shall serve without remuneration but may be reimbursed for per diem and travel expenses as provided in s. 112.061, to the extent resources are available.

(6) The department shall serve as an intermediary for the council if the council coordinates, applies for, or accepts any grants, funds, gifts, or services made available to it by any agency or department of the Federal Government, or any private agency or individual, for assistance in the operation of the council ~~or the diabetes centers established in the various medical schools~~.

Section 26. Section 391.028, Florida Statutes, 1998 Supplement, is amended to read:

391.028 Administration.—The Children's Medical Services program shall have a central office and area offices.

(1) The Director of ~~the Division of~~ Children's Medical Services must be a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of health care to children and who has recognized skills in leadership and the promotion of children's health programs. The ~~division~~ director shall be the deputy secretary and the Deputy State Health Officer for Children's Medical Services and is appointed by and reports to the secretary. The director may appoint division directors subject to the approval of the secretary.

(2) The ~~division~~ director shall designate Children's Medical Services area offices to perform operational activities, including, but not limited to:

(a) Providing case management services for the network.

(b) Providing local oversight of the program.

(c) Determining an individual's medical and financial eligibility for the program.

(d) Participating in the determination of a level of care and medical complexity for long-term care services.

(e) Authorizing services in the program and developing spending plans.

(f) Participating in the development of treatment plans.

(g) Taking part in the resolution of complaints and grievances from participants and health care providers.

(3) Each Children's Medical Services area office shall be directed by a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of health care to children. The director of a Children's Medical Services area office shall be appointed by the ~~division~~ director from the active panel of Children's Medical Services physician consultants.

Section 27. Section 391.0315, Florida Statutes, 1998 Supplement, is amended to read:

391.0315 Benefits.—Benefits provided under the program for children with special health care needs shall be the same benefits provided to children as specified in ss. 409.905 and 409.906. The department may offer additional benefits for early intervention services, respite services, genetic testing, genetic and nutritional counseling, and parent support services, if such services are determined to be medically necessary. No child or person determined eligible for the program who is eligible under Title XIX or Title XXI of the Social Security Act shall receive any service other than an initial health care screening or treatment of an emergency medical condition as defined in s. 395.002, until such child or person is enrolled in Medicaid or a Title XXI program.

Section 28. Subsection (3) of section 392.69, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

392.69 Appropriation, sinking, and maintenance trust funds; additional powers of the department.—

(3) In the execution of its public health program functions, notwithstanding s. 216.292(5)(b), the department is hereby authorized to use any sums of money which it may heretofore have saved or which it may hereafter save from its regular operating appropriation, or use any sums of money acquired by gift or grant, or any sums of money it may acquire by the issuance of revenue certificates of the hospital to match or supplement any state or federal funds, or any moneys received by said department by gift or otherwise, for the construction or maintenance of additional facilities or improvement to existing facilities, as the department deems necessary.

(4) The department shall appoint an advisory board, which shall meet quarterly to review and make recommendations relating to patient care at A. G. Holley State Hospital. Members shall be appointed for terms of 3 years, with such appointments being staggered so that terms of no more than two members expire in any one year. Members shall serve without compensation, but they are entitled to be reimbursed for per diem and travel expenses under s. 112.061.

Section 29. Subsection (7) of section 401.25, Florida Statutes, is added to read:

401.25 Licensure as a basic life support or an advanced life support service.—

(7)(a) Each permitted basic life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons: one patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician; and one ambulance driver who meets the requirements of s. 401.281. This paragraph does not apply to interfacility transfers governed by s. 401.252(1).

(b) Each permitted advanced life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless must be occupied by at least two persons: one who is a certified paramedic or licensed physician; and one who is a certified emergency medical technician, certified paramedic, or licensed physician who also meets the requirements of s. 401.281 for drivers. The person with the highest medical certifications shall be in charge of patient care. This paragraph does not apply to interfacility transfers governed by s. 401.252(1).

Section 30. Subsection (3) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

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

Section 31. Section 401.2701, Florida Statutes, is created to read:

401.2701 Emergency medical services training programs.—

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

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

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

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

3. Evidence of an affiliation agreement with a current Florida-licensed emergency medical services provider. Such agreement shall include, at a minimum, a commitment by the provider to conduct the field experience portion of the education program.

4. Documentation verifying faculty, including:

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

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

5. Documentation verifying that the curriculum:

a. Meets the course guides and instructor's lesson plans in the most recent Emergency Medical Technician-Basic National Standard Curricula for emergency medical technician programs and Emergency Medical Technician-Paramedic National Standard Curricula for paramedic programs.

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

c. Includes 4 hours of instruction on HIV/AIDS training consistent with the requirements of chapter 381.

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

(b) Receive a scheduled site visit from the department to the applicant's institution. Such site visit shall be conducted within 30 days after notification to the institution that the application was accepted. During the site visit, the department must determine the applicant's compliance with the following criteria:

1. Emergency medical technician programs must be a minimum of 110 hours, with at least 20 hours of supervised clinical supervision, including 10 hours in a hospital emergency department.

2. Paramedic programs must be available only to Florida-certified emergency medical technicians or an emergency medical technician applicant who will obtain Florida certification prior to completion of phase one of the paramedic program. Paramedic programs must be a minimum of 700 hours of didactic and skills practice components, with the skills laboratory student-to-instructor ratio not exceeding six to one. Paramedic programs must provide a field internship experience aboard an advanced life support permitted ambulance.

(2) After completion of the site visit, the department shall prepare a report which shall be provided to the institution. Upon completion of the report, the application shall be deemed complete and the provisions of s. 120.60, shall apply.

(3) If the program is approved, the department must issue the institution a 2-year certificate of approval as an emergency medical technician training program or a paramedic training program. If the application is denied, the department must notify the applicant of any areas of strength, areas needing improvement, and any suggested means of improvement of the program. A denial notification shall be provided to the applicant so as to allow the applicant 5 days prior to the expiration of the application processing time in s. 120.60 to advise the department in writing of its intent to submit a plan of correction. Such intent notification shall provide the time for application processing in s. 120.60. The plan of correction must be submitted to the department within 30 days of the notice. The department shall advise the applicant of its approval or denial of the plan of correction within 30 days of receipt. The denial of the plan of correction or denial of the application may be reviewed as provided in chapter 120.

(4) Approved emergency medical services training programs must maintain records and reports that must be made available to the department, upon written request. Such records must include student applications, records of attendance, records of participation in hospital clinic and field training, medical records, course objectives and outlines, class schedules, learning objectives, lesson plans, number of applicants, number of students accepted, admission requirements, description of qualifications, duties and responsibilities of faculty, and correspondence.

(5) Each approved program must notify the department within 30 days of any change in the professional or employment status of faculty. Each approved program must require its students to pass a comprehensive final written and practical examination evaluating the skills described in the current United States Department of Transportation EMT-Basic or EMT-Paramedic, National Standard Curriculum. Each approved program must issue a certificate of completion to program graduates within 14 days of completion.

Section 32. Section 401.2715, Florida Statutes, is created to read:

401.2715 Recertification training of emergency medical technicians and paramedics.—

(1) The department shall establish by rule criteria for all emergency medical technician and paramedic recertification training. The rules shall provide that all recertification training equals at least 30 hours, includes the performance parameters for adult and pediatric emergency medical clinical care, and is documented through a system of recordkeeping.

(2) Any individual, institution, school, corporation, or governmental entity may conduct emergency medical technician or paramedic recertification training upon application to the department and payment of a nonrefundable fee to be deposited into the Emergency Medical Services Trust Fund.

Institutions conducting department-approved educational programs as provided in this chapter and licensed ambulance services are exempt from the application process and payment of fees. The department shall adopt rules for the application and payment of a fee not to exceed the actual cost of administering this approval process.

(3) To be eligible for recertification as provided in s. 401.27, certified emergency medical technicians and paramedics must provide proof of completion of training conducted pursuant to this section. The department shall accept the written affirmation of a licensee's or a department-approved educational program's medical director as documentation that the certificateholder has completed a minimum of 30 hours of recertification training as provided herein.

Section 33. Present subsections (2), (3), and (4) of section 401.30, Florida Statutes, 1998 Supplement, are renumbered as subsections (3), (4), and (5), respectively, and a new subsection (2) is added to said section, to read:

401.30 Records.—

(2) Each licensee must provide the receiving hospital with a copy of an individual patient care record for each patient who is transported to the hospital. The information contained in the record and the method and timeframe for providing the record shall be prescribed by rule of the department.

(3)~~(2)~~ Reports to the department from licensees which cover statistical data are public records, except that the names of patients and other patient-identifying information contained in such reports are confidential and exempt from the provisions of s. 119.07(1). Any record furnished by a licensee at the request of the department must be a true and certified copy of the original record and may not be altered or have information deleted.

(4)~~(3)~~ Records of emergency calls which contain patient examination or treatment information are confidential and exempt from the provisions of s. 119.07(1) and may not be disclosed without the consent of the person to whom they pertain, but appropriate limited disclosure may be made without such consent:

(a) To the person's guardian, to the next of kin if the person is deceased, or to a parent if the person is a minor;

(b) To hospital personnel for use in conjunction with the treatment of the patient;

(c) To the department;

(d) To the service medical director;

(e) For use in a critical incident stress debriefing. Any such discussions during a critical incident stress debriefing shall be considered privileged communication under s. 90.503;

(f) In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and

proper notice by the party seeking such records, to the patient or his or her legal representative; or

(g) To a local trauma agency or a regional trauma agency, or a panel or committee assembled by such an agency to assist the agency in performing quality assurance activities in accordance with a plan approved under s. 395.401. Records obtained under this paragraph are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

This subsection does not prohibit the department or a licensee from providing information to any law enforcement agency or any other regulatory agency responsible for the regulation or supervision of emergency medical services and personnel.

(5)~~(4)~~ The department shall adopt and enforce all rules necessary to administer this section.

Section 34. Paragraph (l) is added to subsection (1) of section 401.35, Florida Statutes, and paragraph (i) is added to subsection (2) of said section, to read:

401.35 Rules.—The department shall adopt rules necessary to carry out the purposes of this part.

(1) The rules must provide at least minimum standards governing:

(l) Licensees' security and storage of controlled substances, medications, and fluids, not inconsistent with the provisions of chapter 499 or chapter 893.

(2) The rules must establish application requirements for licensure and certification. Pursuant thereto, the department must develop application forms for basic life support services and advanced life support services. An application for each respective service license must include, but is not limited to:

(i) An oath, upon forms provided by the department which shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with applicable laws and rules.

Section 35. Subsection (3) of section 409.9126, Florida Statutes, 1998 Supplement, is amended to read:

409.9126 Children with special health care needs.—

(3) Services provided through the Children's Medical Services network shall be reimbursed on a fee-for-service basis and shall utilize a primary care case management process. Beginning July 1, 1999, the Florida Medicaid program shall phase in by geographical area, capitation payments to Children's Medical Services for services provided to Medicaid children with special healthcare needs. By January 1, 2001, the Agency for Health Care Administration shall make capitation payments for Children's Medical Services enrollees statewide, to the extent provided by federal law. ~~However,~~

~~effective July 1, 1999, reimbursement to the Children's Medical Services program for services provided to Medicaid-eligible children with special health care needs through the Children's Medical Services network shall be on a capitated basis.~~

Section 36. Paragraph (a) of subsection (2) of section 465.019, Florida Statutes, 1998 Supplement, is amended to read:

465.019 Institutional pharmacies; permits.—

(2) The following classes of institutional pharmacies are established:

(a) "Class I institutional pharmacies" are those institutional pharmacies in which all medicinal drugs are administered from individual prescription containers to the individual patient and in which medicinal drugs are not dispensed on the premises, except that nursing homes licensed under part II of chapter 400 may purchase medical oxygen for administration to residents. No medicinal drugs may be dispensed in a Class I institutional pharmacy.

Section 37. Subsections (14), (15), (16), (19), and (22) of section 499.005, Florida Statutes, 1998 Supplement, are amended, and subsection (24) is added to that section, to read:

499.005 Prohibited acts.—It is unlawful to perform or cause the performance of any of the following acts in this state:

(14) The purchase or receipt of a legend drug from a person that is not authorized under this chapter ~~the law of the state in which the person resides~~ to distribute legend drugs.

(15) The sale or transfer of a legend drug to a person that is not authorized under the law of the jurisdiction in which the person receives the drug ~~resides~~ to purchase or possess legend drugs.

(16) The purchase or receipt of a compressed medical gas from a person that is not authorized under this chapter ~~the law of the state in which the person resides~~ to distribute compressed medical gases.

(19) Providing the department with false or fraudulent records, or making false or fraudulent statements, regarding any matter within the provisions of this chapter ~~a drug, device, or cosmetic~~.

(22) Failure to obtain a permit or registration, or operating without a valid permit when a permit or registration is~~, as~~ required by ss. 499.001-499.081 for that activity.

(24) The distribution of a legend device to the patient or ultimate consumer without a prescription or order from a practitioner licensed by law to use or prescribe the device.

Section 38. Subsection (13) of section 499.007, Florida Statutes, is amended to read:

499.007 Misbranded drug or device.—A drug or device is misbranded:

(13) If it is a drug that is subject to paragraph (12)(a), and if, at any time before it is dispensed, its label fails to bear the statement:

(a) "Caution: Federal Law Prohibits Dispensing Without Prescription"; ~~or~~

(b) "Rx Only";

(c) The prescription symbol followed by the word "Only"; or

(d)~~(b)~~ "Caution: State Law Prohibits Dispensing Without Prescription."

A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to prescribe such drug is exempt from the requirements of this section, except subsections (1), (8), (10), and (11) and the packaging requirements of subsections (6) and (7), if the drug bears a label that contains the name and address of the dispenser or seller, the prescription number and the date the prescription was written or filled, the name of the prescriber and the name of the patient, and the directions for use and cautionary statements. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to any drug dispensed in violation of subsection (12). The department may, by rule, exempt drugs subject to ss. 499.062-499.064 from subsection (12) if compliance with that subsection is not necessary to protect the public health, safety, and welfare.

Section 39. Subsection (15) of section 499.028, Florida Statutes, is amended to read:

499.028 Drug samples or complimentary drugs; starter packs; permits to distribute.—

(15) A person may not possess a prescription drug sample unless:

(a) The drug sample was prescribed to her or him as evidenced by the label required in s. 465.0276(5).

(b) She or he is the employee of a complimentary drug distributor that holds a permit issued under ss. 499.001-499.081.

(c) She or he is a person to whom prescription drug samples may be distributed pursuant to this section.

(d) He or she is an officer or employee of a federal, state, or local government acting within the scope of his or her employment.

Section 40. Subsection (1) of section 499.069, Florida Statutes, is amended to read:

499.069 Punishment for violations of s. 499.005; dissemination of false advertisement.—

(1) Any person who violates any of the provisions of s. 499.005 is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; but, if the violation is committed after a conviction of such person under this section has become final, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 or as otherwise provided in ss. 499.001-499.081, except that any person who violates subsection (8), subsection (10), subsection (14), subsection (15), ~~subsection (16),~~ or subsection (17) of s. 499.005 is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided in ss. 499.001-499.081.

Section 41. Subsection (1) of section 742.10, Florida Statutes, is amended to read:

742.10 Establishment of paternity for children born out of wedlock.—

(1) This chapter provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock. When the establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, or dependency under workers' compensation or similar compensation programs, or when an affidavit acknowledging paternity or a stipulation of paternity is executed by both parties and filed with the clerk of the court, or when a consenting affidavit as provided for in s. 382.013 or s. 382.016 ~~s. 382.015~~ is executed by both parties, it shall constitute the establishment of paternity for purposes of this chapter. If no adjudicatory proceeding was held, a voluntary acknowledgment of paternity shall create a rebuttable presumption, as defined by s. 90.304, of paternity and is subject to the right of any signatory to rescind the acknowledgment within 60 days of the date the acknowledgment was signed or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party, whichever is earlier. Both parents are required to provide their social security numbers on any acknowledgment of paternity, consent affidavit, or stipulation of paternity. Except for consenting affidavits under seal pursuant to ss. ~~s.~~ 382.015 and 382.016, the Office of Vital Statistics shall provide certified copies of affidavits to the Title IV-D agency upon request.

Section 42. Section 39.303, Florida Statutes, 1998 Supplement, is amended to read:

39.303 Child protection teams; services; eligible cases.—The ~~Division of Children's Medical Services of the~~ Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the Department of Children and Family Services. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of

child protection teams and sexual abuse treatment programs. The Secretary of Health and the director of ~~Deputy Secretary for~~ Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The Department of Health shall utilize and convene the teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Family Services. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who is alleged or is shown to be abused, abandoned, or neglected, which consultation shall be provided at the request of a representative of the family safety and preservation program or at the request of any other professional involved with a child or the child's parent or parents, legal custodian or custodians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a family safety and preservation program representative shall attend and participate.

(g) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(h) Such training services for program and other employees of the Department of Children and Family Services, employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases.

(i) Educational and community awareness campaigns on child abuse, abandonment, and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, abandonment, and neglect in the community.

(2) The child abuse, abandonment, and neglect cases that are appropriate for referral by the family safety and preservation program to child protection teams of the Department of Health for support services as set forth in subsection (1) include, but are not limited to, cases involving:

(a) Bruises, burns, or fractures in a child under the age of 3 years or in a nonambulatory child of any age.

(b) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.

(c) Sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.

(d) Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical, physical, or emotional neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

(3) In all instances in which a child protection team is providing certain services to abused, abandoned, or neglected children, other offices and units of the Department of Health, and offices and units of the Department of Children and Family Services, shall avoid duplicating the provision of those services.

Section 43. Subsection (8) of section 391.021, Florida Statutes, 1998 Supplement, is amended to read:

391.021 Definitions.—When used in this act, unless the context clearly indicates otherwise:

(8) "Program" means the Children's Medical Services program established in the ~~Division of Children's Medical Services of the~~ department.

Section 44. Paragraph (b) of subsection (1) of section 391.221, Florida Statutes, 1998 Supplement, is amended to read:

391.221 Statewide Children's Medical Services Network Advisory Council.—

(1) The secretary of the department may appoint a Statewide Children's Medical Services Network Advisory Council for the purpose of acting as an advisory body to the department. Specifically, the duties of the council shall include, but not be limited to:

(b) Making recommendations to the director of ~~the Division of~~ Children's Medical Services concerning the selection of health care providers for the Children's Medical Services network.

Section 45. Subsection (1) of section 391.222, Florida Statutes, 1998 Supplement, is amended to read:

391.222 Cardiac Advisory Council.—

(1) The secretary of the department may appoint a Cardiac Advisory Council for the purpose of acting as the advisory body to the Department of Health ~~Division of Children's Medical Services~~ in the delivery of cardiac services to children. Specifically, the duties of the council shall include, but not be limited to:

(a) Recommending standards for personnel and facilities rendering cardiac services ~~for the Division of Children's Medical Services~~;

(b) Receiving reports of the periodic review of cardiac personnel and facilities to determine if established standards for the ~~Division of Children's Medical Services~~ cardiac services are met;

(c) Making recommendations to the ~~division~~ director as to the approval or disapproval of reviewed personnel and facilities;

(d) Making recommendations as to the intervals for reinspection of approved personnel and facilities; and

(e) Providing input ~~to the Division of Children's Medical Services~~ on all aspects of Children's Medical Services cardiac programs, including the rulemaking process.

Section 46. Section 391.223, Florida Statutes, 1998 Supplement, is amended to read:

391.223 Technical advisory panels.—The secretary of the department may establish technical advisory panels to assist ~~the Division of Children's Medical Services~~ in developing specific policies and procedures for the Children's Medical Services program.

Section 47. Subsection (3) of section 381.731, Florida Statutes, as amended by section 2 of chapter 98-224, Laws of Florida, is repealed.

Section 48. Subsection (5) of section 383.307, Florida Statutes, is repealed.

Section 49. Subsection (7) of section 404.20, Florida Statutes, is repealed.

Section 50. Section 409.9125, Florida Statutes, is repealed.

Section 51. The building that is known as the "1911 State Board of Health Building" which is part of a multi-building complex with the address of 1217 Pearl Street, Jacksonville, Florida, shall be known as the "Wilson T. Sowder, M.D., Building."

Section 52. The building authorized by chapter 98-307, Laws of Florida, which will be located at the University of South Florida which will house laboratory facilities for the Department of Health shall be known as the "William G. 'Doc' Myers, M.D., Building."

Section 53. The Department of Health headquarters building which will comprise approximately 100,000 square feet which is authorized by Specific Appropriation 1986 in the 1998-1999 General Appropriations Act shall be known as the "E. Charlton Prather, M.D., Building."

Section 54. The Department of Health may apply for and become a National Environmental Laboratory Accreditation Program accrediting authority. The department, as an accrediting entity, may adopt rules pursuant to sections 120.536(1) and 120.54, Florida Statutes, to implement standards of the National Environmental Laboratory Accreditation Program, including requirements for proficiency testing providers and other rules that are not inconsistent with this section, including rules pertaining to fees, application procedures, standards applicable to environmental or public water supply laboratories, and compliance.

Section 55. Section 381.0022, Florida Statutes, 1998 Supplement, is amended to read:

381.0022 Sharing confidential or exempt information.—

(1) Notwithstanding any other provision of law to the contrary, the Department of Health and the Department of Children and Family Services may share confidential information or information exempt from disclosure under chapter 119 on any individual who is or has been the subject of a program within the jurisdiction of each agency. Information so exchanged remains confidential or exempt as provided by law.

(2) Notwithstanding any other provision of law to the contrary, the Department of Health may share confidential information or information exempt from disclosure under chapter 119 on any individual who is or has been a Medicaid recipient and is or was the subject of a program within the jurisdiction of the Department of Health, for the purpose of requesting, receiving, or auditing payment for services. Information so exchanged remains confidential or exempt as provided by law.

Section 56. Paragraph (c) of subsection (2) of section 383.011, Florida Statutes, 1998 Supplement, is amended to read:

383.011 Administration of maternal and child health programs.—

(2) The Department of Health shall follow federal requirements and may adopt any rules necessary for the implementation of the maternal and child health care program, the WIC program, and the Child Care Food Program.

(c) With respect to the Child Care Food Program, the department shall adopt rules that interpret and implement relevant federal regulations, including 7 C.F.R. part 226. The rules may ~~must~~ address at least those program requirements and procedures identified in paragraph (1)(i).

Section 57. Section 468.304, Florida Statutes, 1998 Supplement, is amended to read:

468.304 Certification examination; admission.—The department shall admit to examination for certification any applicant who pays to the department a nonrefundable fee not to exceed $100 plus the actual per-applicant cost to the department for purchasing the examination from a national organization and submits satisfactory evidence, verified by oath or affirmation, that she or he:

(1) Is at least 18 years of age at the time of application;

(2) Is a high school graduate or has successfully completed the requirements for a graduate equivalency diploma (GED) or its equivalent;

(3) Is of good moral character; and

(4)(a) Has successfully completed an educational program, which program may be established in a hospital licensed pursuant to chapter 395 or in an accredited postsecondary academic institution which is subject to approval by the department as maintaining a satisfactory standard; or

(b)1. With respect to an applicant for a basic X-ray machine operator's certificate, has completed a course of study approved by the department with appropriate study material provided the applicant by the department;

2. With respect to an applicant for a basic X-ray machine operator-podiatric medicine certificate, has completed a course of study approved by the department, provided that such course of study shall be limited to that information necessary to perform radiographic procedures within the scope of practice of a podiatric physician licensed pursuant to chapter 461;

3. With respect only to an applicant for a general radiographer's certificate who is a basic X-ray machine operator certificateholder, has completed an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily practiced in a hospital, which educational or training program complies with the rules of the department; or

4. With respect only to an applicant for a nuclear medicine technologist's certificate who is a general radiographer certificateholder, has completed an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily

practiced in a hospital, which educational or training program complies with the rules of the department.

No application for a limited computed tomography certificate shall be accepted. All persons holding valid computed tomography certificates as of October 1, 1984, are subject to the provisions of s. 468.309.

Section 58. Subsection (4) of section 468.306, Florida Statutes, 1998 Supplement, is amended to read:

468.306 Examinations.—All applicants, except those certified pursuant to s. 468.3065, shall be required to pass an examination. The department is authorized to develop or use examinations for each type of certificate.

(4) A nonrefundable fee not to exceed $75 plus the actual per-applicant cost for purchasing the examination from a national organization shall be charged for any subsequent examination.

Section 59. Paragraph (a) of subsection (1) of section 468.309, Florida Statutes, is amended to read:

468.309 Certificate; duration; renewal; reversion to inactive status.—

(1)(a) A radiologic technologist's certificate issued in accordance with this part ~~automatically~~ expires as specified in rules adopted by the department which establish a procedure for the biennial renewal of certificates ~~on December 31 of the year following the year of issuance~~. A certificate shall be renewed by the department for a period of 2 years upon payment of a renewal fee in an amount not to exceed $75 and upon submission of a renewal application containing such information as the department deems necessary to show that the applicant for renewal is a radiologic technologist in good standing and has completed any continuing education requirements that ~~which may be established by~~ the department establishes.

Section 60. Subsection (1) of section 455.565, Florida Statutes, 1998 Supplement, is amended to read:

455.565 Designated health care professionals; information required for licensure.—

(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 461, except a person applying for registration pursuant to ss. 458.345 and 459.021 must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, except a person registered pursuant to ss. 458.345 and 459.021 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, 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 s. 455.697. An applicant for licensure under chapter 460 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, pursuant to s. 455.697.

Section 61. (1) The Division of Children's Medical Services of the Department of Health shall contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally–sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism.

(2) The private nonprofit provider shall report its findings to the Division of Children's Medical Services, the President of the Senate, the Speaker of the House of Representatives, and other appropriate bodies.

Section 62. The sum of $50,000 is appropriated to the Division of Children's Medical Services of the Department of Health from the General Revenue Fund for the purpose of implementing this act.

Section 63. Paragraph (b) of subsection (3) of section 232.435, Florida Statutes, is amended to read:

232.435 Extracurricular athletic activities; athletic trainers.—

(3)

(b) If a school district uses the services of an athletic trainer who is not a teacher athletic trainer or a teacher apprentice trainer within the requirements of this section, such athletic trainer must be licensed as required by part XIII ~~XIV~~ of chapter 468.

Section 64. Subsection (2) of section 381.026, Florida Statutes, 1998 Supplement, is amended to read:

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(2) DEFINITIONS.—As used in this section and s. 381.0261, the term:

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

(b)~~(a)~~ "Health care facility" means a facility licensed under chapter 395.

(c)~~(b)~~ "Health care provider" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, or a podiatric physician licensed under chapter 461.

(d)~~(c)~~ "Responsible provider" means a health care provider who is primarily responsible for patient care in a health care facility or provider's office.

Section 65. Subsection (4) of section 381.0261, Florida Statutes, 1998 Supplement, is amended to read:

381.0261 Summary of patient's bill of rights; distribution; penalty.—

(4)(a) An administrative fine may be imposed by the Agency for Health Care Administration when any ~~health care provider or~~ health care facility fails to make available to patients a summary of their rights, pursuant to s. 381.026 and this section. Initial nonwillful violations shall be subject to corrective action and shall not be subject to an administrative fine. The Agency for Health Care Administration may levy a fine against a health care facility of up to $5,000 for nonwillful violations~~,~~ and up to $25,000 for intentional and willful violations. Each intentional and willful violation constitutes a separate violation and is subject to a separate fine.

(b) An administrative fine may be imposed by the appropriate regulatory board, or the department if there is no board, when any health care provider fails to make available to patients a summary of their rights, pursuant to s. 381.026 and this section. Initial nonwillful violations shall be subject to corrective action and shall not be subject to an administrative fine. The appropriate regulatory board or department ~~agency~~ may levy a fine against a health care provider of up to $100 for nonwillful violations and up to $500 for willful violations. Each intentional and willful violation constitutes a separate violation and is subject to a separate fine.

Section 66. Subsection (11) of section 409.906, Florida Statutes, 1998 Supplement, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Optional services may include:

(11) HEALTHY START SERVICES.—The agency may pay for a continuum of risk-appropriate medical and psychosocial services for the Healthy Start program in accordance with a federal waiver. The agency may not implement the federal waiver unless the waiver permits the state to limit enrollment or the amount, duration, and scope of services to ensure that expenditures will not exceed funds appropriated by the Legislature or available from local sources. If the Health Care Financing Administration does not approve a federal waiver for Healthy Start services, the agency, in consultation with the Department of Health and the Florida Association of Healthy Start Coalitions, is authorized to establish a Medicaid certified-match program for Healthy Start services. Participation in the Healthy Start certified-match program shall be voluntary and reimbursement shall be limited to the federal Medicaid share to Medicaid-enrolled Healthy Start coalitions for services provided to Medicaid recipients. The agency shall take no action to implement a certified-match program without ensuring that the amendment and review requirements of ss. 216.177 and 216.181 have been met.

Section 67. Subsection (21) of section 409.910, Florida Statutes, 1998 Supplement, is renumbered as subsection (22), and a new subsection (21) is added to that section to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(21) Entities providing health insurance as defined in s. 624.603, and health maintenance organizations as defined in chapter 641, requiring tape or electronic billing formats from the agency shall accept Medicaid billings that are prepared using the current Medicare standard billing format. If the insurance entity or health maintenance organization is unable to use the agency format, the entity shall accept paper claims from the agency in lieu of tape or electronic billing, provided that these claims are prepared using current Medicare standard billing formats.

Section 68. Section 409.9101, Florida Statutes, is created to read:

409.9101 Recovery for payments made on behalf of Medicaid-eligible persons.—

(1) This section may be cited as the "Medicaid Estate Recovery Act."

(2) It is the intent of the Legislature by this section to supplement Medicaid funds that are used to provide medical services to eligible persons. Medicaid estate recovery shall generally be accomplished through the filing of claims against the estates of deceased Medicaid recipients. The recoveries shall be made pursuant to federal authority in s. 13612 of the Omnibus Budget Reconciliation Act of 1993, which amends s. 1917(b)(1) of the Social Security Act (42 U.S.C. s. 1396p(b)(1)).

(3) Pursuant to s. 733.212(4)(a), the personal representative of the estate of the decedent shall serve the agency with a copy of the notice of administration of the estate within 3 months after the first publication of the notice, unless the agency has already filed a claim pursuant to this section.

(4) The acceptance of public medical assistance, as defined by Title XIX (Medicaid) of the Social Security Act, including mandatory and optional supplemental payments under the Social Security Act, shall create a claim, as defined in s. 731.201, in favor of the agency as an interested person as defined in s. 731.201. The claim amount is calculated as the total amount paid to or for the benefit of the recipient for medical assistance on behalf of the recipient after he or she reached 55 years of age. There is no claim under this section against estates of recipients who had not yet reached 55 years of age.

(5) At the time of filing the claim, the agency may reserve the right to amend the claim amounts based on medical claims submitted by providers subsequent to the agency's initial claim calculation.

(6) The claim of the agency shall be the current total allowable amount of Medicaid payments as denoted in the agency's provider payment processing system at the time the agency's claim or amendment is filed. The agen-

cy's provider processing system reports shall be admissible as prima facie evidence in substantiating the agency's claim.

(7) The claim of the agency under this section shall constitute a Class 3 claim under s. 733.707(1)(c), as provided in s. 414.28(1).

(8) The claim created under this section shall not be enforced if the recipient is survived by:

(a) A spouse;

(b) A child or children under 21 years of age; or

(c) A child or children who are blind or permanently and totally disabled pursuant to the eligibility requirements of Title XIX of the Social Security Act.

(9) In accordance with s. 4, Art. X of the State Constitution, no claim under this section shall be enforced against any property that is determined to be the homestead of the deceased Medicaid recipient and is determined to be exempt from the claims of creditors of the deceased Medicaid recipient.

(10) The agency shall not recover from an estate if doing so would cause undue hardship for the qualified heirs, as defined in s. 731.201. The personal representative of an estate and any heir may request that the agency waive recovery of any or all of the debt when recovery would create a hardship. A hardship does not exist solely because recovery will prevent any heirs from receiving an anticipated inheritance. The following criteria shall be considered by the agency in reviewing a hardship request:

(a) The heir:

1. Currently resides in the residence of the decedent;

2. Resided there at the time of the death of the decedent;

3. Has made the residence his or her primary residence for the 12 months immediately preceding the death of the decedent; and

4. Owns no other residence;

(b) The heir would be deprived of food, clothing, shelter, or medical care necessary for the maintenance of life or health;

(c) The heir can document that he or she provided full-time care to the recipient which delayed the recipient's entry into a nursing home. The heir must be either the decedent's sibling or the son or daughter of the decedent and must have resided with the recipient for at least 1 year prior to the recipient's death; or

(d) The cost involved in the sale of the property would be equal to or greater than the value of the property.

(11) Instances arise in Medicaid estate-recovery cases where the assets include a settlement of a claim against a liable third party. The agency's

claim under s. 409.910 must be satisfied prior to including the settlement proceeds as estate assets. The remaining settlement proceeds shall be included in the estate and be available to satisfy the Medicaid estate-recovery claim. The Medicaid estate-recovery share shall be one-half of the settlement proceeds included in the estate. Nothing in this subsection is intended to limit the agency's rights against other assets in the estate not related to the settlement. However, in no circumstances shall the agency's recovery exceed the total amount of Medicaid medical assistance provided to the recipient.

(12) In instances where there are no liquid assets to satisfy the Medicaid estate-recovery claim, if there is nonhomestead real property and the costs of sale will not exceed the proceeds, the property shall be sold to satisfy the Medicaid estate-recovery claim. Real property shall not be transferred to the agency in any instance.

(13) The agency is authorized to adopt rules to implement the provisions of this section.

Section 69. Paragraph (d) of subsection (3) of section 409.912, Florida Statutes, 1998 Supplement, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(3) The agency may contract with:

(d) No more than four provider service networks for demonstration projects to test Medicaid direct contracting. ~~One demonstration project must be located in Orange County.~~ The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for 2 years from the date of implementation.

Section 70. Paragraph (a) of subsection (24) of section 409.913, Florida Statutes, is amended to read:

409.913 Oversight of the integrity of the Medicaid program.—The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate.

(24)(a) The agency may withhold Medicaid payments, in whole or in part, to a provider upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud or willful misrepresentation under the Medicaid program, or a crime committed while rendering goods or services to Medicaid recipients, ~~up to the amount of the overpayment as determined by final agency audit report,~~ pending completion of legal proceedings ~~under this section~~. ~~If the agency withholds payments under this section, the Medicaid payment may not be reduced by more than 10 percent.~~ If it is ~~has been~~ determined that fraud, willful misrepresentation, or a crime did not occur ~~an overpayment has not occurred~~, the payments withheld must be paid to the provider within 14 ~~60~~ days after such determination with interest at the rate of 10 percent a year. Any money withheld in accordance with this paragraph shall be placed in a suspended account, readily accessible to the agency, so that any payment ultimately due the provider shall be made within 14 days. Furthermore, the authority to withhold payments under this paragraph shall not apply to physicians whose alleged overpayments are being determined by administrative proceedings pursuant to chapter 120. ~~If the amount of the alleged overpayment exceeds $75,000, the agency may reduce the Medicaid payments by up to $25,000 per month.~~

Section 71. Section 409.9131, Florida Statutes, is created to read:

409.9131 Special provisions relating to integrity of the Medicaid program.—

(1) LEGISLATIVE FINDINGS AND INTENT.—It is the intent of the Legislature that physicians, as defined in this section, be subject to Medicaid fraud and abuse investigations in accordance with the provisions set forth in this section as a supplement to the provisions contained in s. 409.913. If a conflict exists between the provisions of this section and s. 409.913, it is the intent of the Legislature that the provisions of this section shall control.

(2) DEFINITIONS.—For purposes of this section, the term:

(a) "Active practice" means a physician must have regularly provided medical care and treatment to patients within the past 2 years.

(b) "Medical necessity" or "medically necessary" means any goods or services necessary to palliate the effects of a terminal condition or to prevent, diagnose, correct, cure, alleviate, or preclude deterioration of a condition that threatens life, causes pain or suffering, or results in illness or infirmity, which goods or services are provided in accordance with generally accepted standards of medical practice. For purposes of determining Medicaid reimbursement, the agency is the final arbiter of medical necessity. In making determinations of medical necessity, the agency must, to the maximum extent possible, use a physician in active practice, either employed by or

under contract with the agency, of the same specialty or subspecialty as the physician under review. Such determination must be based upon the information available at the time the goods or services were provided.

(c) "Peer" means a Florida licensed physician who is, to the maximum extent possible, of the same specialty or subspecialty, licensed under the same chapter, and in active practice.

(d) "Peer review" means an evaluation of the professional practices of a Medicaid physician provider by a peer or peers in order to assess the medical necessity, appropriateness, and quality of care provided, as such care is compared to that customarily furnished by the physician's peers and to recognized health care standards, and to determine whether the documentation in the physician's records is adequate.

(e) "Physician" means a person licensed to practice medicine under chapter 458 or a person licensed to practice osteopathic medicine under chapter 459.

(f) "Professional services" means procedures provided to a Medicaid recipient, either directly by or under the supervision of a physician who is a registered provider for the Medicaid program.

(3) ONSITE RECORDS REVIEW.—As specified in s. 409.913(8), the agency may investigate, review, or analyze a physician's medical records concerning Medicaid patients. The physician must make such records available to the agency during normal business hours. The agency must provide notice to the physician at least 24 hours before such visit. The agency and physician shall make every effort to set a mutually agreeable time for the agency's visit during normal business hours and within the 24-hour period. If such a time cannot be agreed upon, the agency may set the time.

(4) NOTICE OF DUE PROCESS RIGHTS REQUIRED.—Whenever the agency seeks an administrative remedy against a physician pursuant to this section or s. 409.913, the physician must be advised of his or her rights to due process under chapter 120. This provision shall not limit or hinder the agency's ability to pursue any remedy available to it under s. 409.913 or other applicable law.

(5) DETERMINATIONS OF OVERPAYMENT.—In making a determination of overpayment to a physician, the agency must:

(a) Use accepted and valid auditing, accounting, analytical, statistical, or peer-review methods, or combinations thereof. Appropriate statistical methods may include, but are not limited to, sampling and extension to the population, parametric and nonparametric statistics, tests of hypotheses, other generally accepted statistical methods, review of medical records, and a consideration of the physician's client case mix. Before performing a review of the physician's Medicaid records, however, the agency shall make every effort to consider the physician's patient case mix, including, but not limited to, patient age and whether individual patients are clients of the Children's Medical Services network established in chapter 391. In meeting its burden of proof in any administrative or court proceeding, the agency

may introduce the results of such statistical methods and its other audit findings as evidence of overpayment.

(b) Refer all physician service claims for peer review when the agency's preliminary analysis indicates a potential overpayment, and before any formal proceedings are initiated against the physician, except as required by s. 409.913.

(c) By March 1, 2000, the agency shall study and report to the Legislature on its current statistical model used to calculate overpayments and advise the Legislature what, if any, changes, improvements, or other modifications should be made to the statistical model. Such review shall include, but not be limited to, a review of the appropriateness of including physician specialty and case-mix parameters within the statistical model.

Section 72. Subsections (4) and (6) of section 455.501, Florida Statutes, are amended to read:

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

(4) "Health care practitioner" means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, ~~or~~ part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part III or part IV of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

(6) "Licensee" means any person or entity issued a permit, registration, certificate, or license by the department.

Section 73. Section 455.507, Florida Statutes, is amended to read:

455.507 Members of Armed Forces in good standing with administrative boards or department.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of ~~his~~ becoming such a member, was in good standing with any administrative board of the state, or the department when there is no board, and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, or the department when there is no board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after ~~his~~ discharge from active duty as a member of the Armed Forces of the United States, provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

(2) The boards listed in s. ~~ss. 20.165 and~~ 20.43, or the department when there is no board, shall adopt rules exempting the spouses of members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

Section 74. Section 455.521, Florida Statutes, 1998 Supplement, is amended to read:

455.521 Department; powers and duties.—The department, for the professions ~~boards~~ under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of each board, subject to the approval of the board.

(3) Submit an annual budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the appropriate profession and with the structure of the department.

(5) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part.

(6) Establish by rules procedures by which the department shall use the expert or technical advice of the appropriate board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(7) Require all proceedings of any board or panel thereof and all formal or informal proceedings conducted by the department, an administrative law judge, or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the respective boards.

(9) Allow applicants for new or renewal licenses and current licensees to be screened by the Title IV-D child support agency pursuant to s. 409.2598 to assure compliance with a support obligation. The purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. The department shall, when directed by the court, suspend or deny the license of any licensee found to have a delinquent support obligation. The department shall issue or reinstate the license without additional charge to the licensee when notified by the court that the licensee has complied with the terms of the court order. The department shall not be held liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

Section 75. Section 455.557, Florida Statutes, 1998 Supplement, is amended to read:

455.557 Standardized credentialing for health care practitioners.—

(1) INTENT.—The Legislature recognizes that an efficient and effective health care practitioner credentialing program helps to ensure access to quality health care and also recognizes that health care practitioner credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. Moreover, the resulting duplication of health care practitioner credentialing activities is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. Therefore, it is the intent of this section that a ~~mandatory~~ credentials collection ~~verification~~ program be established which provides that, once a health care practitioner's core credentials data are collected, ~~validated, maintained, and stored,~~ they need not be collected again, except for corrections, updates, and modifications thereto. Participation ~~Mandatory credentialing~~ under this section shall initially include those individuals licensed under chapter 458, chapter 459, chapter 460, or chapter 461. However, the department shall, with the approval of the applicable board, include other professions under the jurisdiction of the Division of Medical Quality Assurance in this ~~credentialing~~ program, provided they meet the requirements of s. 455.565.

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

(a) "Advisory council" or "council" means the Credentials ~~Verification~~ Advisory Council.

~~(b) "Applicant" means an individual applying for licensure or a current licensee applying for credentialing.~~

(b)~~(c)~~ "Certified" or "accredited," as applicable, means approved by a quality assessment program, from the National Committee for Quality Assurance, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC ~~Utilization Review Accreditation Commission~~, or any such other nationally recognized and accepted organization authorized by the department, used to assess and certify any credentials verification program, entity, or organization that verifies the credentials of any health care practitioner.

(c)~~(d)~~ "Core credentials data" means the following data: current name, any former name, and any alias, any professional education, professional training, ~~peer references,~~ licensure, current Drug Enforcement Administration certification, social security number, specialty board certification, Educational Commission for Foreign Medical Graduates certification ~~information~~, hospital or ~~affiliations, managed care organization affiliations,~~ other institutional affiliations, ~~professional society memberships,~~ evidence of professional liability coverage or evidence of financial responsibility as required by s. 458.320 or s. 459.0085 ~~insurance~~, history of claims, suits, judgments, or settlements, final disciplinary action reported pursuant to s. 455.565(1)(a)8., and Medicare or Medicaid sanctions~~, civil or criminal law violations, practitioner profiling data, special conditions of impairment, or~~

~~regulatory exemptions not previously reported to the department in accordance with both s. 455.565 and the initial licensure reporting requirements specified in the applicable practice act~~.

(d)~~(e)~~ "Credential" or "credentialing" means the process of assessing and verifying ~~validating~~ the qualifications of a licensed health care practitioner or applicant for licensure as a health care practitioner.

(e)~~(f)~~ "Credentials verification organization ~~entity~~" means any ~~program, entity, or~~ organization ~~that is organized and~~ certified or accredited as a credentials verification organization ~~for the express purpose of collecting, verifying, maintaining, storing, and providing to health care entities a health care practitioner's total core credentials data, including all corrections, updates, and modifications thereto, as authorized by the health care practitioner and in accordance with the provisions of this including all corrections, updates, and modifications thereto, as authorized by the health care practitioner and in accordance with the provisions of this section. The division, once certified, shall be considered a credentials verification entity for all health care practitioners~~.

(f)~~(g)~~ "Department" means the Department of Health, Division of Medical Quality Assurance.

(g)~~(h)~~ "Designated credentials verification organization ~~entity~~" means the credentials verification ~~program, entity, or~~ organization ~~organized and certified or accredited for the express purpose of collecting, verifying, maintaining, storing, and providing to health care entities a health care practitioner's total core credentials data, including all corrections, updates, and modifications thereto,~~ which is selected by the health care practitioner ~~as the credentials verification entity for all inquiries into his or her credentials~~, if the health care practitioner chooses to make such a designation. ~~Notwithstanding any such designation by a health care practitioner, the division, once certified, shall also be considered a designated credentials verification entity for that health care practitioner.~~

(h) "Drug Enforcement Administration certification" means certification issued by the Drug Enforcement Administration for purposes of administration or prescription of controlled substances. Submission of such certification under this section must include evidence that the certification is current and must also include all current addresses to which the certificate is issued.

~~(i) "Division" means the Division of Medical Quality Assurance within the Department of Health.~~

(i)~~(j)~~ "Health care entity" means:

1. Any health care facility or other health care organization licensed or certified to provide approved medical and allied health services in this state ~~Florida~~; ~~or~~

2. Any entity licensed by the Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers; or

3. Any accredited medical school in this state.

(j)~~(k)~~ "Health care practitioner" means any person licensed, or, for credentialing purposes only, any person applying for licensure, under chapter 458, chapter 459, chapter 460, or chapter 461 or any person licensed or applying for licensure under a chapter subsequently made subject to this section by the department with the approval of the applicable board, except a person registered or applying for registration pursuant to s. 458.345 or s. 459.021.

(k) "Hospital or other institutional affiliations" means each hospital or other institution for which the health care practitioner or applicant has provided medical services. Submission of such information under this section must include, for each hospital or other institution, the name and address of the hospital or institution, the staff status of the health care practitioner or applicant at that hospital or institution, and the dates of affiliation with that hospital or institution.

(l) "National accrediting organization" means an organization that awards accreditation or certification to hospitals, managed care organizations, credentials verification organizations, or other health care organizations, including, but not limited to, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC, and the National Committee for Quality Assurance.

(m) "Professional training" means any internship, residency, or fellowship relating to the profession for which the health care practitioner is licensed or seeking licensure.

(n) "Specialty board certification" means certification in a specialty issued by a specialty board recognized by the board in this state that regulates the profession for which the health care practitioner is licensed or seeking licensure.

~~(m) "Primary source verification" means verification of professional qualifications based on evidence obtained directly from the issuing source of the applicable qualification.~~

~~(n) "Recredentialing" means the process by which a credentials verification entity verifies the credentials of a health care practitioner whose core credentials data, including all corrections, updates, and modifications thereto, are currently on file with the entity.~~

~~(o) "Secondary source verification" means confirmation of a professional qualification by means other than primary source verification, as outlined and approved by national accrediting organizations.~~

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.—

(a) Every health care practitioner shall:

1. Report all core credentials data to the department which is not already on file with the department, either by designating a credentials verification organization to submit the data or by submitting the data directly.

2. Notify the department within 45 days of any corrections, updates, or modifications to the core credentials data either through his or her designated credentials verification organization or by submitting the data directly. Corrections, updates, and modifications to the core credentials data provided the department under this section shall comply with the updating requirements of s. 455.565(3) related to profiling.

(b)~~(a) In accordance with the provisions of this section,~~ The department shall:

1. Maintain a complete, current file of core credentials data on each health care practitioner, which shall include all updates provided in accordance with subparagraph (3)(a)2.

2. Release the core credentials data that is otherwise confidential or exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and any corrections, updates, and modifications thereto, if authorized by the health care practitioner.

3. Charge a fee to access the core credentials data, which may not exceed the actual cost, including prorated setup and operating costs, pursuant to the requirements of chapter 119. The actual cost shall be set in consultation with the advisory council.

4. Develop, in consultation with the advisory council, standardized forms to be used by the health care practitioner or designated credentials verification organization for the initial reporting of core credentials data, for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto ~~develop standardized forms necessary for the creation of a standardized system as well as guidelines for collecting, verifying, maintaining, storing, and providing core credentials data on health care practitioners through credentials verification entities, except as otherwise provided in this section, for the purpose of eliminating duplication. Once the core credentials data are submitted, the health care practitioner is not required to resubmit this initial data when applying for practice privileges with health care entities. However, as provided in paragraph (d), each health care practitioner is responsible for providing any corrections, updates, and modifications to his or her core credentials data, to ensure that all credentialing data on the practitioner remains current. Nothing in this paragraph prevents the designated credentials verification entity from obtaining all necessary attestation and release form signatures and dates~~.

5.~~(b)~~ Establish ~~There is established~~ a Credentials ~~Verification~~ Advisory Council, consisting of 13 members, to assist the department as provided in this section ~~with the development of guidelines for establishment of the standardized credentials verification program~~. The secretary, or his or her designee, shall serve as one member and chair of the council and shall appoint the remaining 12 members. Except for any initial lesser term required to achieve staggering, such appointments shall be for 4-year staggered terms, with one 4-year reappointment, as applicable. Three members shall represent hospitals, and two members shall represent health maintenance organizations. One member shall represent health insurance entities.

One member shall represent the credentials verification industry. Two members shall represent physicians licensed under chapter 458. One member shall represent osteopathic physicians licensed under chapter 459. One member shall represent chiropractic physicians licensed under chapter 460. One member shall represent podiatric physicians licensed under chapter 461.

(c) A registered credentials verification organization may be designated by a health care practitioner to assist the health care practitioner to comply with the requirements of subsection (3)(a)2. A designated credentials verification organization shall:

1. Timely comply with the requirements of subsection (3)(a)2., pursuant to rules adopted by the department.

2. Not provide the health care practitioner's core data, including all corrections, updates, and modifications, without the authorization of the practitioner.

~~(c) The department, in consultation with the advisory council, shall develop standard forms for the initial reporting of core credentials data for credentialing purposes and for the subsequent reporting of corrections, updates, and modifications thereto for recredentialing purposes.~~

~~(d) Each health care practitioner licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or any person licensed under a chapter subsequently made subject to this section, must report any action or information as defined in paragraph (2)(d), including any correction, update, or modification thereto, as soon as possible but not later than 30 days after such action occurs or such information is known, to the department or his or her designated credentials verification entity, if any, who must report it to the department. In addition, a licensee must update, at least quarterly, his or her data on a form prescribed by the department.~~

~~(e) An individual applying for licensure under chapter 458, chapter 459, chapter 460, or chapter 461, or any person applying for licensure under a chapter subsequently made subject to this section, must submit the individual's initial core credentials data to a credentials verification entity, if such information has not already been submitted to the department or the appropriate licensing board or to any other credentials verification entity.~~

~~(f) Applicants may decide which credentials verification entity they want to process and store their core credentials data; however, such data shall at all times be maintained by the department. An applicant may choose not to designate a credentials verification entity, provided the applicant has a written agreement with the health care entity or entities that are responsible for his or her credentialing. In addition, any licensee may choose to move his or her core credentials data from one credentials verification entity to another.~~

~~(g) Any health care entity that employs, contracts with, or allows health care practitioners to treat its patients must use the designated credentials~~

~~verification entity to obtain core credentials data on a health care practitioner applying for privileges with that entity, if the health care practitioner has made such a designation, or may use the division in lieu thereof as the designated credentials verification entity required for obtaining core credentials data on such health care practitioner. Any additional information required by the health care entity's credentialing process may be collected from the primary source of that information either by the health care entity or its contractee or by the designated credentials verification entity.~~

~~(h) Nothing in this section may be construed to restrict the right of any health care entity to request additional information necessary for credentialing.~~

~~(i) Nothing in this section may be construed to restrict access to the National Practitioner Data Bank by the department, any health care entity, or any credentials verification entity.~~

(d)~~(j)~~ ~~Nothing in~~ This section shall not ~~may~~ be construed to restrict in any way the authority of the health care entity to credential and to approve or deny an application for hospital staff membership, clinical privileges, or managed care network participation.

~~(4) DELEGATION BY CONTRACT.—A health care entity may contract with any credentials verification entity to perform the functions required under this section. The submission of an application for health care privileges with a health care entity shall constitute authorization for the health care entity to access the applicant's core credentials data with the department or the applicant's designated credentials verification entity, if the applicant has made such a designation.~~

~~(5) AVAILABILITY OF DATA COLLECTED.—~~

~~(a) The department shall make available to a health care entity or credentials verification entity registered with the department all core credentials data it collects on any licensee that is otherwise confidential and exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution, including corrections, updates, and modifications thereto, if a health care entity submits proof of the licensee's current pending application for purposes of credentialing the applicant based on the core credentials data maintained by the department.~~

~~(b) Each credentials verification entity shall make available to a health care entity the licensee has authorized to receive the data, and to the department at the credentials verification entity's actual cost of providing the data, all core credentials data it collects on any licensee, including all corrections, updates, and modifications thereto.~~

~~(c) The department shall charge health care entities and other credentials verification entities a reasonable fee, pursuant to the requirements of chapter 119, to access all credentialing data it maintains on applicants and licensees. The fee shall be set in consultation with the advisory council and may not exceed the actual cost of providing the data.~~

~~(4)~~(6) DUPLICATION OF DATA PROHIBITED.—

(a) A health care entity or credentials verification organization is prohibited from collecting or attempting ~~may not collect or attempt~~ to collect duplicate core credentials data from any ~~individual~~ health care practitioner ~~or from any primary source~~ if the information is available from ~~already on file with~~ the department ~~or with any credentials verification entity~~. This section shall not be construed to restrict the right of any health care entity or credentials verification organization to collect additional information from the health care practitioner which is not included in the core credentials data file. This section shall not be construed to prohibit a health care entity or credentials verification organization from obtaining all necessary attestation and release form signatures and dates.

(b) Effective July 1, 2002, a state agency in this state which credentials health care practitioners may not collect or attempt to collect duplicate core credentials data from any individual health care practitioner if the information is already available from the department. This section shall not be construed to restrict the right of any such state agency to request additional information not included in the core credential data file, but which is deemed necessary for the agency's specific credentialing purposes.

~~(b) A credentials verification entity other than the department may not attempt to collect duplicate core credentials data from any individual health care practitioner if the information is already on file with another credentials verification entity or with the appropriate licensing board of another state, provided the other state's credentialing program meets national standards and is certified or accredited, as outlined by national accrediting organizations, and agrees to provide all data collected under such program on that health care practitioner.~~

~~(7) RELIABILITY OF DATA.—Any credentials verification entity may rely upon core credentials data, including all corrections, updates, and modifications thereto, from the department if the department certifies that the information was obtained in accordance with primary source verification procedures; and the department may rely upon core credentials data, including all corrections, updates, and modifications thereto, from any credentials verification entity if the designated credentials verification entity certifies that the information was obtained in accordance with primary source verification procedures.~~

(5)~~(8)~~ STANDARDS AND REGISTRATION.—

~~(a) The department's credentials verification procedures must meet national standards, as outlined by national accrediting organizations.~~

~~(b)~~ Any credentials verification organization ~~entity~~ that does business in this state ~~Florida~~ must be fully accredited or certified as a credentials verification organization ~~meet national standards, as outlined~~ by a national accrediting organization as specified in paragraph (2)(b) ~~organizations,~~ and must register with the department. The department may charge a reasonable registration fee, set in consultation with the advisory council, not to exceed an amount sufficient to cover its actual expenses in providing and

enforcing ~~for~~ such registration. The department shall establish by rule for biennial renewal of such registration. Failure by a registered ~~Any~~ credentials verification organization to maintain full accreditation or certification, to provide data as authorized by the health care practitioner, to report to the department changes, updates, and modifications to a health care practitioner's records within the time period specified in subparagraph (3)(a)2., or to comply with the prohibition against collection of duplicate core credentials data from a practitioner may result in denial of an application for renewal of registration or in revocation or suspension of a registration ~~entity that fails to meet the standards required to be certified or accredited, fails to register with the department, or fails to provide data collected on a health care practitioner may not be selected as the designated credentials verification entity for any health care practitioner~~.

(6)~~(9)~~ LIABILITY.—No civil, criminal, or administrative action may be instituted, and there shall be no liability, against any registered credentials verification organization or health care entity on account of its reliance on any data obtained directly from the department ~~a credentials verification entity~~.

~~(10) REVIEW.—Before releasing a health care practitioner's core credentials data from its data bank, a designated credentials verification entity other than the department must provide the practitioner up to 30 days to review such data and make any corrections of fact.~~

~~(11) VALIDATION OF CREDENTIALS.—Except as otherwise acceptable to the health care entity and applicable certifying or accrediting organization listed in paragraph (2)(c), the department and all credentials verification entities must perform primary source verification of all credentialing information submitted to them pursuant to this section; however, secondary source verification may be utilized if there is a documented attempt to contact primary sources. The validation procedures used by the department and credentials verification entities must meet the standards established by rule pursuant to this section.~~

(7)~~(12)~~ LIABILITY INSURANCE REQUIREMENTS.—~~The department, in consultation with the Credentials Verification Advisory Council, shall establish the minimum liability insurance requirements for~~ Each credentials verification organization ~~entity~~ doing business in this state shall maintain liability insurance appropriate to meet the certification or accreditation requirements established in this section.

(8)~~(13)~~ RULES.—The department, in consultation with the advisory council ~~applicable board~~, shall adopt rules necessary to develop and implement the standardized core credentials data collection ~~verification~~ program established by this section.

(9) COUNCIL ABOLISHED; DEPARTMENT AUTHORITY.—The council shall be abolished October 1, 1999. After the council is abolished, all duties of the department required under this section to be in consultation with the council may be carried out by the department on its own.

Section 76. Subsections (1), (2), (6), (7), (8), and (9) of section 455.564, Florida Statutes, 1998 Supplement, are amended to read:

455.564 Department; general licensing provisions.—

(1) Any person desiring to be licensed in a profession within the jurisdiction of the department shall apply to the department in writing to take the licensure examination. The application shall be made on a form prepared and furnished by the department and shall require the social security number of the applicant. The form shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. An incomplete application shall expire 1 year after initial filing. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department.

(2) Before the issuance of any license, the department may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule. The license ~~licensee~~ shall consist of ~~be issued~~ a wallet-size identification card and a wall card measuring 6½ inches by 5 inches. In addition to the two-part license, the department, at the time of initial licensure, shall issue a wall certificate suitable for conspicuous display, which shall be no smaller than 8½ inches by 14 inches. The licensee shall surrender to the department the wallet-size identification card, the wall card, and the wall certificate, if one has been issued by the department, if the licensee's license is ~~suspended or~~ revoked. ~~The department shall promptly return the wallet-size identification card and the wall certificate to the licensee upon reinstatement of a suspended or revoked license.~~

(6) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic Medicine, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years~~, which may include up to 1 hour of risk management or cost containment and up to 2 hours of other topics related to the applicable medical specialty, if required by board rule~~. The boards may require by rule that up to 1 hour of the required 40 or more hours be in the area of risk management or cost containment. This provision shall not be construed to limit the number of hours that a licensee may obtain in risk management or cost containment to be credited toward satisfying the 40 or more required hours. This provision shall not be construed to require the boards to impose any requirement on licensees except for the completion of at least 40 hours of continuing

education every 2 years. Each of such boards shall determine whether any specific continuing education ~~course~~ requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any continuing education ~~course~~ mandated by such board. Notwithstanding any other provision of law, the board, or the department when there is no board, may approve by rule alternative methods of obtaining continuing education credits in risk management. The alternative methods may include attending a board meeting at which another ~~a~~ licensee is disciplined, serving as a volunteer expert witness for the department in a disciplinary case, or serving as a member of a probable cause panel following the expiration of a board member's term. Other boards within the Division of Medical Quality Assurance, or the department if there is no board, may adopt rules granting continuing education hours in risk management for attending a board meeting at which another licensee is disciplined, serving as a volunteer expert witness for the department in a disciplinary case, or serving as a member of a probable cause panel following the expiration of a board member's term.

(7) The respective boards within the jurisdiction of the department, or the department when there is no board, may adopt rules to provide for the use of approved videocassette courses, not to exceed 5 hours per subject, to fulfill the continuing education requirements of the professions they regulate. Such rules shall provide for prior ~~board~~ approval of the board, or the department when there is no board, of the criteria for and content of such courses and shall provide for a videocassette course validation form to be signed by the vendor and the licensee and submitted to the department, along with the license renewal application, for continuing education credit.

(8) Any board that currently requires continuing education for renewal of a license, or the department if there is no board, shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board, or the department if there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this subsection. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department if there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department if there is no board, may make rules to define underserved and critical need areas. The department shall adopt rules for administering continuing education requirements adopted by the boards or the department if there is no board.

(9) Notwithstanding any law to the contrary, an elected official who is licensed under a practice act administered by the Division of Medical ~~Health~~ Quality Assurance may hold employment for compensation with any public agency concurrent with such public service. Such dual service must be disclosed according to any disclosure required by applicable law.

Section 77. Present subsections (5), (6), and (7) of section 455.5651, Florida Statutes, 1998 Supplement, are renumbered as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to that section, to read:

455.5651 Practitioner profile; creation.—

(5) The Department of Health may not include disciplinary action taken by a licensed hospital or an ambulatory surgical center in the practitioner profile.

Section 78. Section 455.567, Florida Statutes, is amended to read:

455.567 Sexual misconduct; disqualification for license, certificate, or registration.—

(1) Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant has:

(a)~~(1)~~ Had any license, certificate, or registration to practice any profession or occupation revoked or surrendered based on a violation of sexual misconduct in the practice of that profession under the laws of any other state or any territory or possession of the United States and has not had that license, certificate, or registration reinstated by the licensing authority of the jurisdiction that revoked the license, certificate, or registration; or

(b)~~(2)~~ Committed any act in any other state or any territory or possession of the United States which if committed in this state would constitute sexual misconduct.

For purposes of this subsection, a licensing authority's acceptance of a candidate's relinquishment of a license which is offered in response to or in anticipation of the filing of administrative charges against the candidate's license constitutes the surrender of the license.

Section 79. Subsection (2) of section 455.574, Florida Statutes, 1998 Supplement, is amended to read:

455.574 Department of Health; examinations.—

(2) For each examination developed by the department or a contracted vendor, the board, or the department when there is no board, shall adopt rules providing for reexamination of any applicants who failed an examination developed by the department or a contracted vendor. If both a written

and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which the applicant failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or the department when there is no board, of passing the other portion. Except for national examinations approved and administered pursuant to this section, the department shall provide procedures for applicants who fail an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of the applicant's examination grades.

Section 80. Subsection (1) of section 455.587, Florida Statutes, is amended, present subsections (2) through (7) are renumbered as subsections (3) through (8), respectively, and a new subsection (2) is added to that section, to read:

455.587 Fees; receipts; disposition for boards within the department.—

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

(2) Each board, or the department if there is no board, may charge a fee not to exceed $25, as determined by rule, for the issuance of a wall certificate pursuant to s. 455.564(2) requested by a licensee who was licensed prior to July 1, 1998, or for the issuance of a duplicate wall certificate requested by any licensee.

Section 81. Section 455.601, Florida Statutes, is amended to read:

455.601 Hepatitis B or human immunodeficiency carriers.—

(1) The department and each appropriate board within the Division of Medical Quality Assurance shall have the authority to establish procedures to handle, counsel, and provide other services to health care professionals within their respective boards who are infected with hepatitis B or the human immunodeficiency virus.

(2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, as that term is defined in s. 381.004(2)(c), to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

Section 82. Subsections (1) and (6) of section 455.604, Florida Statutes, 1998 Supplement, are amended to read:

455.604 Requirement for instruction for certain licensees on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The appropriate board shall require each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; part II, part III, ~~or~~ part V, or part X of chapter 468; or chapter 486 to complete a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.

(6) The board shall require as a condition of granting a license under the chapters and parts specified in subsection (1) that an applicant making initial application for licensure complete an educational 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 an affidavit showing good cause, be allowed 6 months to complete this requirement.

Section 83. Subsection (1) of section 455.607, Florida Statutes, is amended to read:

455.607 Athletic trainers and massage therapists; requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The board, or the department where there is no board, shall require each person licensed or certified under part XIII ~~XIV~~ of chapter 468 or chapter 480 to complete a continuing educational course approved by the board, or the department where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome, with an emphasis on appropriate behavior and attitude change.

Section 84. Paragraphs (t), (u), (v), (w), and (x) are added to subsection (1) of section 455.624, Florida Statutes, subsection (2) of that section is amended, present subsection (3) of that section is renumbered as subsection (4) and amended, present subsections (4) and (5) of that subsection are renumbered as subsections (5) and (6), respectively, and a new subsection (3) is added to that section, to read:

455.624 Grounds for discipline; penalties; enforcement.—

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

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

(u) Engaging or attempting to engage a patient or client in verbal or physical sexual activity. For the purposes of this section, a patient or client shall be presumed to be incapable of giving free, full, and informed consent to verbal or physical sexual activity.

(v) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(w) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

(x) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents pursuant to s. 316.066, or using information published in a newspaper or other news publication or through

a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in such accidents.

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

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

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $10,000 ~~$5,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g) Corrective action.

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

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

(3) Notwithstanding subsection (2), if the ground for disciplinary action is the first-time failure of the licensee to satisfy continuing education requirements established by the board, or by the department if there is no board, the board or department, as applicable, shall issue a citation in accordance with s. 455.617 and assess a fine, as determined by the board or department by rule. In addition, for each hour of continuing education not completed or completed late, the board or department, as applicable, may require the licensee to take 1 additional hour of continuing education for each hour not completed or completed late.

~~(4)~~(3) In addition to any other discipline imposed pursuant to this section or discipline imposed for a violation of any practice act, the board, or the department when there is no board, may assess costs related to the investigation and prosecution of the case ~~excluding costs associated with an attorney's time~~. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Section 85. Section 455.664, Florida Statutes, is amended to read:

455.664 Advertisement by a health care practitioner ~~provider~~ of free or discounted services; required statement.—In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a health care practitioner ~~provider~~ licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, chapter 467, chapter 478, chapter 483, chapter 484, ~~or~~ chapter 486, chapter 490, or chapter 491, the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care practitioner ~~provider~~ defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

Section 86. Subsections (7) and (16) of section 455.667, Florida Statutes, 1998 Supplement, are amended to read:

455.667 Ownership and control of patient records; report or copies of records to be furnished.—

(7)(a)1. ~~The department may obtain patient records and insurance information, if the complaint being investigated alleges inadequate medical care based on termination of insurance.~~ The department may obtain patient ~~access these~~ records pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this part or any professional practice act or that a health care practitioner has practiced his or her profession below that level of care, skill, and treatment required as defined by this part or any professional practice act~~; provided, however, the~~ and also find that appropriate, reasonable attempts were made to obtain a patient release.

2. The department may obtain patient records and insurance information pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has provided inadequate medical care based on termination of insurance and also find that appropriate, reasonable attempts were made to obtain a patient release.

3. The department may obtain patient records, billing records, insurance information, provider contracts, and all attachments thereto pursuant to a subpoena without written authorization from the patient if the department and probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has submitted a claim, statement, or bill using a billing code that would result in payment greater in amount than would be paid using a billing code that accurately describes the services performed, requested payment for services that were not performed by that health care practitioner, used information derived from a written report of an automobile accident generated pursuant to chapter 316 to solicit or obtain patients personally or through an agent regardless of whether the information is derived directly from the report or a summary of that report or from another person, solicited patients fraudulently, received a kickback as defined in s. 455.657, violated the patient brokering provisions of s. 817.505, or presented or caused to be presented a false or fraudulent insurance claim within the meaning of s. 817.234(1)(a), and also find that, within the meaning of s. 817.234(1)(a), patient authorization cannot be obtained because the patient cannot be located or is deceased, incapacitated, or suspected of being a participant in the fraud or scheme, and if the subpoena is issued for specific and relevant records.

(b) Patient records, billing records, insurance information, provider contracts, and all attachments thereto ~~record~~ obtained by the department pursuant to this subsection shall be used solely for the purpose of the department and the appropriate regulatory board in disciplinary proceedings. ~~The records shall otherwise be confidential and exempt from s. 119.07(1).~~ This section does not limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the health care practitioner shall release records of treatment for medical conditions even if the health care practitioner has also treated the patient for mental or nervous disorders. If the department has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(16) A health care practitioner or records owner furnishing copies of reports or records or making the reports or records available for digital scanning pursuant to this section shall charge no more than the actual cost

of copying, including reasonable staff time, or the amount specified in administrative rule by the appropriate board, or the department when there is no board.

Section 87. Subsection (3) is added to section 455.687, Florida Statutes, to read:

455.687 Certain health care practitioners; immediate suspension of license.—

(3) The department may issue an emergency order suspending or restricting the license of any health care practitioner as defined in s. 455.501(4) who tests positive for any drug on any government or private-sector preemployment or employer-ordered confirmed drug test, as defined in s. 112.0455, when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug. The practitioner shall be given 48 hours from the time of notification to the practitioner of the confirmed test result to produce a lawful prescription for the drug before an emergency order is issued.

Section 88. Section 455.694, Florida Statutes, 1998 Supplement, is amended to read:

455.694 Financial responsibility requirements for ~~Boards regulating~~ certain health care practitioners.—

(1) As a prerequisite for licensure or license renewal, the Board of Acupuncture, the Board of Chiropractic Medicine, the Board of Podiatric Medicine, and the Board of Dentistry shall, by rule, require that all health care practitioners licensed under the respective board, and the Board of Nursing shall, by rule, require that advanced registered nurse practitioners certified under s. 464.012, and the department shall, by rule, require that midwives maintain medical malpractice insurance or provide proof of financial responsibility in an amount and in a manner determined by the board or department to be sufficient to cover claims arising out of the rendering of or failure to render professional care and services in this state.

(2) The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, ~~or~~ chapter 466, or chapter 467 who practices 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) or who is a volunteer under s. 110.501(1).

(b) Any person whose license or certification has become inactive under chapter 457, chapter 460, chapter 461, chapter 464, ~~or~~ chapter 466, or chapter 467 and who is not practicing 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 October 1, 1993, 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. 455.561, and practicing under the scope of such limited license.

(d) Any person licensed or certified under chapter 457, chapter 460, chapter 461, s. 464.012, ~~or~~ chapter 466, or chapter 467 who practices only in conjunction with his or her teaching duties at an accredited 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 school.

(e) Any person holding an active license or certification under chapter 457, chapter 460, chapter 461, s. 464.012, ~~or~~ chapter 466, or chapter 467 who is not practicing in this state. If such person initiates or resumes practice in this state, he or she must notify the department of such activity.

(f) Any person who can demonstrate to the board or department that he or she has no malpractice exposure in the state.

(3) Notwithstanding the provisions of this section, the financial responsibility requirements of ss. 458.320 and 459.0085 shall continue to apply to practitioners licensed under those chapters.

Section 89. Section 455.712, Florida Statutes, is created to read:

455.712 Business establishments; requirements for active status licenses.—

(1) A business establishment regulated by the Division of Medical Quality Assurance pursuant to this part may provide regulated services only if the business establishment has an active status license. A business establishment that provides regulated services without an active status license is in violation of this section and s. 455.624, and the board, or the department if there is no board, may impose discipline on the business establishment.

(2) A business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, to renew an active status license before the license expires. If a business establishment fails to renew before the license expires, the license becomes delinquent, except as otherwise provided in statute, in the license cycle following expiration.

(3) A delinquent business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, for active status within 6 months after becoming delinquent. Failure of a delinquent business establishment to renew the license within the 6 months after the expiration date of the license renders the license null without any further action by the board or the department. Any subsequent

licensure shall be as a result of applying for and meeting all requirements imposed on a business establishment for new licensure.

(4) The status or a change in status of a business establishment license does not alter in any way the right of the board, or of the department if there is no board, to impose discipline or to enforce discipline previously imposed on a business establishment for acts or omissions committed by the business establishment while holding a license, whether active or null.

(5) This section applies to any a business establishment registered, permitted, or licensed by the department to do business. Business establishments include, but are not limited to, dental laboratories, electrology facilities, massage establishments, pharmacies, and health care services pools.

Section 90. Subsection (7) is added to section 457.102, Florida Statutes, 1998 Supplement, to read:

457.102 Definitions.—As used in this chapter:

(7) "Prescriptive rights" means the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

Section 91. Subsections (2) and (4) of section 458.307, Florida Statutes, 1998 Supplement, are amended to read:

458.307 Board of Medicine.—

(2) 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 health care ~~hospital~~ risk manager licensed ~~certified~~ under s. 395.10974 ~~part IX of chapter 626~~. At least one member of the board must be 60 years of age or older.

(4) The board, in conjunction with the department, shall establish a disciplinary training program for board members. The program shall provide for initial and periodic training in the grounds for disciplinary action, the actions which may be taken by the board and the department, changes in relevant statutes and rules, and any relevant judicial and administrative decisions. ~~After January 1, 1989,~~ No member of the board shall participate on probable cause panels or in disciplinary decisions of the board unless he or she has completed the disciplinary training program.

Section 92. Subsection (3) is added to section 458.309, Florida Statutes, 1998 Supplement, to read:

458.309 Authority to make rules.—

(3) All physicians who perform level 2 procedures lasting more than 5 minutes and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility pursuant to chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 93. Section 458.311, Florida Statutes, 1998 Supplement, is amended to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician, who does not hold a valid license in any state, shall apply to the department on forms furnished by the department ~~to take the licensure examination~~. The department shall license ~~examine~~ each applicant who ~~whom~~ the board 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 per applicant cost to the department for purchase of the examination from the Federation of State Medical Boards of the United States or a similar national organization, which is refundable if the applicant is found to be ineligible to take the examination~~.

(b) Is at least 21 years of age.

(c) Is of good moral character.

(d) Has not committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331.

(e) For any applicant who has graduated from medical school after October 1, 1992, has completed the equivalent of 2 academic years of preprofessional, postsecondary education, as determined by rule of the board, which shall include, at a minimum, courses in such fields as anatomy, biology, and chemistry prior to entering medical school.

(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 an allopathic ~~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 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 an allopathic ~~a~~ foreign medical school which has not been certified pursuant to s. 458.314;

b. Has had his or her medical credentials evaluated by the Educational Commission for 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 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.

(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.

(h) Has obtained a passing score, as established by rule of the board, on the licensure examination of the United States Medical Licensing Examination (USMLE); or a combination of the United States Medical Licensing Examination (USMLE), the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or for the purpose of examination of any applicant who was licensed on the basis of a state board examination and who is currently licensed in at least one other jurisdiction of the United States or Canada, and who has practiced pursuant to such licensure for a period of at least 10 years, use of the Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX) upon receipt of a passing score as established by rule of the board.

However, for the purpose of examination of any applicant who was licensed on the basis of a state board examination prior to 1974, who is currently licensed in at least three other jurisdictions of the United States or Canada, and who has practiced pursuant to such licensure for a period of at least 20 years, this paragraph does not apply.

(2) As prescribed by board rule, the board may require an applicant who does not pass the national 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.

(3) Notwithstanding the provisions of subparagraph (1)(f)3., a graduate of a foreign medical school need not present the certificate issued by the Educational Commission for Foreign Medical Graduates or pass the examination utilized by that commission if the graduate:

(a) Has received a bachelor's degree from an accredited United States college or university.

(b) Has studied at a medical school which is recognized by the World Health Organization.

(c) Has completed all of the formal requirements of the foreign medical school, except the internship or social service requirements, and has passed part I of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(d) Has completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the Council on Medical Education of the American Medical Association and upon completion has passed part II of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(4) The department and the board shall assure that applicants for licensure meet the criteria in subsection (1) 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 the secretary's 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).

(5) The board may not certify to the department for licensure any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this chapter until such investigation is completed. Upon completion of the investigation, 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 (9).

(6) Each applicant who ~~passes the examination and~~ meets the requirements of this chapter shall be licensed as a physician, with rights as defined by law.

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

(8) When the board determines that any applicant for licensure ~~by examination~~ 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.

~~(9)(a) Notwithstanding any of the provisions of this section, an applicant who, at the time of his or her medical education, was a citizen of the country of Nicaragua and, at the time of application for licensure under this subsection, is either a citizen of the country of Nicaragua or a citizen of the United States may make initial application to the department on or before July 1, 1992, for licensure subject to this subsection and may reapply pursuant to board rule. Upon receipt of such application, the department shall issue a 2-year restricted license to any applicant therefor upon the applicant's successful completion of the licensure examination as described in paragraph (1)(a) and who the board certifies has met the following requirements:~~

~~1. Is a graduate of a World Health Organization recognized foreign medical institution located in a country in the Western Hemisphere.~~

~~2. Received a medical education which has been determined by the board to be substantially similar, at the time of the applicant's graduation, to approved United States medical programs.~~

~~3. Practiced medicine in the country of Nicaragua for a period of 1 year prior to residing in the United States and has lawful employment authority in the United States.~~

~~4. Has had his or her medical education verified by the Florida Board of Medicine.~~

~~5. Successfully completed the Educational Commission for Foreign Medical Graduates Examination or Foreign Medical Graduate Examination in the Medical Sciences or successfully completed a course developed for the University of Miami for physician training equivalent to the course developed for such purposes pursuant to chapter 74-105, Laws of Florida. No person shall be permitted to enroll in the physician training course until he or she has been certified by the board as having met the requirements of this paragraph or conditionally certified by the board as having substantially complied with the requirements of this paragraph. Any person conditionally certified by the board shall be required to establish, to the board's satisfaction, full compliance with all the requirements of this paragraph prior to completion of the physician training course and shall not be permitted to sit for the licensure examination unless the board certifies that all of the requirements of this paragraph have been met.~~

~~However, applicants eligible for licensure under s. 455.581 or subsection (9), 1988 Supplement to the Florida Statutes 1987, as amended by s. 18, chapter 89-162, Laws of Florida, and ss. 5 and 42, chapter 89-374, Laws of Florida, and renumbered as subsection (8) by s. 5, chapter 89-374, Laws of Florida, shall not be eligible to apply under this subsection.~~

~~(b) The holder of a restricted license issued pursuant to this subsection may practice medicine for the first year only under the direct supervision, as defined by board rule, of a board-approved physician.~~

~~(c) Upon recommendation of the supervising physician and demonstration of clinical competency to the satisfaction of the board that the holder of a restricted license issued pursuant to this subsection has practiced for 1 year under direct supervision, such licenseholder shall work for 1 year under general supervision, as defined by board rule, of a Florida-licensed physician in an area of critical need as determined by the board. Prior to commencing such supervision, the supervising physician shall notify the board.~~

~~(d) Upon completion of the 1 year of work under general supervision and demonstration to the board that the holder of the restricted license has satisfactorily completed the requirements of this subsection, and has not committed any act or is not under investigation for any act which would constitute a violation of this chapter, the department shall issue an unrestricted license to such licenseholder.~~

~~(e) Rules necessary to implement and carry out the provisions of this subsection shall be promulgated by the board.~~

~~(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 94. Section 458.3115, Florida Statutes, 1998 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)(a) Notwithstanding any other provision of law, the department ~~agency~~ shall provide procedures under which certain physicians who are or were foreign-licensed and have practiced medicine no less than 2 years may take the USMLE or an ~~agency-developed~~ examination developed by the department, in consultation with the board, to qualify for a restricted license to practice medicine in this state. The department-developed ~~agency and board-developed~~ examination shall test the same areas of medical knowledge as the Federation of State Medical Boards of the United States, Inc. (FLEX) previously administered by the Florida Board of Medicine to grant medical licensure in Florida. The department-developed ~~agency-developed~~ examination must be made available no later than December 31, 1998, to a physician who qualifies for licensure. A person who is eligible to take and elects to take the department-developed ~~agency and board-developed~~ examination, who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the department-developed ~~agency-developed~~ examination, and may sit for the department-developed ~~agency and board-developed~~ examination five times within 5 years.

(b) A person who is eligible to take and elects to take the USMLE who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the USMLE up to the year 2000.

(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; 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 department ~~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 any ~~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 department ~~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 part II of 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 part II of chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

(d) Every person eligible for restricted licensure under this section may sit for the USMLE or the department-developed ~~agency and board-developed~~ examination five times within 5 calendar years. Applicants desiring to use portions of the FLEX and the USMLE may do so up to the year 2000. However, notwithstanding subparagraph (c)3., applicants applying under this section who fail the examination up to a total of five times will only be required to pay the examination fee required for full licensure for the second and subsequent times they take the examination.

(e) The department ~~Agency for Health Care Administration~~ and the board shall be responsible for working with one or more organizations to offer a medical refresher course designed to prepare applicants to take either licensure examination described in this section. The organizations may develop the medical refresher course, purchase such a course, or contract for such a course from a private organization that specializes in developing such courses.

(f) The course shall require no less than two 16-week semesters of 16 contact hours per week for a total of 256 contact hours per student for each semester. The cost is to be paid by the students taking the course.

(2)(a) Before the department ~~agency~~ may issue a restricted license to an applicant under this section, the applicant must have passed either of the two examinations described in this section. However, the board may impose

reasonable restrictions on the applicant's license to practice. These restrictions may include, but are not limited to:

1. Periodic and random department ~~agency~~ audits of the licensee's patient records and review of those records by the board or the department ~~agency~~.

2. Periodic appearances of the licensee before the board or the department ~~agency~~.

3. Submission of written reports to the board or the department ~~agency~~.

(b) A restricted licensee under this section shall practice under the supervision of a full licensee approved by the board with the first year of the licensure period being under direct supervision as defined by board rule and the second year being under indirect supervision as defined by board rule.

(c) The board may adopt rules necessary to implement this subsection.

(3)(a) A restricted license issued by the department ~~agency~~ under this section is valid for 2 years unless sooner revoked or suspended, and a restricted licensee is subject to the requirements of this chapter, part II of chapter 455, and any other provision of law not in conflict with this section. Upon expiration of such restricted license, a restricted licensee shall become a full licensee if the restricted licensee:

1. Is not under discipline, investigation, or prosecution for a violation which poses a substantial threat to the public health, safety, or welfare; and

2. Pays all renewal fees required of a full licensee.

(b) The department ~~agency~~ shall renew a restricted license under this section upon payment of the same fees required for renewal for a full license if the restricted licensee is under discipline, investigation, or prosecution for a violation which posed or poses a substantial threat to the public health, safety, or welfare and the board has not permanently revoked the restricted license. A restricted licensee who has renewed such restricted license shall become eligible for full licensure when the licensee is no longer under discipline, investigation, or prosecution.

(4) The board shall adopt rules necessary to carry out the provisions of this section.

Section 95. Subsections (1), (2), and (8) of section 458.313, Florida Statutes, are 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 on forms furnished by the department and remitting a fee set by the board not to exceed $500 ~~set by the board~~, the board certifies:

(a) Has met the qualifications for licensure in s. 458.311(1)(b)-(g) or in s. 458.311(1)(b)-(e) and (g) and (3);

(b) Prior to January 1, 2000, 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), on ~~or of~~ the United States Medical Licensing Examination (USMLE), or on the examination of the National Board of Medical Examiners, or on a combination thereof, and on or after January 1, 2000, has obtained a passing score on the United States Medical Licensing Examination (USMLE) ~~provided the board certifies as eligible for licensure by endorsement any applicant who took the required examinations more than 10 years prior to application~~; and

(c) Has submitted 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 a board-approved postgraduate training program within 2 years preceding filing of an application~~,~~ 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.~~

~~(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.

~~(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 continuing education requirements for reactivation of the license as determined by the board.~~

Section 96. Subsection (1) of section 458.315, Florida Statutes, is amended to read:

458.315 Temporary certificate for practice in areas of critical need.—Any physician who is licensed to practice in any other state, whose license is currently valid, and who pays an application fee of $300 may be issued a temporary certificate to practice in communities of Florida where there is a critical need for physicians. A certificate may be issued to a physician who will be employed by a county health department, correctional facility, community health center funded by s. 329, s. 330, or s. 340 of the United States

Public Health Services Act, or other entity that provides health care to indigents and that is approved by the State Health Officer. The Board of Medicine may issue this temporary certificate with the following restrictions:

(1) The board shall determine the areas of critical need, and the physician so certified may practice in any of those areas ~~only in that specific area~~ for a time to be determined by the board. Such areas shall include, but not be limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

(a) A recipient of a temporary certificate for practice in areas of critical need may use the license to work for any approved employer in any area of critical need approved by the board.

(b) The recipient of a temporary certificate for practice in areas of critical need shall, within 30 days after accepting employment, notify the board of all approved institutions in which the licensee practices and of all approved institutions where practice privileges have been denied.

Section 97. 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) and (5). A recipient of a public psychiatry certificate may use the certificate to work at any public mental health facility or program funded in part or entirely by state funds.

(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 chair of the department of psychiatry at one of the public medical schools or the chair 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 98. Subsection (4) is added to section 458.317, Florida Statutes, 1998 Supplement, to read:

458.317 Limited licenses.—

(4) Any person holding an active license to practice medicine in the state may convert that license to a limited license for the purpose of providing volunteer, uncompensated care for low-income Floridians. The applicant must submit a statement from the employing agency or institution stating that he or she will not receive compensation for any service involving the practice of medicine. The application and all licensure fees, including neurological injury compensation assessments, shall be waived.

Section 99. Paragraph (mm) is added to subsection (1) of section 458.331, Florida Statutes, 1998 Supplement, and subsection (2) of that section is amended 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:

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

(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:

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

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $10,000 ~~$5,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

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

(g) Issuance of a letter of concern.

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.

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

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

Section 100. Subsection (7) of section 458.347, Florida Statutes, 1998 Supplement, is amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall issue a license 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 licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure 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 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 to provide the examination. The examination fee is refundable if the applicant is found to be ineligible to take the examination. The department shall not require the applicant to pass a separate practical component of the examination. For examinations given after July 1, 1998, competencies measured through practical examinations

shall be incorporated into the written examination through a multiple-choice format. The department shall translate the examination into the native language of any applicant who requests and agrees to pay all costs of such translation, provided that the translation request is filed with the board office no later than 9 months before the scheduled examination and the applicant remits translation fees as specified by the department no later than 6 months before the scheduled examination, and provided that the applicant demonstrates to the department the ability to communicate orally in basic English. If the applicant is unable to pay translation costs, the applicant may take the next available examination in English if the applicant submits a request in writing by the application deadline and if the applicant is otherwise eligible under this section. To demonstrate the ability to communicate orally in basic English, a passing score or grade is required, as determined by the department or organization that developed it, on one of the following English examinations:

(I) The test for spoken English (TSE) by the Educational Testing Service (ETS);

(II) The test of English as a foreign language (TOEFL), by ETS;

(III) A high school or college level English course;

(IV) The English examination for citizenship, Immigration and Naturalization Service.

A notarized copy of an Educational Commission for Foreign Medical Graduates (ECFMG) certificate may also be used to demonstrate the ability to communicate 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 may grant temporary licensure to an applicant who meets the requirements of subparagraph 1. Between meetings of the council, the department may grant temporary licensure to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular

meeting of the council. A temporary license expires 30 days after ~~upon~~ receipt and notice of scores to the licenseholder from the first available examination specified in subparagraph 1. following licensure by the department. An applicant who fails the proficiency examination is no longer temporarily licensed, but may apply for a one-time extension of temporary licensure after reapplying for the next available examination. Extended licensure shall expire upon failure of the licenseholder to sit for the next available examination or upon receipt and notice of scores to the licenseholder from such examination.

3. Notwithstanding any other provision of law, the examination specified pursuant to subparagraph 1. shall be administered by the department 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 1-year intervals following the reporting of the scores of the first and subsequent examinations. For the purposes of this paragraph, the department 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, 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 licensed as a physician assistant with all rights defined thereby.

(c) The license 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 licensed 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 licensed physician assistant must notify the department 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 may grant to a recent graduate of an approved program, as specified in subsection (6), who expects to take the first examination administered by the National Commission on Certification of Physician Assistants available for registration after the applicant's graduation, a temporary license. The temporary license shall ~~to~~ expire 30 days after ~~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 may grant a

temporary license to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be licensed prior to employment, but must comply with paragraph (e). An applicant who has passed the proficiency examination may be granted permanent licensure. An applicant failing the proficiency examination is no longer temporarily licensed, but may reapply for a 1-year extension of temporary licensure. An applicant may not be granted more than two temporary licenses and may not be licensed as a physician assistant until he or she 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. 455.624 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 part II of chapter 455.

Section 101. Section 459.005, Florida Statutes, 1998 Supplement, is amended to read:

459.005 Rulemaking authority.—

(1) The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it.

(2) All physicians who perform level 2 procedures lasting more than 5 minutes and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility pursuant to chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Osteopathic Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 102. Subsection (7) is added to section 459.0075, Florida Statutes, to read:

459.0075 Limited licenses.—

(7) Any person holding an active license to practice osteopathic medicine in the state may convert that license to a limited license for the purpose of providing volunteer, uncompensated care for low-income Floridians. The applicant must submit a statement from the employing agency or institution stating that he or she will not receive compensation for any service involving

the practice of osteopathic medicine. The application and all licensure fees, including neurological injury compensation assessments, shall be waived.

Section 103. Paragraph (oo) is added to subsection (1) of section 459.015, Florida Statutes, 1998 Supplement, and subsection (2) of that section is amended 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:

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

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

(b) Revocation or suspension of a license or certificate.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $10,000 ~~$5,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

(f) Issuance of a letter of concern.

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

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.

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

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

Section 104. Subsection (6) is added to section 460.402, Florida Statutes, to read:

460.402 Exceptions.—The provisions of this chapter shall not apply to:

(6) A chiropractic student enrolled in a chiropractic college accredited by the Council on Chiropractic Education and participating in a community-based internship under the direct supervision of a doctor of chiropractic medicine who is credentialed as an adjunct faculty member of a chiropractic college in which the student is enrolled.

Section 105. Present subsections (4) through (10) of section 460.403, Florida Statutes, 1998 Supplement, are renumbered as subsections (5) through (11), respectively, a new subsection (4) is added to that section, and present subsections (6) and (9) are amended, to read:

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

(4) "Community-based internship" means a program in which a student enrolled in the last year of a chiropractic college accredited by the Council on Chiropractic Education is approved to obtain required pregraduation clinical experience in a chiropractic clinic or practice under the direct supervision of a doctor of chiropractic medicine approved as an adjunct faculty member of the chiropractic college in which the student is enrolled, according to the teaching protocols for the clinical practice requirements of the college.

(7)~~(6)~~ "Direct supervision" means responsible supervision and control, with the licensed chiropractic physician assuming legal liability for the services rendered by a registered chiropractic assistant or a chiropractic student enrolled in a community-based intern program. Except in cases of emergency, direct supervision shall require the physical presence of the licensed chiropractic physician for consultation and direction of the actions of the registered chiropractic assistant or a chiropractic student enrolled in a community-based intern program. The board shall further establish rules as to what constitutes responsible direct supervision of a registered chiropractic assistant.

(10)~~(9)~~ "Registered chiropractic assistant" means a person who is registered by the board to perform chiropractic services under the direct supervision of a chiropractic physician or certified chiropractic physician's assistant.

Section 106. Subsection (1) of section 460.406, Florida Statutes, 1998 Supplement, is amended 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:

(a) Completed the application form and remitted the appropriate fee.

(b) Submitted proof satisfactory to the department that he or she is not less than 18 years of age.

(c) Submitted proof satisfactory to the department that he or she is a graduate of a chiropractic college which is accredited by or has status with the Council on Chiropractic Education or its predecessor agency. However, any applicant who is a graduate of a chiropractic college that was initially accredited by the Council on Chiropractic Education in 1995, who graduated from such college within the 4 years immediately preceding such accreditation, and who is otherwise qualified shall be eligible to take the examination. No application for a license to practice chiropractic medicine shall be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic medicine as distinguished from another.

(d)1. For an applicant who has matriculated in a chiropractic college prior to July 2, 1990, completed at least 2 years of residence college work, consisting of a minimum of one-half the work acceptable for a bachelor's degree granted on the basis of a 4-year period of study, in a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education. However, prior to being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 1990, shall have been granted a bachelor's degree, based upon 4 academic years of study, by a college or university accredited by a regional accrediting agency which is a member of the Commission on Recognition of Postsecondary Accreditation.

2. Effective July 1, 2000, completed, prior to matriculation in a chiropractic college, at least 3 years of residence college work, consisting of a minimum of 90 semester hours leading to a bachelor's degree in a liberal arts college or university accredited by an accrediting agency recognized and approved by the United States Department of Education. However, prior to being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 2000, shall have been granted a bachelor's degree from an institution holding accreditation for that degree from a regional accrediting agency which is recognized by the United States Department of Education. The applicant's chiropractic degree must consist of credits earned in the chiropractic program and may not include academic credit for courses from the bachelor's degree.

~~(e) Completed not less than a 3-month training program in this state of not less than 300 hours with a chiropractic physician licensed in this state. The chiropractic physician candidate may perform all services offered by the licensed chiropractic physician, but must be under the supervision of the licensed chiropractic physician until the results of the first licensure examination for which the candidate has qualified have been received, at which~~

~~time the candidate's training program shall be terminated. However, an applicant who has practiced chiropractic medicine in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction for at least 5 years as a licensed chiropractic physician need not be required to complete the 3-month training program as a requirement for licensure.~~

(e)~~(f)~~ Successfully completed the National Board of Chiropractic Examiners certification examination in parts I and II and clinical competency, with a score approved by the board, within 10 years immediately preceding application to the department for licensure.

(f)~~(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 107. Paragraphs (p) and (dd) of subsection (1) and paragraph (b) of subsection (2) of section 460.413, Florida Statutes, 1998 Supplement, are amended 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:

(p) Prescribing, dispensing, or administering any medicinal drug except as authorized by s. 460.403(9)(c)2. ~~s. 460.403(8)(c)2.~~, performing any surgery, or practicing obstetrics.

(dd) Using acupuncture without being certified pursuant to s. 460.403(9)(f) ~~s. 460.403(8)(f)~~.

(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:

(d) Imposition of an administrative fine not to exceed $10,000 ~~$2,000~~ for each count or separate offense.

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

Section 108. Section 460.4165, Florida Statutes, is amended to read:

460.4165 Certified chiropractic physician's assistants.—

(1) LEGISLATIVE INTENT.—The purpose of this section is to encourage the more effective utilization of the skills of chiropractic physicians by

enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the patient's health and welfare and to allow for innovative development of programs for the education of physician's assistants.

(2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S ASSISTANT.—Notwithstanding any other provision of law, a certified chiropractic physician's assistant may perform chiropractic services in the specialty area or areas for which the certified chiropractic physician's assistant is trained or experienced when such services are rendered under the supervision of a licensed chiropractic physician or group of chiropractic physicians certified by the board. Any certified chiropractic physician's assistant certified under this section to perform services may perform those services only:

(a) In the office of the chiropractic physician to whom the certified chiropractic physician's assistant has been assigned, in which office such physician maintains her or his primary practice;

(b) Under indirect supervision of ~~When~~ the chiropractic physician to whom she or he is assigned as defined by rule of the board ~~is present~~;

(c) In a hospital in which the chiropractic physician to whom she or he is assigned is a member of the staff; or

(d) On calls outside of the ~~said~~ office of the chiropractic physician to whom she or he is assigned, on the direct order of the chiropractic physician to whom she or he is assigned.

(3) THIRD-PARTY PAYOR. This chapter does not prevent third-party payors from reimbursing employers of chiropractic physicians' assistants for covered services rendered by certified chiropractic physicians' assistants.

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

(5)~~(4)~~ PROGRAM APPROVAL.—The department shall issue certificates of approval for programs for the education and training of certified chiropractic physician's assistants which meet board standards. Any basic program curriculum certified by the board shall cover a period of 24 months. The curriculum must consist of at least 200 didactic classroom hours during those 24 months.

(a) In developing criteria for program approval, the board shall give consideration to, and encourage, the utilization of equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past education and experience in health fields.

(b) The board shall create groups of specialty classifications of training for certified chiropractic physician's assistants. These classifications shall reflect the training and experience of the certified chiropractic physician's assistant. The certified chiropractic physician's assistant may receive training in one or more such classifications, which shall be shown on the certificate issued.

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

(6)~~(5)~~ APPLICATION APPROVAL.—Any person desiring to be licensed as a certified chiropractic physician's assistant must apply to the department. The department shall issue a certificate to any person certified by the board as having met the following requirements:

(a) Is at least 18 years of age.

(b) Is a graduate of an approved program or its equivalent and is fully certified by reason of experience and education, as defined by board rule, to perform chiropractic services under the responsible supervision of a licensed chiropractic physician and when the board is satisfied that the public will be adequately protected by the arrangement proposed in the application.

(c) Has completed the application form and remitted an application fee set by the board pursuant to this section. An application for certification made by a chiropractic physician's assistant must include:

1. A certificate of completion of a physician's assistant training program specified in subsection (5).

2. A sworn statement of any prior felony conviction in any jurisdiction.

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

~~(a) The board shall adopt rules for the consideration of applications by a licensed chiropractic physician or a group of licensed chiropractic physicians to supervise certified chiropractic physician's assistants. Each application made by a chiropractic physician or group of chiropractic physicians shall include all of the following:~~

~~1. The qualifications, including related experience, of the certified chiropractic physician's assistant intended to be employed.~~

~~2. The professional background and specialty of the chiropractic physician or the group of chiropractic physicians.~~

~~3. A description by the chiropractic physician of her or his practice, or by the chiropractic physicians of their practice, and of the way in which the assistant or assistants are to be utilized.~~

~~The board shall certify an application by a licensed chiropractic physician to supervise a certified chiropractic physician's assistant when the proposed assistant is a graduate of an approved program or its equivalent and is fully qualified by reason of experience and education to perform chiropractic~~

~~services under the responsible supervision of a licensed chiropractic physician and when the board is satisfied that the public will be adequately protected by the arrangement proposed in the application.~~

~~(b) The board shall certify no more than two certified chiropractic physician's assistants for any chiropractic physician practicing alone; no more than four chiropractic physician's assistants for two chiropractic physicians practicing together formally or informally; or no more than a ratio of two certified chiropractic physician's assistants to three chiropractic physicians in any group of chiropractic physicians practicing together formally or informally.~~

(7)~~(6)~~ PENALTY.—Any person who has not been certified by the board and approved by the department and who represents herself or himself as a certified chiropractic physician's assistant or who uses any other term in indicating or implying that she or he is a certified chiropractic physician's assistant is guilty of 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.

(8)~~(7)~~ REVOCATION OF APPROVAL.—The certificate of approval to supervise a certified chiropractic physician's assistant held by any chiropractic physician or group of chiropractic physicians may be revoked when the board determines that the intent of this section is not being carried out.

(9)~~(8)~~ FEES.—

(a) A fee not to exceed $100 set by the board shall accompany the application by a chiropractic physician for authorization to supervise a certified chiropractic physician's assistant.

(b) Upon approval of an application for certification of a certified chiropractic physician's assistant in a specialty area, the applicant shall be charged an initial certification fee for the first biennium not to exceed $250; and a biennial renewal fee not to exceed $250 shall accompany each application for renewal of the certified chiropractic physician's assistant certificate.

(10)~~(9)~~ EXISTING PROGRAMS.—Nothing in this section shall be construed to eliminate or supersede existing laws relating to other paramedical professions or services. It is the intent of this section to supplement all such existing programs relating to the certification and the practice of paramedical professions as may be authorized by law.

(11)~~(10)~~ LIABILITY.—Each chiropractic physician or group of chiropractic physicians utilizing certified chiropractic physician's assistants shall be liable for any act or omission of any physician's assistant acting under her or his or its supervision and control.

(12) SUPERVISION OF REGISTERED CHIROPRACTIC ASSISTANT.—A certified chiropractic physician's assistant may directly supervise a registered chiropractic assistant and other persons who are not licensed as chiropractic physicians who are employed or supervised by the chiropractic physician to whom the certified chiropractic physician's assistant is assigned.

(13) CERTIFIED CHIROPRACTIC ASSISTANT CERTIFICATION RENEWAL.—The certification must be renewed biennially.

(a) Each renewal must include:

1. A renewal fee as set by board pursuant to this section.

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

(b) Each certified chiropractic physician's assistant shall biennially complete 24 hours of continuing education courses sponsored by chiropractic colleges accredited by the Council on Chiropractic Education and approved by the board. The board shall approve those courses that build upon the basic courses required for the practice of chiropractic medicine, and the board may also approve courses in adjunctive modalities. The board may make exception from the requirements of this section in emergency or hardship cases. The board may adopt rules within the requirements of this section which are necessary for its implementation.

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

Section 109. Persons holding certificates as certified chiropractic physicians' assistants on the effective date of this act need not reapply for certification, but must comply with biennial renewal requirements as provided in section 460.4165(6), Florida Statutes. The requirement for completion of the continuing education requirements for biennial renewal of the certificate shall not take effect until the beginning of the next biennial renewal period following the effective date of this act.

Section 110. Section 460.4166, Florida Statutes, 1998 Supplement, is amended to read:

460.4166 Registered chiropractic assistants.—

(1) DEFINITION.—As used in this section, "registered chiropractic assistant" means a professional, multiskilled person dedicated to assisting in all aspects of chiropractic medical practice under the direct supervision and responsibility of a chiropractic physician or certified chiropractic physician's assistant. A registered chiropractic assistant 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 registered chiropractic 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 chiropractic physician or certified chiropractic physician's assistant, a registered chiropractic assistant may:

(a) Perform clinical procedures, which include:

1. Preparing patients for the chiropractic physician's care.

2. Taking vital signs.

3. Observing and reporting patients' signs or symptoms.

(b) Administer basic first aid.

(c) Assist with patient examinations or treatments other than manipulations or adjustments.

(d) Operate office equipment.

(e) Collect routine laboratory specimens as directed by the chiropractic physician or certified chiropractic physician's assistant.

(f) Administer nutritional supplements as directed by the chiropractic physician or certified chiropractic physician's assistant.

(g) Perform office procedures required by the chiropractic physician or certified chiropractic physician's assistant under direct supervision of the chiropractic physician or certified chiropractic physician's assistant.

(3) REGISTRATION.—Registered chiropractic assistants may be registered by the board for a biennial fee not to exceed $25.

Section 111. Section 461.003, Florida Statutes, 1998 Supplement, is amended to read:

461.003 Definitions.—As used in this chapter:

~~(1) "Department" means the Department of Health.~~

(1)~~(2)~~ "Board" means the Board of Podiatric Medicine as created in this chapter.

(2) "Certified podiatric X-ray assistant" means a person who is employed by and under the direct supervision of a licensed podiatric physician to perform only those radiographic functions that are within the scope of practice of a podiatric physician licensed under this chapter. For purposes of this subsection, the term "direct supervision" means supervision whereby a podiatric physician orders the X ray, remains on the premises while the X ray is being performed and exposed, and approves the work performed before dismissal of the patient.

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

~~(3) "Practice of podiatric medicine" means the diagnosis or medical, surgical, palliative, and mechanical treatment of ailments of the human foot and leg. The surgical treatment of ailments of the human foot and leg shall be limited anatomically to that part below the anterior tibial tubercle. The practice of podiatric medicine shall include the amputation of the toes or other parts of the foot but shall not include the amputation of the foot or leg~~

~~in its entirety. A podiatric physician may prescribe drugs that relate specifically to the scope of practice authorized herein.~~

(4) "Podiatric physician" means any person licensed to practice podiatric medicine pursuant to this chapter.

(5) "Practice of podiatric medicine" means the diagnosis or medical, surgical, palliative, and mechanical treatment of ailments of the human foot and leg. The surgical treatment of ailments of the human foot and leg shall be limited anatomically to that part below the anterior tibial tubercle. The practice of podiatric medicine shall include the amputation of the toes or other parts of the foot but shall not include the amputation of the foot or leg in its entirety. A podiatric physician may prescribe drugs that relate specifically to the scope of practice authorized herein.

Section 112. Paragraph (d) of subsection (1) of section 461.006, Florida Statutes, 1998 Supplement, is amended to read:

461.006 Licensure by examination.—

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

(d) ~~Beginning October 1, 1995,~~ Has satisfactorily completed one of the following clinical experience requirements:

1. One year of residency in a residency program approved by the board, and if it has been 4 or more years since the completion of that residency, active licensed practice of podiatric medicine in another jurisdiction for at least 2 of the immediately preceding 4 years, or successful completion of a board-approved postgraduate program or board-approved course within the year preceding the filing of the application. For the purpose of this subparagraph, "active licensed practice" means the licensed practice of podiatric medicine as defined in s. 461.003(5) by podiatric physicians, including podiatric physicians employed by any governmental entity, on the active teaching faculty of an accredited school of podiatric medicine, or practicing administrative podiatric medicine.

2. Ten years of continuous, active licensed practice of podiatric medicine in another state immediately preceding the submission of the application and completion of at least the same continuing educational requirements during those 10 years as are required of podiatric physicians licensed in this state.

Section 113. Subsection (1) of section 461.007, Florida Statutes, 1998 Supplement, 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, and evidence that the applicant has actively practiced podiatric medicine or has been on the

active teaching faculty of an accredited school of podiatric medicine for at least 2 years of the immediately preceding 4 years. If the licensee has not actively practiced podiatric medicine for at least 2 years of the immediately preceding 4 years, the board shall require that the licensee successfully complete a board-approved course prior to renewal of the license. For purposes of this subsection, "actively practiced podiatric medicine" means the licensed practice of podiatric medicine as defined in s. 461.003(5) by podiatric physicians, including podiatric physicians employed by any governmental entity, on the active teaching faculty of an accredited school of podiatric medicine, or practicing administrative podiatric medicine. An applicant for a renewed license must also submit the information required under s. 455.565 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 s. 455.565 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 s. 455.565. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.621. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.621 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 114. Paragraph (bb) is added to subsection (1) of section 461.013, Florida Statutes, 1998 Supplement, and subsection (2) of that section 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:

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

(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 $10,000 ~~$1,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placing the podiatric physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the podiatric physician to submit to treatment, to attend continuing education courses, to submit to reexamination, and to work under the supervision of another podiatric physician.

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

Section 115. Section 461.0135, Florida Statutes, is created to read:

461.0135 Operation of X-ray machines by podiatric X-ray assistants.—A licensed podiatric physician may utilize an X-ray machine, expose X-ray films, and interpret or read such films. The provision of part IV of chapter 468 to the contrary notwithstanding, a licensed podiatric physician may authorize or direct a certified podiatric X-ray assistant to operate such equipment and expose such films under the licensed podiatric physician's direction and supervision, pursuant to rules adopted by the board in accordance with s. 461.004, which ensures that such certified podiatric X-ray assistant is competent to operate such equipment in a safe and efficient manner by reason of training, experience, and passage of a board-approved course which includes an examination. The board shall issue a certificate to an individual who successfully completes the board-approved course and passes the examination to be administered by the training authority upon completion of such course.

Section 116. Subsection (3) is added to section 464.008, Florida Statutes, to read:

464.008 Licensure by examination.—

(3) Any applicant who fails the examination three consecutive times, regardless of the jurisdiction in which the examination is taken, shall be required to complete a board-approved remedial course before the applicant will be approved for reexamination. After taking the remedial course, the applicant may be approved to retake the examination up to three additional times before the applicant is required to retake remediation. The applicant shall apply for reexamination within 6 months after completion of remediation. The board shall by rule establish guidelines for remedial courses.

Section 117. Subsection (13) is added to section 464.022, Florida Statutes, to read:

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

(13) The practice of nursing by individuals enrolled in board-approved remedial courses.

Section 118. Subsection (12) of section 465.003, Florida Statutes, is amended, subsections (4) through (14) of said section are renumbered as subsections (5) through (15), respectively, and a new subsection (4) is added to said section, to read:

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

(4) "Data communication device" means an electronic device that receives electronic information from one source and transmits or routes it to another, including, but not limited to, any such bridge, router, switch, or gateway.

(13)~~(12)~~ "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; ~~and~~ consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders; and other pharmaceutical services. For purposes of this subsection, "other pharmaceutical services" means the monitoring of the patient's drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient's drug therapy and communication with the patient's prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or similar statutory provision in another jurisdiction, or such provider's agent or such other persons as specifically authorized by the patient, regarding the drug therapy. However, nothing in this subsection may be interpreted to permit an alteration of a prescriber's directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law. "Practice of the profession of pharmacy" ~~The phrase~~ also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients.

Section 119. Paragraph (l) of subsection (1) and paragraph (c) of subsection (2) of section 465.016, Florida Statutes, are amended, and paragraph (q) is added to subsection (1) of that section, to read:

465.016 Disciplinary actions.—

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

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

(q) Using or releasing a patient's records except as authorized by this chapter and chapter 455.

(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:

(c) Imposition of an administrative fine not to exceed $5,000 ~~$1,000~~ for each count or separate offense.

Section 120. 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(13)~~(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 pharmacy technicians.

Section 121. Paragraph (c) of subsection (2) of section 465.015, Florida Statutes, is amended to read:

465.015 Violations and penalties.—

(2) It is unlawful for any person:

(c) To sell or dispense drugs as defined in s. 465.003(8)~~(7)~~ without first being furnished with a prescription.

Section 122. 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(11)~~(10)~~(a)1., 2., and 3. shall apply to the department for a special

pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties.

Section 123. Subsection (3) of section 468.812, Florida Statutes, is amended to read:

468.812 Exemptions from licensure.—

(3) The provisions of this act relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as set forth in s. 465.003(13)~~(12)~~, and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under the supervision of a pharmacist engaged in the practice of orthotics or pedorthics shall not be precluded from continuing that practice pending adoption of these rules.

Section 124. Subsection (19) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in ss. 499.001-499.081.—As used in ss. 499.001-499.081, the term:

(19) "Legend drug," "prescription drug," or "medicinal drug" means any drug, including, but not limited to, finished dosage forms, or active ingredients subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s. 465.003(8)~~(7)~~, s. 499.007(12), or s. 499.0122(1)(b) or (c).

Section 125. (1) There is created within the Department of Health a Task Force for the Study of Collaborative Drug Therapy Management. The department shall provide staff support for the task force. The task force shall consist of not more than 13 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. The task force shall include:

(a) One representative from each of the following associations:

1. Florida Society of Health-System Pharmacists.

2. Florida Pharmacy Association.

3. Florida Medical Association.

4. Florida Osteopathic Medical Association.

5. Florida Retail Federation.

6. Florida Nurses Association.

7. Florida Academy of Family Physicians.

8. Pharmaceutical Research Manufacturing Association.

9. American Society of Consultant Pharmacists.

10. American Society of Health-System Pharmacists.

(b) One representative from each of the following entities:

1. Department of Health.

2. Board of Medicine, which representative must be a member of the board who is licensed under chapter 458, Florida Statutes.

3. Board of Osteopathic Medicine, which representative must be a member of the board who is licensed under chapter 459, Florida Statutes.

4. Board of Pharmacy, which representative must be a member of the board who is licensed under chapter 465, Florida Statutes.

5. Agency for Health Care Administration.

(2) The task force shall hold its first meeting no later than August 1, 1999, 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, 1999. All task force meetings must be held in Tallahassee at the department in order to minimize costs to the state.

(3) The task force shall be charged with the responsibility to:

(a) Determine the states in which collaborative drug therapy management has been enacted by law or administrative rule and summarize the content of all such laws and rules.

(b) Receive testimony from interested parties and identify the extent to which collaborative drug therapy management is currently being practiced in this state and other states.

(c) Determine the efficacy of collaborative drug therapy management in improving health care outcomes of patients.

Section 126. Section 466.021, Florida Statutes, is amended to read:

466.021 Employment of unlicensed persons by dentist; penalty.—Every duly licensed dentist who uses the services of any unlicensed person for the purpose of constructing, altering, repairing, or duplicating any denture, partial denture, bridge splint, or orthodontic or prosthetic appliance shall be required to furnish such unlicensed person with a written work order in such form as prescribed ~~shall be approved~~ by rule of the board ~~department~~. ~~This form shall be supplied to the dentist by the department at a cost not to exceed that of printing and handling. The work order blanks shall be assigned to individual dentists and are not transferable.~~ This form shall be dated and signed by such dentist and shall include the patient's name or number with sufficient descriptive information to clearly identify the case for each separate and individual piece of work. ~~A; said work order shall be made in duplicate form, the duplicate~~ copy of such work order shall ~~to~~ be retained in a permanent file in the dentist's office for a period of 2 years, and the original work order shall ~~to~~ be retained in a permanent file for a period of 2 years by such ~~said~~ unlicensed person in her or his place of business. Such permanent file of work orders to be kept by such dentist or by such unlicensed person shall be open to inspection at any reasonable time by the department or its duly constituted agent. Failure of the dentist to keep such permanent records of such ~~said~~ work orders shall subject the dentist to suspension or revocation of her or his license to practice dentistry. Failure of such unlicensed person to have in her or his possession a work order as required by this section ~~above defined~~ shall be admissible evidence of a violation of this chapter and shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Nothing in this section shall preclude a registered dental laboratory from working for another registered dental laboratory, provided that such work is performed pursuant to written authorization, in a form to be prescribed by rule of the board ~~department~~, which evidences that the originating laboratory has obtained a valid work order and which sets forth the work to be performed. Furthermore, nothing in this section shall preclude a registered laboratory from providing its services to dentists licensed and practicing in another state, provided that such work is requested or otherwise authorized in written form which clearly identifies the name and address of the requesting dentist and which sets forth the work to be performed.

Section 127. Paragraph (b) of subsection (2), paragraph (b) of subsection (3), and subsection (4) of section 468.1155, Florida Statutes, are amended to read:

468.1155 Provisional license; requirements.—

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant who the board certifies has:

(b) Received a master's degree or doctoral 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 present documentation of the determination of equivalency to standards established by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

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

2. Six semester hours in audiology.

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

(3) The department shall issue a provisional license to practice audiology to each applicant who the board certifies has:

(b) Received a master's degree or doctoral 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 present documentation of the determination of equivalency to standards established by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

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

2. Six semester hours in speech-language pathology.

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

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

Section 128. Section 468.1215, Florida Statutes, is amended to read:

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

~~(1) A person desiring to be certified as a speech-language pathology assistant or audiology assistant shall apply to the department.~~

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

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

(b) Earned a bachelor's degree from a college or university accredited by a regional association of colleges and schools recognized by the Department of Education which includes at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) The department shall issue a certificate as an audiology assistant to each applicant who the board certifies has:

(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 as required in s. 468.1155.

Section 129. Subsection (1) of section 468.307, Florida Statutes, 1998 Supplement, is amended to read:

468.307 Certificate; issuance; possession; display.—

(1) The department shall issue a certificate to each candidate who has met the requirements of ss. 468.304 and 468.306 or has qualified under s. 468.3065. The department may by rule establish a subcategory of a certificate issued under this part limiting the certificateholder to a specific procedure or specific type of equipment.

Section 130. Section 468.506, Florida Statutes, 1998 Supplement, is amended to read:

468.506 Dietetics and Nutrition Practice Council.—There is created the Dietetics and Nutrition Practice Council under the supervision of the board.

The council shall consist of four persons licensed under this part and one consumer who is 60 years of age or older. Council members shall be appointed by the board. Licensed members shall be appointed based on the proportion of licensees within each of the respective disciplines. Members shall be appointed for 4-year staggered terms. In order to be eligible for appointment, each licensed member must have been a licensee under this part for at least 3 years prior to his or her appointment. No council member shall serve more than two successive terms. The board may delegate such powers and duties to the council as it may deem proper to carry out the operations and procedures necessary to effectuate the provisions of this part. However, the powers and duties delegated to the council by the board must encompass both dietetics and nutrition practice and nutrition counseling. Any time there is a vacancy on the council, any professional association composed of persons licensed under this part may recommend licensees to fill the vacancy to the board in a number at least twice the number of vacancies to be filled, and the board may appoint from the submitted list, in its discretion, any of those persons so recommended. Any professional association composed of persons licensed under this part may file an appeal regarding a council appointment with the secretary ~~director~~ of the department ~~agency~~, whose decision shall be final. The board shall fix council members' compensation and pay their expenses in the same manner as provided in s. 455.534.

Section 131. Section 468.701, Florida Statutes, 1998 Supplement, is amended to read:

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

(1) "Athlete" means a person who participates in an athletic activity.

(2) "Athletic activity" means the participation in an activity, conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.

(3) "Athletic injury" means an injury sustained which affects the athlete's ability to participate or perform in athletic activity.

(4) "Athletic trainer" means a person licensed under this part.

(5) "Athletic training" means the recognition, prevention, and treatment of athletic injuries.

(6) "Board ~~Council~~" means the Board ~~Council~~ of Athletic Training.

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

(8) "Direct supervision" means the physical presence of the supervisor on the premises so that the supervisor is immediately available to the trainee when needed.

~~(9) "Secretary" means the Secretary of Health.~~

~~(9)~~(10) "Supervision" means the easy availability of the supervisor to the athletic trainer, which includes the ability to communicate by telecommunications.

Section 132. Section 468.703, Florida Statutes, 1998 Supplement, is amended to read:

468.703 Board ~~Council~~ of Athletic Training.—

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

(2) Five ~~Four~~ members of the board must ~~council shall~~ be licensed athletic trainers. One member of the board must ~~council shall~~ be a physician licensed under chapter 458 or chapter 459. One member of the board must ~~council shall~~ be a physician licensed under chapter 460. Two members ~~One member~~ of the board shall be consumer members, each of whom must ~~council shall~~ be a resident of this state who has never worked as an athletic trainer, who has no financial interest in the practice of athletic training, and who has never been a licensed health care practitioner as defined in s. 455.501(4). ~~Members of the council shall serve staggered 4-year terms as determined by rule of the department; however, no member may serve more than two consecutive terms.~~

(3) For the purpose of staggering terms, the Governor shall appoint the initial members of the board as follows:

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

(b) Three 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 part II of chapter 455 relating to activities of the board shall apply.

(6) The board shall maintain its official headquarters in Tallahassee.

~~(3) The council shall advise and assist the department in:~~

~~(a) Developing rules relating to licensure requirements, the licensure examination, continuing education requirements, fees, records and reports to be filed by licensees, and any other requirements necessary to regulate the practice of athletic training.~~

~~(b) Monitoring the practice of athletic training in other jurisdictions.~~

~~(c) Educating the public about the role of athletic trainers.~~

~~(d) Collecting and reviewing data regarding the licensed practice of athletic training.~~

~~(e) Addressing concerns and problems of athletic trainers in order to promote improved safety in the practice of athletic training.~~

~~(4) Members of the council shall be entitled to compensation and reimbursement for expenses in the same manner as board members are compensated and reimbursed under s. 455.534.~~

Section 133. Section 468.705, Florida Statutes, 1998 Supplement, is amended to read:

468.705 Rulemaking authority.—The board ~~department~~ is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this part conferring duties upon it. Such rules shall include, but not be limited to, the allowable scope of practice regarding the use of equipment, procedures, and medication, ~~and~~ requirements for a written protocol between the athletic trainer and a supervising physician, licensure requirements, licensure examination, continuing education requirements, fees, records, and reports to be filed by licensees, protocols, and any other requirements necessary to regulate the practice of athletic training.

Section 134. Section 468.707, Florida Statutes, 1998 Supplement, is amended to read:

468.707 Licensure by examination; requirements.—

(1) Any person desiring to be licensed as an athletic trainer shall apply to the department on a form approved by the department.

(a) The department shall license each applicant who:

1. Has completed the application form and remitted the required fees.

2. Is at least 21 years of age.

3. Has obtained a baccalaureate degree from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the board ~~department~~.

4. Has completed coursework from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the board ~~department~~, in each of the following areas, as provided by rule: health, human anatomy, kinesiology/biomechanics, human physiology, physiology of exercise, basic athletic training, and advanced athletic training.

5. Has current certification in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or an equivalent certification as determined by the board ~~department~~.

6. Has, within 2 of the preceding 5 years, attained a minimum of 800 hours of athletic training experience under the direct supervision of a licensed athletic trainer or an athletic trainer certified by the National Athletic Trainers' Association or a comparable national athletic standards organization.

7. Has passed an examination administered or approved by the board ~~department~~.

(b) The department shall also license each applicant who:

1. Has completed the application form and remitted the required fees no later than October 1, 1996.

2. Is at least 21 years of age.

3. Has current certification in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or an equivalent certification as determined by the board ~~department~~.

4.a. Has practiced athletic training for at least 3 of the 5 years preceding application; or

b. Is currently certified by the National Athletic Trainers' Association or a comparable national athletic standards organization.

(2) Pursuant to the requirements of s. 455.607 ~~455.604~~, each applicant shall complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of initial licensure.

Section 135. Section 468.709, Florida Statutes, is amended to read:

468.709 Fees.—

(1) The board ~~department~~ shall, by rule, establish fees for the following purposes:

(a) An application fee, not to exceed $100.

(b) An examination fee, not to exceed $200.

(c) An initial licensure fee, not to exceed $200.

(d) A biennial renewal fee, not to exceed $200.

(e) An inactive fee, not to exceed $100.

(f) A delinquent fee, not to exceed $100.

(g) A reactivation fee, not to exceed $100.

(h) A voluntary inactive fee, not to exceed $100.

(2) The board ~~department~~ shall establish fees at a level, not to exceed the statutory fee cap, that is adequate to ensure the continued operation of the

regulatory program under this part. The board ~~department~~ shall neither set nor maintain the fees at a level that will substantially exceed this need.

Section 136. Subsections (2) and (3) of section 468.711, Florida Statutes, 1998 Supplement, are amended to read:

468.711 Renewal of license; continuing education.—

(2) The board ~~department~~ may, by rule, prescribe continuing education requirements, not to exceed 24 hours biennially. The criteria for continuing education shall be approved by the board ~~department~~ and shall include 4 hours in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or equivalent training as determined by board ~~department~~.

(3) Pursuant to the requirements of s. 455.607 ~~455.604~~, each licensee shall complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure.

Section 137. Subsection (2) of section 468.719, Florida Statutes, 1998 Supplement, is amended to read:

468.719 Disciplinary actions.—

(2) When the board ~~department~~ finds any person guilty of any of the acts set forth in subsection (1), the board ~~department~~ may enter an order imposing one or more of the penalties provided in s. 455.624.

Section 138. Section 468.721, Florida Statutes, is amended to read:

468.721 Saving clause.—

~~(1) An athletic trainer registration which is valid on October 1, 1995, shall become for all purposes an athletic trainer license as required by this part, subject to any disciplinary or administrative action pending on October 1, 1995, and shall be subject to all the same terms and conditions as athletic trainer licenses issued after October 1, 1995. The department shall retain jurisdiction to impose discipline for any violation of this part which occurred prior to October 1, 1995, but is discovered after October 1, 1995, under the terms of this part prior to October 1, 1995.~~

~~(2) No judicial or administrative proceeding pending on July 1, 1995, shall be abated as a result of enactment of any provision of this act.~~

~~(3)~~ Rules adopted by the department relating to the regulation ~~registration~~ of athletic trainers under this part prior to July 1, 1999, shall remain in effect until the board ~~department~~ adopts rules relating to the regulation ~~licensure~~ of athletic trainers under this part which supersede such earlier rules.

Section 139. Paragraph (g) of subsection (3) of section 20.43, Florida Statutes, 1998 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:

(g) 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 Medicine, 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. The Board of Occupational Therapy, created 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. The Board of Athletic Training ~~trainers~~, created ~~as provided~~ under part XIII of chapter 468.

20. The Board of Orthotists and Prosthetists, created under part XIV of chapter 468.

21. Electrolysis, as provided under chapter 478.

22. The Board of Massage Therapy, created under chapter 480.

23. The Board of Clinical Laboratory Personnel, created under part III of chapter 483.

24. Medical physicists, as provided under part IV of chapter 483.

25. The Board of Opticianry, created under part I of chapter 484.

26. The Board of Hearing Aid Specialists, created under part II of chapter 484.

27. The Board of Physical Therapy Practice, created under chapter 486.

28. The Board of Psychology, created under chapter 490.

29. School psychologists, as provided under chapter 490.

30. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

The department may 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 140. The Council of Athletic Training and the terms of all council members are terminated on July 1, 1999. However, such termination in no way precludes the Governor from considering any former council member for appointment to the Board of Athletic Training created by this act.

Section 141. Section 468.805, Florida Statutes, is amended to read:

468.805 Grandfathering ~~Licensure without examination; provisional licensure.—~~

(1) A person who has practiced orthotics, prosthetics, or pedorthics in this state for the required period since July 1, 1990, who, before March 1, 1998, applies to the department for a license to practice orthotics, prosthetics, or pedorthics, may be licensed as a prosthetist, orthotist, prosthetist-orthotist, orthotic fitter, orthotic fitter assistant, or pedorthist, as determined from the person's experience, certification, and educational preparation, without meeting the educational requirements set forth in s. 468.803, upon receipt of the application fee and licensing fee and after the board has completed an investigation into the applicant's background and experience. The board shall require an application fee not to exceed $500, which shall be nonrefundable. The board shall complete its investigation within 6 months after receipt of the completed application. The period of experience required for licensure under this section ~~subsection~~ is 5 years for a prosthetist; 2 years for an orthotic fitter, an orthotic fitter assistant, or a pedorthist; and 5 years for an orthotist whose scope of practice is defined under s. 468.80(7).

(2)(a) A person who has received certification as an orthotist, a prosthetist, or a prosthetist-orthotist from a national certifying body and who has practiced orthotics or prosthetics in this state for at least 2 years but less than 5 years is eligible for a provisional license.

(b) An applicant for provisional licensure shall submit proof that he or she has been actively practicing as a nationally certified orthotist, prosthetist, or prosthetist-orthotist, an application fee, and a provisional license fee.

(c) A provisional licensee is required to practice under supervision of a fully licensed orthotist, prosthetist, or prosthetist-orthotist for up to 3 years in order to meet the 5-year experience requirement of subsection (1) to be licensed as an orthotist, prosthetist, or prosthetist-orthotist.

(d) After appropriate investigation, the board shall license as an orthotist, prosthetist, or prosthetist-orthotist the provisional licensee who has successfully completed the period of experience required and otherwise meets the requirements of subsection (1).

(e) The board shall require an application fee, not to exceed $500, which is nonrefundable, and a provisional licensure fee, not to exceed $500.

(3) An applicant who has received certification as an orthotist, a prosthetist, a prosthetist-orthotist, or a pedorthist from a national certifying body which requires the successful completion of an examination, may be licensed under this section without taking an additional examination. An applicant who has not received certification from a national certifying body which requires the successful completion of an examination shall be required to take an examination as determined by the board. This examination shall be designed to determine if the applicant has the minimum qualifications needed to be licensed under this section. The board may charge an examination fee and the actual per applicant cost to the department for purchase or development of the examination.

(4) An applicant who successfully completed prior to March 1, 1998, at least one-half of the examination required for national certification and successfully completed the remaining portion of the examination and became certified prior to July 1, 1998, shall be considered as nationally certified by March 1, 1998, for purposes of this section.

(5)~~(4)~~ This section is repealed July 1, 2002.

Section 142. Subsection (3) of section 468.806, Florida Statutes, is amended to read:

468.806 Biennial renewal of license.—

(3) The board may by rule prescribe continuing education requirements and approve course criteria, not to exceed 30 hours biennially, as a condition for license renewal. The board shall establish a procedure for approving continuing education courses and providers and may set a fee for continuing education course and provider approval.

Section 143. Subsection (5) of section 478.42, Florida Statutes, is amended to read:

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

(5) "Electrolysis or electrology" means the permanent removal of hair by destroying ~~introducing, into and beneath the skin, ionizing (galvanic current) or nonionizing radiation (thermolysis or high-frequency current) to destroy~~ the hair-producing cells of the skin and vascular system, using equipment and ~~needle-type epilation~~ devices approved by the board which have been cleared by and ~~that are~~ registered with the United States Food and Drug Administration and that are used pursuant to protocols approved by the ~~council and the~~ board.

Section 144. Section 483.041, Florida Statutes, is amended to read:

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

(1) "Agency" means the Agency for Health Care Administration.

(2) "Clinical laboratory" means the physical location in which one or more of the following services ~~a laboratory where examinations~~ are performed ~~on materials or specimens taken from 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.

(a) Clinical laboratory services are the examinations of fluids or other materials taken from the human body.

(b) Anatomic laboratory services are the examinations of tissue taken from the human body.

(c) Cytology laboratory services are the examinations of cells from individual tissues or fluid taken from the human body.

(3) "Clinical laboratory examination" means a procedure performed to deliver the services defined in subsection (2), including the oversight or interpretation thereof.

(4)~~(3)~~ "Clinical laboratory proficiency testing program" means a program approved by the agency for evaluating the performance of clinical laboratories.

(5)~~(4)~~ "Collection station" or "branch office" means a facility operated by a clinical laboratory where materials or specimens are withdrawn or collected from patients or assembled after being withdrawn or collected from patients elsewhere, for subsequent delivery to another location for examination.

(6)~~(5)~~ "Hospital laboratory" means a laboratory located in a hospital licensed under chapter 395 that provides services solely to that hospital and that is owned by the hospital and governed by the hospital medical staff or governing board.

(7)~~(6)~~ "Licensed practitioner" means a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461; a dentist licensed under chapter 466; a person licensed under chapter 462; or an advanced registered nurse practitioner licensed under chapter 464 or a duly licensed practitioner from another state licensed under similar statutes who orders examinations on materials or specimens for non residents of the State of Florida, but who reside in the same state as the requesting licensed practitioner.

(8)~~(7)~~ "Person" means the State of Florida or any individual, firm, partnership, association, corporation, county, municipality, political subdivision, or other entity, whether organized for profit or not.

(9)~~(8)~~ "Validation inspection" means an inspection of a clinical laboratory by the agency to assess whether a review by an accrediting organization has adequately evaluated the clinical laboratory according to state standards.

(10)~~(9)~~ "Waived test" means a test that the federal Health Care Financing Administration has determined qualifies for a certificate of waiver under the federal Clinical Laboratory Improvement Amendments of 1988, and the federal rules adopted thereunder.

Section 145. Subsections (2), (3), and (7) of section 483.803, Florida Statutes, are amended to read:

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

(2) "Clinical laboratory" means a clinical laboratory as defined in s. 483.041~~(2)~~.

(3) "Clinical laboratory examination" means a clinical laboratory examination as defined in s. 483.041 ~~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~~.

(7) "Licensed practitioner of the healing arts" means a physician licensed under ~~pursuant to~~ chapter 458, chapter 459, ~~or~~ chapter 460, or chapter 461; a dentist licensed under ~~pursuant to~~ chapter 466; or a person licensed under ~~pursuant to chapter 461 or~~ chapter 462.

Section 146. Subsection (9) of section 483.807, Florida Statutes, 1998 Supplement, is amended to read:

483.807 Fees; establishment; disposition.—

(9) The initial application and renewal fee for approval as a laboratory training program may not exceed $300. The fee for late filing of a renewal application shall be $50.

Section 147. Subsections (2) and (3) of section 483.809, Florida Statutes, are amended to read:

483.809 Licensure; examinations; registration of trainees; approval of curricula.—

(2) EXAMINATIONS.—The department shall conduct examinations required by board rules to determine in part the qualification of clinical laboratory personnel for licensure. The board by rule may designate a ~~An approved~~ national certification examination that may be accepted in lieu of state examination for clinical laboratory personnel or public health scientists.

(3) REGISTRATION OF TRAINEES.—The department shall provide for ~~annual~~ registration of clinical laboratory trainees who are enrolled in a training program ~~employed by laboratories~~ approved pursuant to s. 483.811, which registration may not be renewed except upon special authorization of the board.

Section 148. Section 483.812, Florida Statutes, is amended to read:

483.812 Public health laboratory scientists; licensure.—

(1) Applicants at the director level in the category of public health shall qualify under s. 483.824.

(2)~~(1)~~ Applicants at the ~~director and~~ supervisor level in the category of public health who are certified ~~registered~~ by the National Registry in ~~of~~ Clinical Chemistry ~~Certification~~ or the American Society for ~~of~~ Microbiology, licensed as a technologist, and have 5 years of pertinent clinical laboratory experience may qualify ~~under board rules~~ by passing the state-administered ~~appropriate~~ supervision and administration examination.

(3)~~(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 for ~~of~~ Microbiology or the National Registry in ~~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 2-year ~~one-time, 3-year,~~ conditional public health technician license, which may be renewed once ~~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.

(4)~~(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 149. 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 or to persons engaged in testing performed by laboratories regulated under s. 483.035(1) or exempt from regulation under s. 483.031(2). 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~~.

Section 150. Subsection (3) is added to section 483.821, Florida Statutes, to read:

483.821 Periodic demonstration of competency; continuing education or reexamination.—

(3) The board may, by rule, provide for continuing education or retraining requirements for candidates failing an examination two or more times.

Section 151. Section 483.824, Florida Statutes, is amended to read:

483.824 Qualifications of clinical laboratory director.—A clinical laboratory director must have 4 years of clinical laboratory experience with 2 years of experience in the speciality to be directed or be nationally board certified in the specialty to be directed, and must meet one of the following requirements:

(1) Be a physician licensed under chapter 458 or chapter 459;

(2) Hold an earned doctoral degree in a chemical, physical, or biological science from a regionally accredited institution and be nationally certified; or

(3) For the subspecialty of oral pathology, be a physician licensed under chapter 458 or chapter 459 or a dentist licensed under chapter 466.

Section 152. Section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action.—The following acts constitute grounds for which disciplinary actions specified in s. 483.827 may be taken against applicants, registrants, and licensees under this part:

(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.

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

(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) Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of clinical laboratory personnel or involves moral turpitude or fraudulent or dishonest dealing. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt. ~~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 that an ~~if~~ action under subsection (5), subsection (6), or subsection (10) has been taken against the licensee or one's license to practice as clinical laboratory personnel in another state, territory, ~~or~~ country, or other jurisdiction.

(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 subsection, the department shall have, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this subsection, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate 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.

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

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

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

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

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

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

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

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

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

Section 153. Paragraph (g) of subsection (4) and subsections (6) and (8) of section 483.901, Florida Statutes, 1998 Supplement, are amended to read:

483.901 Medical physicists; definitions; licensure.—

(4) COUNCIL.—The Advisory Council of Medical Physicists is created in the Department of Health to advise the department in regulating the practice of medical physics in this state.

(g) If a vacancy on the council occurs, the secretary ~~director~~ shall appoint a member to serve for a 4-year term.

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

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. The council shall recommend to the department continuing education requirements that shall be a condition of license renewal. The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization recommended by the council and approved by the department. The department, upon recommendation of the council, may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

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

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

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

(e) On receipt of an application and fee as specified in this section, the department may issue a license to practice medical physics in this state:

1. Until October 1, 1998, 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.

2. On or after October 1, 1997, to a person who is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the department.

(f) A licensee shall:

1. Display the license in a place accessible to the public; and

2. Report immediately any change in the licensee's address or name to the department.

(g) The following acts 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 sub-

stantial violation of paragraph (g) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

1. Deny the application for licensure.

2. Revoke or suspend the license.

3. Impose an administrative fine for each count or separate offense.

4. Place the licensee on probation for a specified time and subject the licensee to such conditions as the department determines necessary, including requiring treatment, continuing education courses, or working under the monitoring or supervision of another licensee.

5. Restrict a licensee's practice.

6. Issue a reprimand to the licensee.

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

~~(j) The department may issue a temporary license to an applicant pending completion of the application process for board certification.~~

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

(8) DISPOSITION OF FEES.—The department shall deposit all funds received into the Medical Quality Assurance ~~Health Care~~ Trust Fund.

Section 154. Paragraph (d) of subsection (1) of section 484.007, Florida Statutes, is amended to read:

484.007 Licensure of opticians; permitting of optical establishments.—

(1) Any person desiring to practice opticianry shall apply to the department, upon forms prescribed by it, to take a licensure examination. The department shall examine each applicant who the board certifies:

(d)1. Has received an associate degree, or its equivalent, in opticianry from an educational institution the curriculum of which is accredited by an accrediting agency recognized and approved by the United States Department of Education or the Council on Postsecondary Education or approved by the board;

2. Is an individual licensed to practice the profession of opticianry pursuant to a regulatory licensing law of another state, territory, or jurisdiction of the United States, who has actively practiced in such other state, territory, or jurisdiction for more than 3 years immediately preceding applica-

tion, and who meets the examination qualifications as provided in this subsection;

3. Is an individual who has actively practiced in another state, territory, or jurisdiction of the United States for more than 5 years immediately preceding application and who provides tax or business records, affidavits, or other satisfactory documentation of such practice and who meets the examination qualifications as provided in this subsection; or

4. Has registered as an apprentice with the department and paid a registration fee not to exceed $60, as set by rule of the board. The apprentice shall complete 6,240 hours of training under the supervision of an optician licensed in this state for at least 1 year or of, a physician, or ~~an~~ optometrist licensed under the laws of this state. These requirements must be met within 5 years after the date of registration. However, any time spent in a recognized school may be considered as part of the apprenticeship program provided herein. The board may establish administrative processing fees sufficient to cover the cost of administering apprentice rules as promulgated by the board.

Section 155. Subsection (3) is added to section 484.0512, Florida Statutes, to read:

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

(3) Within 30 days after the return or attempted return of the hearing aid, the seller shall refund all moneys that must be refunded to a purchaser pursuant to this section.

Section 156. Section 484.053, Florida Statutes, is amended to read:

484.053 Prohibitions; penalties.—

(1) A person may not:

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

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

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

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

(e) Use or attempt to use a hearing aid specialist license that is delinquent or has been suspended, revoked, or placed on inactive ~~or delinquent~~ status;

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

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

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

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

Section 157. Paragraph (a) of subsection (1) of section 484.056, Florida Statutes, 1998 Supplement, is amended to read:

484.056 Disciplinary proceedings.—

(1) The following acts relating to the practice of dispensing hearing aids shall be grounds for both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 455.637 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation:

(a) Violation of any provision of s. 455.624(1), s. 484.0512, or s. 484.053.

Section 158. 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 in writing on a form furnished by the department. She or he shall embody in that application evidence under oath, satisfactory to the board, of possession of the qualifications preliminary to examination required by s. 486.031. The applicant shall pay to the department at the time of filing the application a fee not to exceed $100, as fixed by the board.

~~(2) If a person desires to practice physical therapy before becoming licensed through examination, she or 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 and practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.~~

Section 159. 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 her or his name or place of business to denote her or 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, she or 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 160. 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 in writing on a form furnished by the department. She or he shall embody in that application evidence under oath, satisfactory to the board, of possession of the qualifications preliminary to examination required by s. 486.104. The applicant shall pay to the department at the time of filing the application a fee not to exceed $100, as fixed by the board.

~~(2) If a person desires to work as a physical therapist assistant before being licensed through examination, she or 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 161. Section 486.107, Florida Statutes, is amended to read:

486.107 Physical therapist assistant; issuance of license without examination to person licensed in another jurisdiction; ~~temporary permit;~~ fee.—

(1) The board may cause a license to be issued through the department without examination to any applicant who presents evidence to the board, under oath, of licensure in another state, the District of Columbia, or a territory, if the standards for registering as a physical therapist assistant or licensing of a physical therapist assistant, as the case may be, in such other state 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 assistant," or the letters "P.T.A.," in connection with her or his name to denote licensure hereunder.

(2) At the time of making application for licensing 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 work as a physical therapist assistant before being licensed through endorsement, she or he shall apply 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 162. Paragraph (b) of subsection (1) of section 490.005, Florida Statutes, 1998 Supplement, 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);

2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003(3), 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;

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; or

4. Received and submitted to the board, prior to August 31, 2001 ~~July 1, 2001~~, certification of a doctoral-level program that at the time the applicant was enrolled and graduated maintained a standard of education and training comparable to the standard of training of programs accredited by a programmatic agency recognized and approved by the United States Department of Education~~, as such comparability was determined by the Board of Psychological Examiners immediately prior to the amendment of s. 490.005, Florida Statutes, 1994 Supplement, by s. 5, chapter 95-279, Laws of Florida~~. Such certification of comparability shall be provided by 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 163. Subsection (1) of section 490.006, Florida Statutes, is amended to read:

490.006 Licensure by endorsement.—

(1) The department shall license a person as a psychologist or school psychologist who, upon applying to the department and remitting the appropriate fee, demonstrates to the department or, in the case of psychologists, to the board that the applicant:

(a) Holds a valid license or certificate in another state to practice psychology or school psychology, as applicable, provided that, when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in this chapter at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in this chapter at the present time; ~~or~~

(b) Is a diplomate in good standing with the American Board of Professional Psychology, Inc.; or

(c) Possesses a doctoral degree in psychology as described in s. 490.003 and has at least 20 years of experience as a licensed psychologist in any jurisdiction or territory of the United States within 25 years preceding the date of application.

Section 164. Subsection (2) of section 490.0085, Florida Statutes, is amended to read:

490.0085 Continuing education; approval of providers, programs, and courses; proof of completion.—

(2) The department or, in the case of psychologists, the board has the authority to set a fee not to exceed $500 for each applicant who applies for or renews provider status. Such fees shall be deposited into the Medical Quality Assurance ~~Health Care~~ Trust Fund.

Section 165. Section 491.0045, Florida Statutes, is amended 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 post-master's experience requirement or an individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience, outside the academic arena for any profession, must register as an intern in the profession for which he or she is seeking licensure prior to commencing the practicum, internship, or field experience.

(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)1. Completed the education requirements as specified in s. 491.005(1)(c), (3)(c), or (4)(c) for the profession for which he or she is applying for licensure, if needed; and

2. Submitted an acceptable supervision plan, as determined by the board, for meeting the practicum, internship, or field work required for licensure that was not satisfied in his or her graduate program.

(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.

(4) An individual who has applied for intern registration on or before December 31, 2001, and has satisfied the education requirements of s. 491.005 that are in effect through December 31, 2000, will have met the educational requirements for licensure for the profession for which he or she has applied.

(5) Individuals who have commenced the experience requirement as specified in s. 491.005(1)(c), (3)(c), or (4)(c) but failed to register as required by subsection (1) shall register with the department before January 1, 2000. Individuals who fail to comply with this subsection shall not be granted a license, and any time spent by the individual completing the experience requirement prior to registering as an intern shall not count toward completion of such requirement.

Section 166. Subsections (1) and (2) of section 491.0046, Florida Statutes, are amended to read:

491.0046 Provisional license; requirements.—

(1) An individual applying for licensure by examination who has satisfied the clinical experience requirements of s. 491.005 or an individual applying

for licensure by endorsement pursuant to s. 491.006 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~~, 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.~~

(c) Has met the following minimum coursework requirements:

1. For clinical social work, a minimum of 15 semester hours or 22 quarter hours of the coursework required by s. 491.005(1)(b)2.b.

2. For marriage and family therapy, ten of the courses required by s. 491.005(3)(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.

3. For mental health counseling, a minimum of seven of the courses required under s. 491.005(b)1.a.-c.

Section 167. Section 491.005, Florida Statutes, is amended to read:

491.005 Licensure by examination.—

(1) CLINICAL SOCIAL WORK.—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. Was accredited by the Council on Social Work Education;

b. Was accredited by the Canadian Association of Schools of Social Work; or

c. 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, 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 32 ~~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, and no more than one course in research, taken in a school of social work accredited or approved pursuant to subparagraph 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 years of clinical social work 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 subparagraph (b)2. ~~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 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, as determined by the board, on the premises at the same time the intern is providing services.

(d) Has passed a theory and practice 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) CLINICAL SOCIAL WORK.—

(a) Notwithstanding the provisions of paragraph (1)(b), 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) MARRIAGE AND FAMILY THERAPY.— 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. 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. 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. 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. 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.

(c) Has had not less than 2 years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services, 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, 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 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, as determined by the board, on the premises at the same time the intern is providing services.

(d) Has passed a theory and practice 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.

(f) For the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057. Fees for dual licensure shall not exceed those stated in this subsection.

(4) MENTAL HEALTH COUNSELING.—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. 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. 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. 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. 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., 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 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 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.

(d) Has passed a theory and practice 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.

(5) INTERNSHIP.—An individual who is registered as an intern and has satisfied all of the educational requirements for the profession for which the applicant seeks licensure shall be certified as having met the educational requirements for licensure under this section.

(6) RULES.—The board may adopt rules necessary to implement any education or experience requirement of this section for licensure as a clinical social worker, marriage and family therapist, or mental health counselor.

Section 168. Effective January 1, 2001, paragraph (b) of subsection (4) of section 491.005, Florida Statutes, as amended by section 13 of chapter 97-198 and section 205 of chapter 97-264, Laws of Florida, and as amended by this act, is amended, and subsection (6) of that section, as created by this act, is reenacted, to read:

491.005 Licensure by examination.—

(4) MENTAL HEALTH COUNSELING.—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 a minimum of an earned master's degree from a 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 a course in 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 consist of at least 60 semester hours or 80 quarter hours and meet the following requirements:

a. Thirty-three ~~Thirty-six~~ semester hours or 44 ~~48~~ quarter hours of graduate coursework, which must include a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in each of the following 11 ~~12~~ content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; 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. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in legal, ethical, and professional standards issues in the practice of mental health counseling, which includes goals, 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. The equivalent, as determined by the board, of at least 1,000 hours of university-sponsored supervised clinical practicum, internship, or field ex-

perience 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.

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.

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.

(6) RULES.—The board may adopt rules necessary to implement any education or experience requirement of this section for licensure as a clinical social worker, marriage and family therapist, or mental health counselor.

Section 169. Paragraph (b) of subsection (1) of section 491.006, Florida Statutes, is amended to read:

491.006 Licensure or certification by endorsement.—

(1) The department shall license or grant a certificate to a person in a profession regulated by this chapter who, upon applying to the department and remitting the appropriate fee, demonstrates to the board that he or she:

(b)1. Holds an active valid license to practice and has actively practiced the profession for which licensure is applied in another state for 3 of the last 5 years immediately preceding licensure.

2. Meets the education requirements of this chapter for the profession for which licensure is applied.

3. Has passed a substantially equivalent licensing examination in another state or has passed the licensure examination in this state in the profession for which the applicant seeks licensure.

4. Holds a license in good standing, is not under investigation for an act which would constitute a violation of this chapter, and has not been found to have committed any act which would constitute a violation of this chapter.

Section 170. Section 491.0085, Florida Statutes, is amended to read:

491.0085 Continuing education and laws and rules courses; approval of providers, programs, and courses; proof of completion.—

(1) Continuing education providers, programs, and courses and laws and rules courses and their providers and programs shall be approved by the department or the board.

(2) The department or the board has the authority to set a fee not to exceed $200 for each applicant who applies for or renews provider status. Such fees shall be deposited into the Medical Quality Assurance ~~Health Care~~ Trust Fund.

(3) Proof of completion of the required number of hours of continuing education and completion of the laws and rules course shall be submitted to the department or the board in the manner and time specified by rule and on forms provided by the department or the board.

(4) The department or the board shall adopt rules and guidelines to administer and enforce the provisions of this section.

Section 171. Paragraph (d) of subsection (4) of section 491.014, Florida Statutes, 1998 Supplement, is amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(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.

Section 172. Paragraph (a) of subsection (1) and subsection (5) of section 499.012, Florida Statutes, 1998 Supplement, are amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

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

(a) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

1. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with s. 499.014:

a. The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a prescription drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of that organization.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended and revised, to a nonprofit affiliate of the organization to the extent otherwise permitted by law.

c. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are under common control. For purposes of this section, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, by voting rights, by contract, or otherwise.

d. The sale, purchase, trade, or other transfer of a prescription drug from or for any federal, state, or local government agency or any entity eligible to purchase prescription drugs at public health services prices pursuant to s. 602 of Pub. L. No. 102-585 to a contract provider or its subcontractor for eligible patients of the agency or entity under the following conditions:

(I) The agency or entity must obtain written authorization for the sale, purchase, trade, or other transfer of a prescription drug under this sub-subparagraph from the Secretary of Health or his or her designee.

(II) The contract provider or subcontractor must be authorized by law to administer or dispense prescription drugs.

(III) In the case of a subcontractor, the agency or entity must be a party to and execute the subcontract.

(IV) A contract provider or subcontractor must maintain separate and apart from other prescription drug inventory any prescription drugs of the agency or entity in its possession.

(V) The contract provider and subcontractor must maintain and produce immediately for inspection all records of movement or transfer of all the prescription drugs belonging to the agency or entity, including, but not limited to, the records of receipt and disposition of prescription drugs. Each contractor and subcontractor dispensing or administering these drugs must maintain and produce records documenting the dispensing or administration. Records that are required to be maintained include, but are not limited to, a perpetual inventory itemizing drugs received and drugs dispensed by prescription number or administered by patient identifier, which must be submitted to the agency or entity quarterly.

(VI) The contract provider or subcontractor may administer or dispense the prescription drugs only to the eligible patients of the agency or entity or must return the prescription drugs for or to the agency or entity. The contract provider or subcontractor must require proof from each person seeking to fill a prescription or obtain treatment that the person is an eligible patient of the agency or entity and must, at a minimum, maintain a copy of this proof as part of the records of the contractor or subcontractor required under sub-sub-subparagraph (V).

(VII) The prescription drugs transferred pursuant to this sub-subparagraph may not be billed to Medicaid.

(VIII) In addition to the departmental inspection authority set forth in s. 499.051, the establishment of the contract provider and subcontractor and all records pertaining to prescription drugs subject to this sub-subparagraph shall be subject to inspection by the agency or entity. All records relating to prescription drugs of a manufacturer under this sub-subparagraph shall be subject to audit by the manufacturer of those drugs, without identifying individual patient information.

2. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with rules established by the department:

a. The sale, purchase, or trade of a prescription drug among federal, state, or local government health care entities that are under common control and are authorized to purchase such prescription drug.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons.~~;~~ For purposes of this sub-subparagraph ~~subparagraph~~, the term "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

c. The transfer ~~purchase or acquisition~~ of a prescription drug acquired by a medical director on behalf of a licensed ~~an~~ emergency medical services provider to that ~~medical director for use by~~ emergency medical services provider and its transport vehicles for use in accordance with the provider's license under ~~providers acting within the scope of their professional practice pursuant to~~ chapter 401.

d. The revocation of a sale or the return of a prescription drug to the person's prescription drug wholesale supplier.

e. The donation of a prescription drug by a health care entity to a charitable organization that has been granted an exemption under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that is authorized to possess prescription drugs.

f. The transfer of a prescription drug by a person authorized to purchase or receive prescription drugs to a person licensed or permitted to handle reverse distributions or destruction under the laws of the jurisdiction in which the person handling the reverse distribution or destruction receives the drug.

~~3. The dispensing of a prescription drug pursuant to a prescription;~~

3.~~4.~~ The distribution of prescription drug samples by manufacturers' representatives or distributors' representatives conducted in accordance with s. 499.028.~~; or~~

4.~~5.~~ The sale, purchase, or trade of blood and blood components intended for transfusion. As used in this subparagraph ~~section~~, the term "blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing, and the term "blood components" means that part of the blood separated by physical or mechanical means.

5. The lawful dispensing of a prescription drug in accordance with chapter 465.

(5) The department may adopt rules governing the recordkeeping, storage, and handling with respect to each of the distributions of prescription drugs specified in subparagraphs (1)(a)1.-4. ~~(1)(a)1., 2., 4., and 5.~~

Section 173. Subsection (6) is added to section 626.883, Florida Statutes, to read:

626.883 Administrator as intermediary; collections held in fiduciary capacity; establishment of account; disbursement; payments on behalf of insurer.—

(6) All payments to a health care provider by a fiscal intermediary for noncapitated providers must include an explanation of services being reimbursed which includes, at a minimum, the patient's name, the date of service, the procedure code, the amount of reimbursement, and the identification of the plan on whose behalf the payment is being made. For capitated providers, the statement of services must include the number of patients covered by the contract, the rate per patient, the total amount of the payment, and the identification of the plan on whose behalf the payment is being made.

Section 174. Paragraph (a) of subsection (2) of section 641.316, Florida Statutes, 1998 Supplement, is amended to read:

641.316 Fiscal intermediary services.—

(2)(a) The term "fiduciary" or "fiscal intermediary services" means reimbursements received or collected on behalf of health care professionals for services rendered, patient and provider accounting, financial reporting and auditing, receipts and collections management, compensation and reimbursement disbursement services, or other related fiduciary services pursuant to health care professional contracts with health maintenance organizations. All payments to a health care provider by a fiscal intermediary for noncapitated providers must include an explanation of services being reimbursed which includes, at a minimum, the patient's name, the date of service, the procedure code, the amount of reimbursement, and the identification of the plan on whose behalf the payment is being made. For capitated providers, the statement of services must include the number of patients

covered by the contract, the rate per patient, the total amount of the payment, and the identification of the plan on whose behalf the payment is being made.

Section 175. Task Force on Telehealth.—

(1) Because telecommunications technology has made it possible to provide a wide range of health care services across state lines between healthcare practitioners and patients, it is the intent of the Legislature to protect the health and safety of all patients in this state receiving services by means of such technology and to ensure the accountability of the healthcare profession with respect to unsafe and incompetent practitioners using such technology to provide health care services to patients in this state.

(2) The Secretary of Health shall appoint a task force consisting of representatives from the affected medical and allied health professions and other affected health care industries.

(3) The task force shall address the following:

(a) Identification of various electronic communications or telecommunications technologies currently used within the state and by other states to provide healthcare information.

(b) Identification of laws, regulations, and reimbursement practices that serve as barriers to implementation of electronic communications related to health care.

(c) Recommendation of the appropriate level of regulation of health care professionals necessary to protect the health and safety of patients in this state, including analysis of existing provisions governing in-state professionals such as licensing, financial responsibility, and medical malpractice insurance requirements.

(d) Potential preemption of state regulation by the Commerce Clause of the United States Constitution.

(e) The effect of telehealth on access to health care in rural and underserved areas.

(f) Potential antitrust concerns.

(g) The effect of regulations by other states or jurisdictions on health care professionals in this state who provide consultative services through telehealth to entities and patients outside the state.

(h) Research on other public and private data and initiatives related to telehealth.

(i) Any other issue affecting the health, safety, and welfare of patients through telehealth identified by the task force.

(4) The task force shall submit a report of its findings and recommendations by January 1, 2000, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 176. Subsection (1) of section 468.352, Florida Statutes, is amended to read:

468.352 Definitions.—As used in this part, unless the context otherwise requires, the term:

(1) "Board" means the Board of Respiratory Care ~~Medicine~~.

Section 177. Section 468.353, Florida Statutes, is amended to read:

468.353 Board of Respiratory Care ~~Medicine~~; powers and duties.—

(1) The board~~, with the assistance of the Advisory Council on Respiratory Care,~~ is authorized to establish minimum standards for the delivery of respiratory care services and to adopt those rules necessary to administer this part.

(2) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties under this part.

(3) The board may adopt rules to administer this part, including rules governing the investigation, inspection, and review of schools and colleges that offer courses in respiratory care in order to ascertain their compliance with standards established by the board or appropriate accrediting agencies ~~delegate such powers and duties to the council as it may deem proper~~.

Section 178. Section 468.354, Florida Statutes, is amended to read:

468.354 Board of ~~Advisory Council on~~ Respiratory Care; organization; function.—

(1) There is created within the department, the Board of ~~Advisory Council on~~ Respiratory Care, composed of seven members appointed by the Governor and confirmed by the Senate ~~under the supervision of the board~~.

(2) The board ~~council shall consist of five members appointed by the board and~~ shall include:

(a) A registered respiratory therapist.

(b) A certified respiratory therapist ~~care practitioner~~.

(c) A respiratory care professional from each of the following areas:

1. Respiratory care education.

2. Respiratory care management and supervision.

3. Homecare/subacute ~~Cardiopulmonary diagnostics~~.

(d) Two consumer members, who are residents of this state and have never been licensed as health care practitioners.

Each ~~member of the council shall be a~~ respiratory care professional on the board must have ~~who has~~ been actively engaged in the delivery of respira-

tory care services in this state for at least 4 consecutive years prior to appointment.

(3)(a) Except as provided in paragraph (b), the term of office for each board ~~council~~ member shall be 4 years. No member shall serve for more than two consecutive terms. Any time there is a vacancy to be filled ~~on the council~~, all professional organizations dealing with respiratory therapy incorporated within the state as not for profit which register their interest ~~with the board~~ shall recommend at least twice as many persons to fill the vacancy ~~to the council~~ as the number of vacancies to be filled, and the Governor ~~board~~ may appoint from the submitted list, in his ~~its~~ discretion, any of those persons so recommended. The Governor ~~board~~ shall, insofar as possible, appoint persons from different geographical areas.

(b) ~~In order~~ To achieve staggering of terms, within 120 days after July 1, 1999, ~~October 1, 1984,~~ the Governor ~~board~~ shall appoint the board members ~~of the council~~ as follows:

1. Two members ~~One member~~ shall be appointed for terms ~~a term~~ of 2 years.

2. Two members shall be appointed for terms of 3 years.

3. Three ~~Two~~ members shall be appointed for terms of 4 years.

(c) All provisions of part II of chapter 455, relating to boards apply to this part.

(4)(a) The board ~~council~~ shall annually elect from among its members a chair and vice chair.

(b) The board ~~council~~ shall meet at least twice a year and shall hold ~~such~~ additional meetings as are deemed necessary ~~by the board~~. Four ~~Three~~ members of the council constitute a quorum.

(c) Unless otherwise provided by law, a board ~~council~~ member shall be compensated $50 for each day he or she attends an official board meeting ~~of the council~~ and for each day he or she participates in any other board business ~~involving the council~~. A board ~~council~~ member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the secretary of the department.

(5)~~(a)~~ The board may ~~council shall~~ recommend to the department a code of ethics for those persons licensed pursuant to this part.

~~(b) The council shall make recommendations to the department for the approval of continuing education courses.~~

Section 179. Section 468.355, Florida Statutes, is amended to read:

468.355 Eligibility for licensure; temporary licensure.—

(1) To be eligible for licensure 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 on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Certified Respiratory Therapy Technician" certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

3. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

~~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 periodically ~~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 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 on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall periodically ~~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 of eligible individuals entering the state and temporary licensure of those persons who have gradu-

ated from a program approved by the board. Such temporary licensure shall be for a period not to exceed 1 year.

Section 180. Section 468.357, Florida Statutes, is amended to read:

468.357 Licensure by examination.—

(1) A person who desires to be licensed as a respiratory care practitioner may submit an application ~~to the department~~ to take the examination, in accordance with board rule ~~to be administered by the department~~.

(a) ~~The department shall examine~~ Each applicant may take the examination who is determined by the board to have:

1. Completed the application form and remitted the applicable fee set by the board;

2. Submitted required documentation as required in s. 468.355; and

3. Remitted an examination fee set by the examination provider ~~board~~.

(b) ~~The department shall conduct~~ Examinations for licensure of respiratory care practitioners must be conducted no less than two times a year in such geographical locations or by such methods as are deemed advantageous to the majority of the applicants.

(c) The examination given for 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 licensure as a respiratory care practitioner, and the department shall issue a license pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such an offense, the applicable provisions of s. 468.365 will apply.

~~(3) 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 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 of such person to the performance of noncritical care respiratory services.~~

Section 181. Section 468.364, Florida Statutes, 1998 Supplement, is amended to read:

468.364 Fees; establishment; disposition.—

(1) The board shall establish by rule fees for the following purposes:

(a) Application, a fee not to exceed $50.

~~(b) Examination, 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.~~

(b)~~(c)~~ Initial licensure, a fee not to exceed $200.

(c)~~(d)~~ Renewal of licensure, a fee not to exceed $200 biennially.

(d)~~(e)~~ Renewal of inactive licensure, a fee not to exceed $50.

(e)~~(f)~~ Reactivation, a fee not to exceed $50.

(2) The fees established pursuant to subsection (1) shall be based upon the actual costs incurred by the department in carrying out its responsibilities under this part.

(3) All moneys collected by the department under this part shall be deposited as required by s. 455.587.

Section 182. Paragraph (f) of subsection (1) of section 468.365, Florida Statutes, 1998 Supplement, 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:

(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.

Section 183. Paragraph (a) of subsection (2) of section 464.016, Florida Statutes, is amended to read:

464.016 Violations and penalties.—

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.

Section 184. Paragraphs (b) and (c) of subsection (1) of section 458.3115, Florida Statutes, 1998 Supplement, are 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)

(b) A person who is eligible to take and elects to take the USMLE who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the USMLE up to the year 2002 ~~2000~~.

(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; 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 any ~~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 part II of 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 part II of chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

Section 185. Subsection (2) of section 458.3124, Florida Statutes, 1998 Supplement, is amended to read:

458.3124 Restricted license; certain experienced foreign-trained physicians.—

(2) A person applying for licensure under this section must submit to the Department of Health on or before December 31, 2000 ~~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.

Section 186. Effective upon this act becoming a law, section 301 of chapter 98-166, Laws of Florida, is amended to read:

Section 301. The sum of $1.2 million from the unallocated balance in the Medical Quality Assurance Trust Fund is appropriated to the Department of Health to allow the department to develop the examination required for foreign licensed physicians in section 458.3115(1)(a), Florida Statutes, through a contract with the University of South Florida. The department shall charge examinees a fee not to exceed 25 percent of the cost of the actual costs of the first examination administered pursuant to section 458.3115, Florida Statutes, 1998 Supplement, and a fee not to exceed 75 percent of the actual costs for any subsequent examination administered pursuant to that section.

Section 187. The Agency for Health Care Administration shall conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the State of Florida. The study shall include, but not be limited to, an analysis of the past and present utilization rates of clinical laboratory services for dialysis patients, financial arrangements among kidney dialysis centers, their medical directors, and any business relationships and affiliations with clinical laboratories, any self referral to clinical laboratories, the quality and responsiveness of clinical laboratory services for dialysis patients in Florida, and the average annual revenue for dialysis patients for clinical laboratory services for the past ten years. The agency shall report back to the President of the Senate, Speaker of the House of Representatives, and chairs of the appropriate substantive committees of the Legislature on its findings no later than February 1, 2000.

Section 188. Subsection (3) is added to section 455.651, Florida Statutes, 1998 Supplement, to read:

455.651 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the department, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 455.624, and, if applicable, shall be removed from office, employment, or the contractual relationship.

(3) Any person injured as a result of a willful violation of this section shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

Section 189. Section 641.261, Florida Statutes, is amended to read:

641.261 Other reporting requirements.—

(1) Each authorized health maintenance organization shall provide records and information to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 409.910(20) and (21) ~~(22)~~ for the sole purpose of identifying potential coverage for claims filed with the agency ~~Department of Health and Rehabilitative Services~~ and its fiscal agents for payment of medical services under the Medicaid program.

(2) Any information provided by a health maintenance organization under this section to the agency ~~Department of Health and Rehabilitative Services~~ shall not be considered a violation of any right of confidentiality or contract that the health maintenance organization may have with covered persons. The health maintenance organization is immune from any liability that it may otherwise incur through its release of information to the agency ~~Department of Health and Rehabilitative Services~~ under this section.

Section 190. Section 641.411, Florida Statutes, is amended to read:

641.411 Other reporting requirements.—

(1) Each prepaid health clinic shall provide records and information to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 409.910(20) and (21) ~~(22)~~ for the sole purpose of identifying potential coverage for claims filed with the agency ~~Department of Health and Rehabilitative Services~~ and its fiscal agents for payment of medical services under the Medicaid program.

(2) Any information provided by a prepaid health clinic under this section to the agency ~~Department of Health and Rehabilitative Services~~ shall not be considered a violation of any right of confidentiality or contract that the prepaid health clinic may have with covered persons. The prepaid health clinic is immune from any liability that it may otherwise incur through its release of information to the agency ~~Department of Health and Rehabilitative Services~~ under this section.

Section 191. Paragraph (a) of subsection (4) of section 733.212, Florida Statutes, is amended to read:

733.212 Notice of administration; filing of objections and claims.—

(4)(a) The personal representative shall promptly make a diligent search to determine the names and addresses of creditors of the decedent who are reasonably ascertainable and shall serve on those creditors a copy of the notice within 3 months after the first publication of the notice. Under s. 409.9101, the Agency for Health Care Administration is considered a reasonably ascertainable creditor in instances where the decedent had received

Medicaid assistance for medical care after reaching 55 years of age. Impracticable and extended searches are not required. Service is not required on any creditor who has filed a claim as provided in this part; a creditor whose claim has been paid in full; or a creditor whose claim is listed in a personal representative's timely proof of claim if the personal representative notified the creditor of that listing.

Section 192. (1) There is established a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund as created by section 409.918, Florida Statutes. The task force shall consist of:

(a) Two members appointed by the President of the Senate, one of whom must be a member of the Senate and one of whom must represent a hospital subject to the assessment imposed under section 395.701, Florida Statutes, 1998 Supplement, or section 394.4786, Florida Statutes;

(b) Two members appointed by the Speaker of the House of Representatives, one of whom must be a member of the House and one of whom must represent a health care entity subject to the assessment imposed under section 395.7015, Florida Statutes, 1998 Supplement;

(c) Three members appointed by the Governor, one of whom must be the Director of the Agency for Health Care Administration, or his or her designee; one of whom must be a medical doctor licensed to practice in the state; and one of whom must be a consumer who has no employment or investment interest in any health care entity subject to the assessment imposed for deposit into the Public Medical Assistance Trust Fund and who is a representative of Florida TaxWatch.

(2) The Governor shall designate the task force chair from among the members.

(3) The task force shall consider and make specific recommendations concerning, but not limited to:

(a) Whether any provisions of sections 395.701, 395.7015, and 409.918, Florida Statutes, need to be revised;

(b) Whether the annual assessments imposed by these statutes on the various health care entities are imposed equitably;

(c) Whether additional exemptions from, or inclusions within, the assessments are justified; and

(d) The extent to which modifications to other statutory provisions that require deposit of specified revenue into the Public Medical Assistance Trust Fund, including, but not limited to, sections 210.20, 395.1041, 408.040, and 408.08, Florida Statutes, could result in increased revenue for the trust fund.

The task force shall provide an analysis of the budgetary impact of any recommended exemptions from, inclusions within, or modifications to existing assessments.

(4) The Agency for Health Care Administration shall provide necessary staff support and technical assistance to the task force.

(5) The task force shall convene by August 1, 1999, for its first meeting, and shall submit its findings and recommendations, including any proposed legislation, to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 1, 1999.

Section 193. Section 395.40, Florida Statutes, is created to read:

395.40 Legislative findings and intent.—

(1) The Legislature finds that there has been a lack of timely access to trauma care due to the state's fragmented trauma system. This finding is based on the 1999 Trauma System Report on Timely Access to Trauma Care submitted by the department in response to the request of the Legislature.

(2) The Legislature finds that it is necessary to plan for and to establish an inclusive trauma system to meet the needs of trauma victims. An "inclusive trauma system" means a system designed to meet the needs of all injured trauma victims who require care in an acute-care setting and into which every health care provider or facility with resources to care for the injured trauma victim is incorporated. The Legislature deems the benefits of trauma care provided within an inclusive trauma system to be of vital significance to the outcome of a trauma victim.

(3) It is the intent of the Legislature to place primary responsibility for the planning and establishment of a statewide inclusive trauma system with the department. The department shall undertake the implementation of a statewide inclusive trauma system as funding is available.

(4) The Legislature finds that significant benefits are to be obtained by directing the coordination of activities by several state agencies, relative to access to trauma care and the provision of trauma care to all trauma victims. It is the intent of the Legislature that the department, the Agency for Health Care Administration, the Board of Medicine, and the Board of Nursing establish interagency teams and agreements for the development of guidelines, standards, and rules for those portions of the inclusive state trauma system within the statutory authority of each agency. This coordinated approach will provide the necessary continuum of care for the trauma victim from injury to final hospital discharge. The department has the leadership responsibility for this activity.

(5) In addition, the agencies listed in subsection (4) should undertake to:

(a) Establish a coordinated methodology for monitoring, evaluating, and enforcing the requirements of the state's inclusive trauma system which recognizes the interests of each agency.

(b) Develop appropriate roles for trauma agencies, to assist in furthering the operation of trauma systems at the regional level. This should include issues of system evaluation as well as managed care.

(c) Develop and submit appropriate requests for waivers of federal requirements which will facilitate the delivery of trauma care.

(d) Develop criteria that will become the future basis for mandatory consultation on the care of trauma victims and mandatory transfer of appropriate trauma victims to trauma centers.

(e) Develop a coordinated approach to the care of the trauma victim. This shall include the movement of the trauma victim through the system of care and the identification of medical responsibility for each phase of care for out-of-hospital and in-hospital trauma care.

(f) Require the medical director of an emergency medical services provider to have medical accountability for a trauma victim during interfacility transfer.

(6) Furthermore, the Legislature encourages the department to actively foster the provision of trauma care and serve as a catalyst for improvements in the process and outcome of the provision of trauma care in an inclusive trauma system. Among other considerations, the department is encouraged to:

(a) Promote the development of at least one trauma center in every trauma service area.

(b) Promote the development of a trauma agency for each trauma region.

(c) Update the state trauma system plan by December 2000 and at least every 5th year thereafter.

Section 194. Subsection (1) and paragraphs (c) and (n) of subsection (2) of section 395.401, Florida Statutes, 1998 Supplement, are amended to read:

395.401 Trauma services system plans; verification of trauma centers and pediatric trauma referral centers; procedures; renewal.—

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Charity care" or "uncompensated charity care" means that portion of hospital charges reported to the agency for which there is no compensation for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity.

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

(d) "Level I trauma center" means a hospital that is determined by the department to be in substantial compliance with trauma center and pediatric trauma referral center verification standards as established by rule of the department, and which:

1. Has formal research and education programs for the enhancement of trauma care.

2. Serves as a resource facility to Level II trauma centers, pediatric trauma referral centers, and community hospitals.

3. Ensures an organized system of trauma care.

(e) "Level II trauma center" means a hospital that is determined by the department to be in substantial compliance with trauma center verification standards as established by rule of the department, and which:

1. Serves as a resource facility to community hospitals.

2. Ensures an organized system of trauma care.

~~(f) "Local trauma agency" means an agency established and operated by a county or an entity with which the county contracts for the purpose of administrative trauma services.~~

(f)~~(g)~~ "Pediatric trauma referral center" means a hospital that is determined to be in substantial compliance with pediatric trauma referral center standards as established by rule of the department.

~~(h) "Regional trauma agency" means an agency created and operated by two or more counties, or an entity with which two or more counties contract, for the purpose of administering trauma services.~~

(g)~~(i)~~ "State-approved trauma center" means a hospital that has successfully completed the state-approved selection process pursuant to s. 395.4025 and has been approved by the department to operate as a trauma center in the state.

(h)~~(j)~~ "State-sponsored trauma center" means a state-approved trauma center that receives state funding for trauma care services.

(i) "Trauma agency" means an agency established and operated by one or more counties, or an entity with which one or more counties contract, for the purpose of administering an inclusive regional trauma system.

(j) "Trauma alert victim" means a person who has incurred a single or multisystem injury due to blunt or penetrating means or burns; who requires immediate medical intervention or treatment; and who meets one or more of the adult or pediatric scorecard criteria established by the department by rule.

(k) "Trauma center" means any hospital that has been determined by the department to be in substantial compliance with trauma center verification standards.

(l) "Trauma scorecard" means a statewide methodology adopted by the department by rule under which a person who has incurred a traumatic injury is graded as to the severity of his or her injuries or illness and which methodology is used as the basis for making destination decisions.

(m) "Trauma victim" means any person who has incurred a single or multisystem ~~life-threatening~~ injury due to blunt or penetrating means or burns and who requires immediate medical intervention or treatment.

(2)

(c) The department shall receive plans for the implementation of inclusive trauma ~~care~~ systems from ~~local and regional~~ trauma agencies. The department may approve or not approve ~~the local or regional~~ trauma agency plans based on the conformance of the plan ~~local or regional plans~~ with this section and ss. 395.4015, 395.404, and 395.4045 and the rules adopted by the department pursuant to those sections. The department shall approve or disapprove the plans within 120 days after the date the plans are submitted to the department.

(n) After the submission of the initial ~~local or regional~~ trauma ~~care~~ system plan, each ~~local or regional~~ trauma agency shall, every 5th year, ~~annually~~ submit to the department for approval an updated plan that ~~which~~ identifies the changes, if any, to be made in the regional trauma ~~care~~ system. ~~The department shall approve or disapprove the updated plan within 120 days after the date the plan is submitted to the department. At least 60 days before the local or regional trauma agency submits a plan for a trauma care system to the department, the local or regional trauma agency shall hold a public hearing and give adequate notice of the public hearing to all hospitals and other interested parties in the area. A local or regional trauma agency shall submit to the department written notice of its intent to cease operation of the local or regional trauma agency at least 90 days before the date on which the local or regional trauma agency will cease operation.~~

Section 195. Subsections (1) and (3) of section 395.402, Florida Statutes, are amended to read:

395.402 Trauma service areas; number and location of trauma centers.—

(1) ~~The Legislature finds that it is appropriate to recognize as a trauma patient someone with an injury severity score (ISS) of 9 or greater.~~ The Legislature ~~also~~ recognizes that Level I and Level II trauma centers should each be capable of annually treating a minimum of 1,000 and 500 patients, respectively, with an injury severity score (ISS) of 9 or greater. Further, the Legislature finds that, based on the numbers and locations of trauma victims with these injury severity scores, there should be 19 trauma service areas in the state, and, at a minimum, there should be at least one trauma center in each service area.

(3) Trauma service areas are to be used. The department shall periodically review the assignment of the 67 counties to trauma service areas. These assignments are made for the purpose of developing a system of trauma centers. Revisions made by the department should take into consideration the recommendations made as part of the regional trauma system plans approved by the department, as well as the recommendations made as part of the state trauma system plan. These areas must, at a minimum, be reviewed in the year 2000 and every 5 years thereafter. Until the department completes its initial review, the assignment of counties shall remain

as established pursuant to chapter 90-284, Laws of Florida. ~~The following trauma service areas are to be utilized in developing a system of state-sponsored trauma centers. These areas are subject to periodic revision by the Legislature based on recommendations made as part of local or regional trauma plans approved by the department pursuant to s. 395.401(2). These areas shall, at a minimum, be reviewed by the Legislature prior to the next 7-year verification cycle of state-sponsored trauma centers.~~

(a) The following trauma service areas are hereby established:

1. Trauma service area 1 shall consist of Escambia, Okaloosa, Santa Rosa, and Walton Counties.

2. Trauma service area 2 shall consist of Bay, Gulf, Holmes, and Washington Counties.

3. Trauma service area 3 shall consist of Calhoun, Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.

4. Trauma service area 4 shall consist of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union Counties.

5. Trauma service area 5 shall consist of Baker, Clay, Duval, Nassau, and St. Johns Counties.

6. Trauma service area 6 shall consist of Citrus, Hernando, and Marion Counties.

7. Trauma service area 7 shall consist of Flagler and Volusia Counties.

8. Trauma service area 8 shall consist of Lake, Orange, Osceola, Seminole, and Sumter Counties.

9. Trauma service area 9 shall consist of Pasco and Pinellas Counties.

10. Trauma service area 10 shall consist of Hillsborough County.

11. Trauma service area 11 shall consist of Hardee, Highlands, and Polk Counties.

12. Trauma service area 12 shall consist of Brevard and Indian River Counties.

13. Trauma service area 13 shall consist of DeSoto, Manatee, and Sarasota Counties.

14. Trauma service area 14 shall consist of Martin, Okeechobee, and St. Lucie Counties.

15. Trauma service area 15 shall consist of Charlotte, Glades, Hendry, and Lee Counties.

16. Trauma service area 16 shall consist of Palm Beach County.

17. Trauma service area 17 shall consist of Collier County.

18. Trauma service area 18 shall consist of Broward County.

19. Trauma service area 19 shall consist of Dade and Monroe Counties.

(b) Each trauma service area should have at least one Level I or Level II trauma center.

(c) There shall be no more than a total of 44 state-sponsored trauma centers in the state.

Section 196. Subsection (1) of section 395.4045, Florida Statutes, is amended to read:

395.4045 Emergency medical service providers; transport of trauma victims to trauma centers.—

(1) Each emergency medical services provider licensed under chapter 401 shall transport trauma alert victims to hospitals approved as trauma centers, except as may be provided for either in department-approved local or regional trauma transport protocol or, if no local or regional trauma transport protocol is in effect, as provided for in a department-approved provider's trauma transport protocol. Development of regional trauma protocols shall be through consultation with interested parties, including, but not limited to, each approved trauma center; physicians specializing in trauma care, emergency care, and surgery in the region; each trauma system administrator in the region; and each emergency medical service provider in the region licensed under chapter 401. Trauma alert victims shall be identified through the use of a trauma scoring system. The department shall specify by rule the subjects to be included in an emergency medical service provider's trauma transport protocol and shall approve or disapprove each such protocol.

Section 197. Section 458.351, Florida Statutes, is created to read:

458.351 Reports of adverse incidents in office practice settings.—

(1) Any adverse incident that occurs on or after January 1, 2000, in any office maintained by a physician for the practice of medicine which is not licensed under chapter 395 must be reported to the department in accordance with the provisions of this section.

(2) Any physician or other licensee under this chapter practicing in this state must notify the department if the physician or licensee was involved in an adverse incident that occurred on or after January 1, 2000, in any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

(3) The required notification to the department must be submitted in writing by certified mail and postmarked within 15 days after the occurrence of the adverse incident.

(4) For purposes of notification to the department pursuant to this section, the term "adverse incident" means an event over which the physician

or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

(a) The death of a patient.

(b) Brain or spinal damage to a patient.

(c) The performance of a surgical procedure on the wrong patient.

(d)1. The performance of a wrong-site surgical procedure;

2. The performance of a wrong surgical procedure; or

3. The surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process

if it results in: death; brain or spinal damage; permanent disfigurement not to include the incision scar; fracture or dislocation of bones or joints; a limitation of neurological, physical or sensory function; or any condition that required the transfer of the patient.

(e) A procedure to remove unplanned foreign objects remaining from a surgical procedure.

(f) Any condition that required the transfer of a patient to a hospital licensed under chapter 395 from an ambulatory surgical center licensed under chapter 395 or any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

(5) The department shall review each incident and determine whether it potentially involved conduct by a health care professional who is subject to disciplinary action, in which case s. 455.621 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

(6) The board may adopt rules to administer this section.

Section 198. Section 459.026, Florida Statutes, is created to read:

459.026 Reports of adverse incidents in office practice settings.—

(1) Any adverse incident that occurs on or after January 1, 2000, in any office maintained by an osteopathic physician for the practice of osteopathic medicine which is not licensed under chapter 395 must be reported to the department in accordance with the provisions of this section.

(2) Any osteopathic physician or other licensee under this chapter practicing in this state must notify the department if the osteopathic physician or licensee was involved in an adverse incident that occurred on or after January 1, 2000, in any office maintained by an osteopathic physician for the practice of osteopathic medicine which is not licensed under chapter 395.

(3) The required notification to the department must be submitted in writing by certified mail and postmarked within 15 days after the occurrence of the adverse incident.

(4) For purposes of notification to the department pursuant to this section, the term "adverse incident" means an event over which the physician or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

(a) The death of a patient.

(b) Brain or spinal damage to a patient.

(c) The performance of a surgical procedure on the wrong patient.

(d)1. The performance of a wrong-site surgical procedure;

2. The performance of a wrong surgical procedure; or

3. The surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process

if it results in: death; brain or spinal damage; permanent disfigurement not to include the incision scar; fracture or dislocation of bones or joints; a limitation of neurological, physical or sensory function; or any condition that required the transfer of the patient.

(e) A procedure to remove unplanned foreign objects remaining from a surgical procedure.

(f) Any condition that required the transfer of a patient to a hospital licensed under chapter 395 from an ambulatory surgical center licensed under chapter 395 or any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

(5) The department shall review each incident and determine whether it potentially involved conduct by a health care professional who is subject to disciplinary action, in which case s. 455.621 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

(6) The board may adopt rules to administer this section.

Section 199. (1) The Department of Health shall establish maximum allowable levels for contaminants in compressed air used for recreational sport diving in this state. In developing the standards, the department must take into consideration the levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association.

(2) The standards prescribed under this section do not apply to:

(a) Any person providing compressed air for his or her own use.

(b) Any governmental entity using a governmentally owned compressed air source for work related to the governmental entity.

(c) Foreign registered vessels upon which a compressor is used to provide compressed air for work related to the operation of the vessel.

(3) A person or entity that, for compensation, provides compressed air for recreational sport diving in this state, including compressed air provided as part of a dive package of equipment rental, dive boat rental, or dive boat charter, must ensure that the compressed air is tested quarterly by a laboratory that is accredited by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation and that the results of such tests are provided quarterly to the Department of Health. In addition, the person or entity must post the certificate issued by the laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation in a conspicuous location where it can readily be seen by any person purchasing compressed air.

(4) The Department of Health shall maintain a record of all quarterly test results provided under this section.

(5) It is a misdemeanor of the second degree for any person or entity to provide, for compensation, compressed air for recreational sport diving in this state, including compressed air provided as part of a dive package of equipment rental, dive boat rental, or dive boat charter, without:

(a) Having received a valid certificate issued by a laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation which certifies that the compressed air meets the standards for contaminant levels established by the Department of Health.

(b) Posting the certificate issued by a laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation in a conspicuous location where it can readily be seen by persons purchasing compressed air.

(6) The department shall adopt rules necessary to carry out the provisions of this section, which must include:

(a) Maximum allowable levels of contaminants in compressed air used for sport diving.

(b) Procedures for the submission of test results to the department.

(7) This section shall take effect January 1, 2000.

Section 200. The Minority HIV and AIDS Task Force.—

(1) There is created within the Department of Health the Minority HIV and AIDS Task Force to develop and provide specific recommendations to the Governor, the Legislature, and the Department of Health on ways to

strengthen HIV and AIDS prevention programs and early intervention and treatment efforts in the state's black, Hispanic, and other minority communities, as well as ways to address the many needs of the state's minorities infected with AIDS and their families.

(2) The Secretary of Health shall appoint at least 15 members to the task force. The members must include, but need not be limited to, representatives from:

(a) Persons infected with the human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS).

(b) Minority community-based support organizations.

(c) Minority treatment providers.

(d) The religious community within groups of persons infected with HIV or AIDS.

(e) The Department of Health.

(3) The task force shall meet as often as necessary to carry out its duties and responsibilities. Within existing resources, the Department of Health shall provide support services to the task force.

(4) The members of the task force shall serve without compensation.

(5) The task force shall prepare and submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2001. The report must include:

(a) Specific strategies for reducing the risk of HIV and AIDS in the state's minority communities.

(b) A plan for establishing mentor programs and exchanging information and ideas among minority community-based organizations that provide HIV and AIDS prevention services.

(c) The needs of prevention and treatment programs within communities and the resources that are available within minority communities.

(d) Specific strategies for ensuring that minority persons who are at risk of HIV and AIDS infection seek testing.

(e) Specific strategies for ensuring that persons who test positive for HIV or AIDS are provided with access to treatment and secondary prevention services.

(f) Specific strategies to help reduce or eliminate high-risk behaviors in persons who test negative but continue to practice high-risk behaviors.

(g) A plan to evaluate the implementation of the recommendations of the task force.

(6) The task force is abolished on July 1, 2001.

Section 201. Statewide HIV and AIDS prevention campaign.—

(1) The Department of Health shall develop and implement a statewide HIV and AIDS prevention campaign that is directed towards minorities who are at risk of HIV infection. The campaign shall include television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach. Each campaign message and concept shall be evaluated with members of the target group to ensure its effectiveness. The campaign shall provide information on the risk of HIV and AIDS infection and strategies to follow for prevention, early detection, and treatment. The campaign shall use culturally sensitive literature and educational materials and promote the development of individual skills for behavior modification.

(2) The Department of Health shall establish four positions within the department for HIV and AIDS regional minority coordinators and one position for a statewide HIV and AIDS minority coordinator. The coordinators shall facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment programs. The statewide coordinator shall report directly to the chief of the Bureau of HIV and AIDS within the Department of Health.

(3) The Department of Health shall, with assistance from the Minority HIV and AIDS Task Force and the statewide coordinator, plan and conduct a statewide Black Leadership Conference on HIV and AIDS by January 2000. The conference shall provide workshops for minority organizations in building skills and improving an organization's capacity to conduct HIV and AIDS prevention and treatment programs.

Section 202. The sum of $250,000 is appropriated from the General Revenue Fund to the Department of Health for the purpose of carrying out the provisions of sections 201 and 202 of this act during the 1999-2000 fiscal year.

Section 203. Subsection (9) is added to section 20.41, Florida Statutes, to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(9) Area agencies on aging are subject to chapter 119, relating to public records, and, when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, relating to public meetings.

Section 204. Effective October 1, 1999, part XV of chapter 468, Florida Statutes, consisting of sections 468.821, 468.822, 468.823, 468.824, 468.825, 468.826, 468.827, and 468.828, Florida Statutes, is created to read:

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

(1) "Approved training program" means:

(a) A course of training conducted by a public sector or private sector educational center licensed by the Department of Education to implement the basic curriculum for nursing assistants which is approved by the Department of Education.

(b) A training program operated under s. 400.141.

(2) "Certified nursing assistant" means a person who meets the qualifications specified in this part and who is certified by the department as a certified nursing assistant.

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

(4) "Registry" means the listing of certified nursing assistants maintained by the department.

468.822 Duties and powers of the department.—The department shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by department rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The department shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants to enforce this part. The department may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The provider shall pay all reasonable costs and expenses incurred by the department in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

468.823 Certified nursing assistants; certification requirement.—

(1) The department shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the department, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the department and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the department, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the department and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or

2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state's certified nursing assistant registry; has not been found to have committed abuse, neglect, or exploitation in that state; and has successfully completed a national nursing assistant evaluation in order to receive certification in that state.

(2) If an applicant fails to pass the nursing assistant competency examination in three attempts, the applicant is not eligible for reexamination unless the applicant completes an approved training program.

(3) An oral examination shall be administered as a substitute for the written portion of the examination upon request. The oral examination shall be administered at a site and by personnel approved by the department.

(4) The department shall adopt rules to provide for the initial certification of certified nursing assistants.

(5) A certified nursing assistant shall maintain a current address with the department in accordance with s. 455.717.

468.824 Denial, suspension, or revocation of certification; disciplinary actions.—

(1) The following acts constitute grounds for which the department may impose disciplinary sanctions as specified in subsection (2):

(a) Obtaining or attempting to obtain an exemption, or possessing or attempting to possess a letter of exemption, by bribery, misrepresentation, deceit, or through an error of the department.

(b) Intentionally violating any provision of this chapter, chapter 455, or the rules adopted by the department.

(2) When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial, suspension, or revocation of certification.

(b) Imposition of an administrative fine not to exceed $150 for each count or separate offense.

(c) Imposition of probation or restriction of certification, including conditions such as corrective actions as retraining or compliance with an approved treatment program for impaired practitioners.

(3) The department may, upon the request of a certificateholder, exempt the certificateholder from disqualification of certification or disqualification of employment in accordance with chapter 435 and issue a letter of exemption.

After January 1, 2000, the department must notify an applicant seeking an exemption from disqualification from certification or employment of its decision to approve or deny the request within 30 days after the date the department receives all required documentation.

468.825 Availability of disciplinary records and proceedings.—Pursuant to s. 455.621, any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public.

468.826 Exemption from liability.—If an employer terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report of the Department of Law Enforcement, the employer is not civilly liable for such termination and a cause of action may not be brought against the employer for damages, regardless of whether the employee has filed for an exemption from the department under s. 468.824(1). There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any licensed facility, its governing board or members thereof, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith without intentional fraud in carrying out this section.

468.827 Penalties.—It is a misdemeanor of the first degree, punishable as provided under s. 775.082 or s. 775.083, for any person, knowingly or intentionally, to fail to disclose, by false statement, misrepresentation, impersonation, or other fraudulent means, in any application for voluntary or paid employment or licensure regulated under this part, a material fact used in making a determination as to such person's qualifications to be an employee or licensee.

468.828 Background screening information; rulemaking authority.—

(1) The Agency for Health Care Administration shall allow the department to electronically access its background screening database and records and the Department of Children and Families shall allow the department to electronically access its central abuse registry and tracking system under chapter 415.

(2) An employer, or an agent thereof, may not use criminal records, juvenile records, or information obtained from the central abuse hotline under chapter 415 for any purpose other than determining if the person meets the requirements of this part. Such records and information obtained by the department shall remain confidential and exempt from s. 119.07(1).

(3) If the requirements of the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this part, the federal requirements shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act.

(4) The department shall adopt rules to administer this part.

Section 205. Certified nursing assistant registry.—

(1) By October 1, 1999, and by October 1 of every year thereafter, each employer of certified nursing assistants shall submit to the Department of Health a list of the names and social security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months. Employers may submit such information electronically through the department's Internet site.

(2) The department shall update the certified nursing assistant registry upon receipt of the lists of certified nursing assistants, and shall complete the first of such updates by December 31, 1999.

(3) Each certified nursing assistant whose name is not reported to the department under subsection (1) on October 1, 1999, shall be assigned an inactive certification on January 1, 2000. A certified nursing assistant may remove such an inactive certification by submitting documentation to the department that he or she was employed for a minimum of 8 hours for monetary compensation as a certified nursing assistant in a nursing-related occupation during the preceding 24 months.

(4) This section is repealed October 2, 2001.

Section 206. Effective October 1, 1999, section 400.211, Florida Statutes, 1998 Supplement, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(1) A person must be certified under part XV of chapter 468 ~~pursuant to this section~~, except a registered nurse or practical nurse licensed in accordance with ~~the provisions of~~ chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted ~~promulgated~~ by the Board of Nursing pursuant to chapter 464, to serve as a nursing assistant in any nursing home. ~~The Department of Health shall issue a certificate to any person who:~~

~~(a) Has successfully completed a nursing assistant program in a state-approved school and has achieved a minimum score of 75 percent on the written portion of the Florida Nursing Assistant Certification Test approved by the Department of Health and administered by state-approved test site personnel;~~

~~(b) Has achieved a minimum score of 75 percent on the written and performance portions of the Florida Nursing Assistant Certification Test approved by the Department of Health and administered by state-approved test site personnel; or~~

~~(c) Is currently certified in another state, is on that state's registry, has no findings of abuse, and has achieved a minimum score of 75 percent on the~~

~~written portion of the Florida Nursing Assistant Certification Test approved by the Department of Health and administered by state-approved test site personnel.~~

~~An oral examination shall be administered upon request.~~

~~(2) The agency may deny, suspend, or revoke the certification of any person to serve as a nursing assistant, based upon written notification from a court of competent jurisdiction, law enforcement agency, or administrative agency of any finding of guilt of, regardless of adjudication, or a plea of nolo contendere or guilty to, any offense set forth in the level 1 screening standards of chapter 435 or any confirmed report of abuse of a vulnerable adult.~~

(2)~~(3)~~ The following categories of persons who are not certified as nursing assistants under this part may be employed by a nursing facility for a period of 4 months:

(a) Persons who are enrolled in a state-approved nursing assistant program; or

(b) Persons who have been positively verified by a state-approved test site as certified and on the registry in another state with no findings of abuse, but who have not completed the written examination required under this section.

The certification requirement must be met within 4 months of initial employment as a nursing assistant in a licensed nursing facility.

~~(4) A person certified under this section on or after September 30, 1990, who has not worked for pay as a nursing assistant in a nursing-related occupation for a period of time during a consecutive 24-month period must be recertified under this section to be eligible to work in a nursing facility.~~

(3)~~(5)~~ Nursing homes shall require persons seeking employment as a certified nursing assistant to submit an employment history to the facility. The facility shall verify the employment history unless, through diligent efforts, such verification is not possible. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a former employer who reasonably and in good faith communicates his or her honest opinion about a former employee's job performance.

~~(6) If the requirements pursuant to the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this section, the federal requirements shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act.~~

~~(7) The Department of Health may adopt such rules as are necessary to carry out this section.~~

Section 207. Subsection (36) is added to section 409.912, Florida Statutes, 1998 Supplement, to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(36) The agency shall enter into agreements with not-for-profit organizations based in this state for the purpose of providing vision screening.

Section 208. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1999.

Approved by the Governor June 18, 1999.

Filed in Office Secretary of State June 18, 1999.