

## House Bill No. 1067

An act relating to the Florida Statutes; amending ss. 61.13015, 120.80, 215.37, 240.215, 310.102, 316.1932, 316.1933, 337.162, 381.0039, 383.32, 383.402, 383.410, 395.0193, 395.0197, 395.3025, 400.491, 400.518, 400.94, 408.061, 408.704, 409.2598, 440.13, 455.01, 455.203, 455.207, 455.213, 455.214, 455.217, 455.218, 455.2185, 455.225, 455.227, 455.2273, 455.228, 455.243, 457.103, 458.307, 458.3115, 458.3124, 458.319, 458.331, 458.343, 458.347, 458.351, 459.004, 459.008, 459.015, 459.019, 459.022, 459.026, 460.404, 460.4061, 460.407, 461.004, 461.007, 461.013, 463.003, 463.016, 464.004, 465.004, 465.006, 465.016, 465.017, 466.004, 466.007, 466.018, 466.022, 466.028, 468.1135, 468.1145, 468.1185, 468.1295, 468.1665, 468.1755, 468.1756, 468.205, 468.219, 468.354, 468.364, 468.365, 468.402, 468.4315, 468.453, 468.456, 468.4571, 468.506, 468.507, 468.513, 468.523, 468.526, 468.532, 468.535, 468.703, 468.705, 468.707, 468.711, 468.719, 468.801, 468.811, 468.823, 468.824, 468.825, 469.009, 470.003, 470.036, 471.008, 471.015, 471.033, 471.038, 472.015, 473.3035, 473.308, 473.311, 473.323, 474.204, 474.214, 475.021, 475.181, 475.25, 475.624, 476.204, 477.029, 480.044, 481.2055, 481.213, 481.225, 481.2251, 481.306, 481.311, 481.325, 483.805, 483.807, 483.901, 484.014, 484.042, 484.056, 486.023, 486.115, 486.172, 489.129, 489.533, 490.004, 490.00515, 490.009, 490.0141, 490.015, 491.004, 491.0047, 491.009, 491.0141, 491.015, 492.103, 492.113, 627.668, 627.912, 636.039, 641.27, 641.316, 641.55, 766.106, 766.305, 766.314, 817.505, and 937.031, F.S.; renumbering and amending ss. 455.501, 455.504, 455.521, 455.534, 455.541, 455.544, 455.557, 455.561, 455.564, 455.565, 455.5651, 455.5653, 455.5654, 455.574, 455.577, 455.581, 455.584, 455.587, 455.594, 455.597, 455.604, 455.614, 455.617, 455.621, 455.624, 455.627, 455.631, 455.637, 455.641, 455.644, 455.651, 455.654, 455.667, 455.671, 455.681, 455.687, 455.694, 455.698, 455.707, 455.711, 455.712, and 455.717, F.S.; renumbering ss. 455.507, 455.511, 455.514, 455.517, 455.524, 455.527, 455.531, 455.537, 455.547, 455.551, 455.554, 455.5652, 455.5655, 455.5656, 455.567, 455.571, 455.601, 455.607, 455.611, 455.634, 455.647, 455.657, 455.664, 455.674, 455.677, 455.684, 455.691, 455.697, 455.699, 455.701, 455.704, 455.714, 456.30, 456.31, 456.32, 456.33, and 456.34, F.S., pursuant to s. 11.242, F.S.; transferring sections that comprise part II of chapter 455, pertaining to regulation of health-related professions, to chapter 456; transferring sections that comprise present chapter 456, pertaining to hypnosis, to new chapter 485; and amending various provisions to correct cross-references to conform the Florida Statutes to such transfers.

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

Section 1. Subsection (1) of section 61.13015, Florida Statutes, is amended to read:

61.13015 Petition for suspension or denial of professional licenses and certificates.—

(1) An obligee may petition the court which entered the support order or the court which is enforcing the support order for an order to suspend or deny the license or certificate issued pursuant to chapters 231, 409, 455, 456, and 559 of any obligor with a delinquent child support obligation. However, no petition may be filed until the obligee has exhausted all other available remedies. The purpose of this section is to promote the public policy of s. 409.2551.

Section 2. Paragraph (b) of subsection (4) and subsection (15) of section 120.80, Florida Statutes, are amended to read:

120.80 Exceptions and special requirements; agencies.—

(4) DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.—

(b) Professional regulation.—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the Secretary of Business and Professional Regulation or a board or member of a board within the Department of Business and Professional Regulation for matters relating to the regulation of professions, as defined by ~~part I~~ of chapter 455.

(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 456 455. 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 3. Subsections (1), (2), and (4) of section 215.37, Florida Statutes, are amended to read:

215.37 Department of Business and Professional Regulation and the boards to be financed from fees collected; moneys deposited in trust fund; service charge imposed and deposited into the General Revenue Fund; appropriation.—

(1) All fees, licenses, and other charges assessed to practitioners of professions, as defined in ~~part I~~ of chapter 455, by the Department of Business and Professional Regulation or a board within the department shall be collected by the department and shall be deposited in the State Treasury into the Professional Regulation Trust Fund to the credit of the department.

(2) The regulation by the department of professions, as defined in ~~part I~~ of chapter 455, shall be financed solely from revenue collected by it from fees and other charges and deposited in the Professional Regulation Trust Fund, and all such revenue is hereby appropriated to the department. However, it is legislative intent that each profession shall operate within its anticipated fees.

(4) The department shall submit a balanced legislative budget for its regulation of professions, as defined in ~~part I~~ of chapter 455, by division and operating budgets as required of all governmental subdivisions in chapters 215 and 216, to be based upon anticipated revenues. Prior to development of the department's budget request to the Legislature, the department shall request that each board submit its proposed budget for the operation of the board, the board's office, and other activities or expanded programs of the board for possible inclusion in the department's budget request. Prior to submission of the department's budget request to the Legislature, each board, at a regularly scheduled board meeting, shall review the proposed request related to its regulation of a profession, as defined in ~~part I~~ of chapter 455, and either approve the proposed request or submit to the secretary written exceptions to the department's proposed budget. Any board making such exceptions must specify its objections, the reasons for such exceptions, and proposed alternatives to the department's request. The secretary shall consider all exceptions. When a majority of boards agree on an exception, the secretary shall make adjustments to the department's budget request related to its regulation of professions, as defined in ~~part I~~ of chapter 455, to reflect the majority position. If appropriate, the secretary shall file an exception on behalf of the department. The secretary shall submit to the Legislature the department's amended budget request along with any unresolved exceptions.

Section 4. Subsection (3) of section 240.215, Florida Statutes, is amended to read:

240.215 Payment of costs of civil action against employees or members of the Board of Regents.—

(3) All faculty physicians employed by the Board of Regents who are subject to the requirements of s. ~~456.013~~ ~~455.564~~ shall complete their risk management continuing education on issues specific to academic medicine. Such continuing education shall include instruction for the supervision of resident physicians as required by the Accreditation Council for Graduate Medical Education. The boards described in s. ~~456.013~~ ~~455.564~~ shall adopt rules to implement the provisions of this subsection.

Section 5. Subsection (1) of section 310.102, Florida Statutes, is amended to read:

310.102 Treatment programs for impaired pilots and deputy pilots.—

(1) The department shall, by rule, designate approved treatment programs for pilots and deputy pilots under this section. The department may adopt rules setting forth appropriate criteria for approval of treatment pro-

viders based on the policies and guidelines established by the Impaired Practitioners Committee under s. 456.075 ~~455.704~~.

Section 6. Paragraph (f) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; right to refuse.—

(1)

(f)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules of the Department of Law Enforcement. Such rules must specify precisely the test or tests that are approved by the Department of Law Enforcement for reliability of result and ease of administration, and must provide an approved method of administration which must be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

2.a. Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining its alcoholic content or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

b. Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider, who is providing medical care in a health care facility to a person injured in a motor vehicle crash, becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person's blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test result. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample pursuant to this section.

c. The notice shall consist only of the name of the person being treated, the name of the person who drew the blood, the blood-alcohol level indicated by the test, and the date and time of the administration of the test.

d. Nothing contained in s. 395.3025(4), s. 456.057 ~~455.667~~, or any applicable practice act affects the authority to provide notice under this section, and the health care provider is not considered to have breached any duty owed to the person under s. 395.3025(4), s. 456.057 ~~455.667~~, or any applicable practice act by providing notice or failing to provide notice. It shall not

be a breach of any ethical, moral, or legal duty for a health care provider to provide notice or fail to provide notice.

e. A civil, criminal, or administrative action may not be brought against any person or health care provider participating in good faith in the provision of notice or failure to provide notice as provided in this section. Any person or health care provider participating in the provision of notice or failure to provide notice as provided in this section shall be immune from any civil or criminal liability and from any professional disciplinary action with respect to the provision of notice or failure to provide notice under this section. Any such participant has the same immunity with respect to participating in any judicial proceedings resulting from the notice or failure to provide notice.

3. The person tested may, at his or her own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person of his or her own choosing administer an independent test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in the person's blood or breath or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his or her blood or urine, or by chemical or physical test of his or her breath. The failure or inability to obtain an independent test by a person does not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer. The law enforcement officer shall not interfere with the person's opportunity to obtain the independent test and shall provide the person with timely telephone access to secure the test, but the burden is on the person to arrange and secure the test at the person's own expense.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to the person or his or her attorney.

5. A hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer does not incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or urine specimen, or the chemical or physical test of a person's breath pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

Section 7. Paragraph (a) of subsection (2) of section 316.1933, Florida Statutes, is amended to read:

316.1933 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(2)(a) Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or

duly licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood shall not affect the admissibility of a test of blood withdrawn for medical purposes.

1. Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider, who is providing medical care in a health care facility to a person injured in a motor vehicle crash, becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person's blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test result. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample pursuant to this section.

2. The notice shall consist only of the name of the person being treated, the name of the person who drew the blood, the blood-alcohol level indicated by the test, and the date and time of the administration of the test.

3. Nothing contained in s. 395.3025(4), s. ~~456.057~~ 455.667, or any applicable practice act affects the authority to provide notice under this section, and the health care provider is not considered to have breached any duty owed to the person under s. 395.3025(4), s. ~~456.057~~ 455.667, or any applicable practice act by providing notice or failing to provide notice. It shall not be a breach of any ethical, moral, or legal duty for a health care provider to provide notice or fail to provide notice.

4. A civil, criminal, or administrative action may not be brought against any person or health care provider participating in good faith in the provision of notice or failure to provide notice as provided in this section. Any person or health care provider participating in the provision of notice or failure to provide notice as provided in this section shall be immune from any civil or criminal liability and from any professional disciplinary action with respect to the provision of notice or failure to provide notice under this section. Any such participant has the same immunity with respect to participating in any judicial proceedings resulting from the notice or failure to provide notice.

Section 8. Subsections (2) and (3) of section 337.162, Florida Statutes, are amended to read:

337.162 Professional services.—Professional services provided to the department that fall below acceptable professional standards may result in transportation project delays, overruns, and reduced facility life. To minimize these effects and ensure that quality services are received, the Legislature hereby declares that licensed professionals shall be held accountable for the quality of the services they provide to the department.

(2) Any person who is employed by the department and who is licensed by the Department of Business and Professional Regulation and who, through the course of his or her employment, has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules shall submit a complaint about the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to ~~part I of~~ chapter 455 and the state licensing law applicable to that licensee. However, licensees under part II of chapter 475 are exempt from the provisions of s. 455.227(1)(i). The complaint submitted to the Department of Business and Professional Regulation and maintained by the department is confidential and exempt from s. 119.07(1).

(3) Any complaints submitted to the Department of Business and Professional Regulation pursuant to subsections (1) and (2) are confidential and exempt from s. 119.07(1) pursuant to ~~part I of~~ chapter 455 and applicable state law.

Section 9. Section 381.0039, Florida Statutes, is amended to read:

381.0039 Oversight of acquired immune deficiency syndrome education programs.—The Department of Education, the Department of Health, and the Department of Business and Professional Regulation are directed to establish an interagency agreement to oversee the quality and cost efficiency of acquired immune deficiency syndrome education programs being administered in the state pursuant to chapters 381, ~~456,~~ 943, and 945 ~~and part II of chapter 455.~~ The interagency agreement shall also include development, where appropriate, of methods for coordinating educational programs for various professional groups.

Section 10. Subsection (3) of section 383.32, Florida Statutes, is amended to read:

383.32 Clinical records.—

(3) Clinical records shall be kept confidential in accordance with s. ~~456.057~~ 455.667 and exempt from the provisions of s. 119.07(1). A client's clinical records shall be open to inspection only under the following conditions:

- (a) A consent to release information has been signed by the client; or
- (b) The review is made by the agency for a licensure survey or complaint investigation.

Section 11. Paragraph (a) of subsection (8) of section 383.402, Florida Statutes, is amended to read:

383.402 Child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committees.—

(8) Notwithstanding any other law, the chairperson of the State Child Abuse Death Review Committee, or the chairperson of a local committee,

shall be provided with access to any information or records that pertain to a child whose death is being reviewed by the committee and that are necessary for the committee to carry out its duties, including information or records that pertain to the child's family, as follows:

(a) Patient records in the possession of a public or private provider of medical, dental, or mental health care, including, but not limited to, a facility licensed under chapter 393, chapter 394, or chapter 395, or a health care practitioner as defined in s. ~~456.001~~ 455.501. Providers may charge a fee for copies not to exceed 50 cents per page for paper records and \$1 per fiche for microfiche records.

Section 12. Subsection (2) of section 383.410, Florida Statutes, is amended to read:

**383.410 Confidentiality.—**

(2) All information that is confidential or exempt from public records requirements by operation of law and that is obtained by a hospital or a health care practitioner as defined by s. ~~456.001~~ 455.501 from the State Child Abuse Death Review Committee or a local committee, or a panel or committee assembled by the state committee or a local committee pursuant to s. 383.402, shall retain that status and is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 13. Subsections (1) and (4) of section 395.0193, Florida Statutes, are amended to read:

**395.0193 Licensed facilities; peer review; disciplinary powers; agency or partnership with physicians.—**

(1) It is the intent of the Legislature that good faith participants in the process of investigating and disciplining physicians pursuant to the state-mandated peer review process shall, in addition to receiving immunity from retaliatory tort suits pursuant to s. ~~456.073(12)~~ 455.621(12), be protected from federal antitrust suits filed under the Sherman Anti-Trust Act, 15 U.S.C.A. ss. 1 et seq. Such intent is within the public policy of the state to secure the provision of quality medical services to the public.

(4) Pursuant to ss. 458.337 and 459.016, any disciplinary actions taken under subsection (3) shall be reported in writing to the Division of Health Quality Assurance of the agency within 30 working days after its initial occurrence, regardless of the pendency of appeals to the governing board of the hospital. The notification shall identify the disciplined practitioner, the action taken, and the reason for such action. All final disciplinary actions taken under subsection (3), if different from those which were reported to the agency within 30 days after the initial occurrence, shall be reported within 10 working days to the Division of Health Quality Assurance of the agency in writing and shall specify the disciplinary action taken and the specific grounds therefor. The division shall review each report and determine whether it potentially involved conduct by the licensee that is subject to disciplinary action, in which case s. ~~456.073~~ 455.621 shall apply. The

reports are not subject to inspection under s. 119.07(1) even if the division's investigation results in a finding of probable cause.

Section 14. Paragraph (b) of subsection (6) and subsections (8) and (13) of section 395.0197, Florida Statutes, are amended to read:

395.0197 Internal risk management program.—

(6)

(b) The information reported to the agency pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 ~~455.624~~ shall apply.

(8) Any of the following adverse incidents, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility, shall be reported by the facility to the agency within 15 calendar days after its occurrence:

- (a) The death of a patient;
- (b) Brain or spinal damage to a patient;
- (c) The performance of a surgical procedure on the wrong patient;
- (d) The performance of a wrong-site surgical procedure;
- (e) The performance of a wrong surgical procedure;
- (f) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition;
- (g) The surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage is not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or
- (h) The performance of procedures to remove unplanned foreign objects remaining from a surgical procedure.

The agency may grant extensions to this reporting requirement for more than 15 days upon justification submitted in writing by the facility administrator to the agency. The agency may require an additional, final report. These reports shall not be available to the public pursuant to s. 119.07(1) or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by

a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional who is subject to disciplinary action, in which case the provisions of s. ~~456.624~~ 456.073 shall apply.

(13) The agency shall have access to all licensed facility records necessary to carry out the provisions of this section. The records obtained by the agency under subsection (6), subsection (8), or subsection (9) are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall records obtained pursuant to s. ~~456.611~~ 456.071 be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, s. 766.101 controls.

Section 15. Paragraph (e) of subsection (4) of section 395.3025, Florida Statutes, is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(4) Patient records are confidential and must not be disclosed without the consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:

(e) The agency upon subpoena issued pursuant to s. ~~456.611~~ 456.071, but the records obtained thereby must be used solely for the purpose of the agency and the appropriate professional board in its investigation, prosecution, and appeal of disciplinary proceedings. If the agency requests copies of the records, the facility shall charge no more than its actual copying costs, including reasonable staff time. The records must be sealed and must not be available to the public pursuant to s. 119.07(1) or any other statute providing access to records, nor may they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency must make available, upon written request by a practitioner against whom probable cause has been found, any such records that form the basis of the determination of probable cause.

Section 16. Subsection (1) of section 400.491, Florida Statutes, is amended to read:

400.491 Clinical records.—

(1) The home health agency must maintain for each patient who receives skilled care a clinical record that includes pertinent past and current medi-

cal, nursing, social and other therapeutic information, the treatment orders, and other such information as is necessary for the safe and adequate care of the patient. When home health services are terminated, the record must show the date and reason for termination. Such records are considered patient records under s. 456.057 455-241, and must be maintained by the home health agency for 5 years following termination of services. If a patient transfers to another home health agency, a copy of his or her record must be provided to the other home health agency upon request.

Section 17. Subsection (1) of section 400.518, Florida Statutes, is amended to read:

400.518 Prohibited referrals to home health agencies.—

(1) A physician licensed under chapter 458 or chapter 459 must comply with s. 456.053 455-654.

Section 18. Subsection (2) of section 400.94, Florida Statutes, is amended to read:

400.94 Patient records.—

(2) Such records are considered patient records under s. 456.057 455-667 and must be maintained by the home medical equipment provider for 5 years following termination of services. If a patient transfers to another home medical equipment provider, a copy of his or her record must be provided to the other home medical equipment provider, upon request.

Section 19. Subsection (9) of section 408.061, Florida Statutes, is amended to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidentiality of patient records; immunity.—

(9) The identity of any health care provider, health care facility, or health insurer who submits any data which is proprietary business information to the agency pursuant to the provisions of this section shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this section, “proprietary business information” shall include, but not be limited to, information relating to specific provider contract reimbursement information; information relating to security measures, systems, or procedures; and information concerning bids or other contractual data, the disclosure of which would impair efforts to contract for goods or services on favorable terms or would injure the affected entity’s ability to compete in the marketplace. Notwithstanding the provisions of this subsection, any information obtained or generated pursuant to the provisions of s. 407.61, either by the Health Care Cost Containment Board or by the Agency for Health Care Administration upon transfer to that agency of the duties and functions of the Health Care Cost Containment Board, is not confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such proprietary business information may be used in published analyses and reports or otherwise made

available for public disclosure in such manner as to preserve the confidentiality of the identity of the provider. This exemption shall not limit the use of any information used in conjunction with investigation or enforcement purposes under the provisions of s. ~~456.073~~ 455.621.

Section 20. Paragraph (b) of subsection (5) of section 408.704, Florida Statutes, is amended to read:

408.704 Agency duties and responsibilities related to community health purchasing alliances.—The agency shall assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:

(5) Establishing a data system for accountable health partnerships.

(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993. The report shall include recommendations regarding:

1. Types of data to be collected. Careful consideration shall be given to other data collection projects and standards for electronic data interchanges already in process in this state and nationally, to evaluating and recommending the feasibility and cost-effectiveness of various data collection activities, and to ensuring that data reporting is necessary to support the evaluation of providers with respect to cost containment, access, quality, control of expensive technologies, and customer satisfaction analysis. Data elements to be collected from providers include prices, utilization, patient outcomes, quality, and patient satisfaction. The completion of this task is the first priority of the advisory data committee. The agency shall begin implementing these data collection activities immediately upon receipt of the recommendations, but no later than January 1, 1994. The data shall be submitted by hospitals, other licensed health care facilities, pharmacists, and group practices as defined in s. ~~456.053(3)(h)~~ 455.654(3)(f).

2. A standard data set, a standard cost-effective format for collecting the data, and a standard methodology for reporting the data to the agency, or its designee, and to the alliances. The reporting mechanisms must be designed to minimize the administrative burden and cost to health care providers and carriers. A methodology shall be developed for aggregating data in a standardized format for making comparisons between accountable health partnerships which takes advantage of national models and activities.

3. Methods by which the agency should collect, process, analyze, and distribute the data.

4. Standards for data interpretation. The advisory data committee shall actively solicit broad input from the provider community, carriers, the business community, and the general public.

5. Structuring the data collection process to:

- a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;
  - b. Require that carrier customer satisfaction data conclusions are validated by the agency;
  - c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061; and
  - d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.
6. Developing a data collection implementation schedule, based on the data collection capabilities of carriers and providers.

Section 21. Subsections (1) and (2) of section 409.2598, Florida Statutes, are amended to read:

409.2598 Suspension or denial of new or renewal licenses; registrations; certifications.—

(1) The Title IV-D agency may petition the court that entered the support order or the court that is enforcing the support order to deny or suspend the license, registration, or certificate issued under chapter 231, chapter 370, chapter 372, chapter 409, ~~part II of chapter 456~~ 455, or chapter 559 or s. 328.42 of any obligor with a delinquent child support obligation or who fails, after receiving appropriate notice, to comply with subpoenas, orders to appear, orders to show cause, or similar orders relating to paternity or child support proceedings. However, a petition may not be filed until the Title IV-D agency has exhausted all other available remedies. The purpose of this section is to promote the public policy of the state as established in s. 409.2551.

(2) The Title IV-D agency is authorized to screen all applicants for new or renewal licenses, registrations, or certificates and current licenses, registrations, or certificates and current licensees, registration holders, and certificateholders of all licenses, registrations, and certificates issued under chapter 231, chapter 370, chapter 372, chapter 409, ~~part II of chapter 456~~ 455, or chapter 559 or s. 328.42 to ensure compliance with any child support obligation and any subpoenas, orders to appear, orders to show cause, or similar orders relating to paternity or child support proceedings. If the Title IV-D agency determines that an applicant, licensee, registration holder, or certificateholder is an obligor who is delinquent on a support obligation or who is not in compliance with a subpoena, order to appear, order to show cause, or similar order relating to paternity or child support proceedings, the Title IV-D agency shall certify the delinquency pursuant to s. 61.14.

Section 22. Paragraph (h) of subsection (3) and paragraph (c) of subsection (4) of section 440.13, Florida Statutes, are amended to read:

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

(3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

(h) The provisions of s. ~~456.053~~ 455-654 are applicable to referrals among health care providers, as defined in subsection (1), treating injured workers.

(4) NOTICE OF TREATMENT TO CARRIER; FILING WITH DIVISION.—

(c) It is the policy for the administration of the workers' compensation system that there be reasonable access to medical information by all parties to facilitate the self-executing features of the law. Notwithstanding the limitations in s. ~~456.057~~ 455-667 and subject to the limitations in s. 381.004, upon the request of the employer, the carrier, or the attorney for either of them, the medical records of an injured employee must be furnished to those persons and the medical condition of the injured employee must be discussed with those persons, if the records and the discussions are restricted to conditions relating to the workplace injury. Any such discussions may be held before or after the filing of a claim without the knowledge, consent, or presence of any other party or his or her agent or representative. A health care provider who willfully refuses to provide medical records or to discuss the medical condition of the injured employee, after a reasonable request is made for such information pursuant to this subsection, shall be subject by the division to one or more of the penalties set forth in paragraph (8)(b).

Section 23. Section 455.01, Florida Statutes, is amended to read:

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

(1) "Board" means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rule-making functions, within the department, including the Florida Real Estate Commission; except that, for ss. 455.201-455.261, "board" means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Certified Public Accounting, the Division of Professions, or the Division of Real Estate.

(2) "Consumer member" means a person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been, a member or practitioner of the profession, or of any closely related profession, regulated by such board.

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

(4) "License" means any permit, registration, certificate, or license issued by the department.

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

(6) “Profession” means any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

Section 24. Subsection (5) of section 455.203, Florida Statutes, is amended to read:

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

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

Section 25. Subsection (3) of section 455.207, Florida Statutes, is amended to read:

455.207 Boards; organization; meetings; compensation and travel expenses.—

(3) The board shall meet at least once annually and may meet as often as is necessary. The chairperson or a quorum of the board shall have the authority to call other meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this chapter part or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board’s meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

Section 26. Subsections (3) and (7) of section 455.213, Florida Statutes, are amended to read:

455.213 General licensing provisions.—

(3) The board, or the department when there is no board, may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter part or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete.

(7) Notwithstanding anything to the contrary, any elected official who is licensed pursuant to any practice act within the purview of this chapter part may hold employment for compensation with any public agency concurrent with such public service. Such dual service shall be disclosed according to any disclosure required by applicable law.

Section 27. Subsections (3) and (6) of section 455.214, Florida Statutes, are amended to read:

455.214 Limited licenses.—

(3) The board, or the department when there is no board, may deny limited licensure to an applicant who has committed, or is under investigation or prosecution for, any act which would constitute the basis for discipline pursuant to the provisions of this chapter part or the applicable practice act.

(6) Each applicant granted a limited license is subject to all the provisions of this chapter part and the respective practice act under which the limited license is issued which are not in conflict with this section.

Section 28. Paragraph (f) of subsection (1) of section 455.217, Florida Statutes, is amended to read:

455.217 Examinations.—This section shall be read in conjunction with the appropriate practice act associated with each regulated profession under this chapter.

(1) The Division of Technology, Licensure, and Testing of the Department of Business and Professional Regulation shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations. The division shall seek the advice of the appropriate board in providing such services.

(f) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority an examination developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this chapter part. All fees paid by the user for professions not regulated by this chapter part shall be applied to offset the fees for the development and administration of that profession's examination. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination for which he or she failed to achieve a passing grade, if he or she successfully passes that portion within a reasonable time of his or her passing the other portion.

Section 29. Subsections (4) and (6) of section 455.218, Florida Statutes, are amended to read:

455.218 Foreign-trained professionals; special examination and license provisions.—

(4) The department shall examine any applicant who meets the requirements of subsections (1) and (2). Upon passing the examination and the

issuance of the license, a licensee is subject to the administrative requirements of this ~~chapter part~~ and the respective practice act under which the license is issued. Each applicant so licensed is subject to all provisions of this ~~chapter part~~ and the respective practice act under which the license was issued.

(6) The department, for its boards, shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action which would constitute a violation of this ~~chapter part~~ or the professional practice acts administered by the department and the boards until such time as the investigation or prosecution is complete, at which time the provisions of the professional practice acts shall apply.

Section 30. Subsection (1) of section 455.2185, Florida Statutes, is amended to read:

455.2185 Exemption for certain out-of-state or foreign professionals; limited practice permitted.—

(1) A professional of any other state or of any territory or other jurisdiction of the United States or of any other nation or foreign jurisdiction is exempt from the requirements of licensure under this ~~chapter part~~ and the applicable professional practice act under the agency with regulatory jurisdiction over the profession if that profession is regulated in this state under the agency with regulatory jurisdiction over the profession and if that person:

(a) Holds, if so required in the jurisdiction in which that person practices, an active license to practice that profession.

(b) Engages in the active practice of that profession outside the state.

(c) Is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event.

Section 31. Paragraph (a) of subsection (1) of section 455.225, Florida Statutes, is amended to read:

455.225 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1)(a) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this ~~chapter part~~, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire

not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board.

Section 32. Paragraphs (i), (j), and (q) of subsection (1) and subsection (4) of section 455.227, Florida Statutes, are amended to read:

455.227 Grounds for discipline; penalties; enforcement.—

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

(i) Failing to report to the department any person who the licensee knows is in violation of this chapter part, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter part, the chapter regulating the profession, or the rules of the department or the board.

(q) Violating any provision of this chapter part, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(4) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter part, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

Section 33. Subsection (1) of section 455.2273, Florida Statutes, is amended to read:

455.2273 Disciplinary guidelines.—

(1) Each board, or the department when there is no board, shall adopt, by rule, and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department when there is no board, pursuant to this chapter part, the respective practice acts, and any rule of the board or department.

Section 34. Subsection (1) of section 455.228, Florida Statutes, is amended to read:

455.228 Unlicensed practice of a profession; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected.—

(1) When the department has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter part or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order. In addition to the foregoing remedies, the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120 or may issue a citation pursuant to the provisions of subsection (3). If the department is required to seek enforcement of the order for a penalty pursuant to s. 120.569, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

Section 35. Section 455.243, Florida Statutes, is amended to read:

455.243 Authority to inspect.—Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours any establishment at which the services of a licensee authorized to prescribe controlled substances specified in chapter 893 are offered, for the purpose of determining if any of the provisions of this chapter part or any practice act of a profession or any rule adopted thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

Section 36. Section 455.501, Florida Statutes, is transferred, renumbered as section 456.001, Florida Statutes, and amended to read:

456.001 ~~455.501~~ Definitions.—As used in this chapter part, the term:

(1) “Board” means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rule-making functions, within the department, except that, for ss. 456.003-456.018, 456.022, 456.023, 456.025-456.034, and 456.039-456.082 ~~455.517-455.707~~, “board” means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Medical Quality Assurance.

(2) “Consumer member” means a person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been,

a member or practitioner of the profession, or of any closely related profession, regulated by such board.

(3) “Department” means the Department of Health.

(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, 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.

(5) “License” means any permit, registration, certificate, or license issued by the department.

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

(7) “Profession” means any activity, occupation, profession, or vocation regulated by the department in the Division of Medical Quality Assurance.

Section 37. Section 455.504, Florida Statutes, is transferred, renumbered as section 456.002, Florida Statutes, and amended to read:

456.002 ~~455.504~~ Applicability of part.—This chapter ~~part~~ applies only to the regulation by the department of professions.

Section 38. Section 455.517, Florida Statutes, is transferred and renumbered as section 456.003, Florida Statutes.

Section 39. Section 455.521, Florida Statutes, is transferred, renumbered as section 456.004, Florida Statutes, and amended to read:

456.004 ~~455.521~~ Department; powers and duties.—The department, for the professions under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. 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 chapter 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 40. Sections 455.524, 455.527, and 455.531, Florida Statutes, are transferred and renumbered as sections 456.005, 456.006, and 456.007, Florida Statutes, respectively.

Section 41. Section 455.541, Florida Statutes, is transferred, renumbered as section 456.008, Florida Statutes, and amended to read:

456.008 ~~455.541~~ Accountability and liability of board members.—

(1) Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the actions of the board or its individual members. The Governor may suspend from office any board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his or her official duties, or commission of a felony.

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department

may defend the member's company or business in any action against the company or business if the department determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department may employ or utilize the legal services of the Department of Legal Affairs or outside counsel retained pursuant to s. 287.059. Fees and costs of providing legal services provided under this subsection shall be paid from a trust fund used by the department to implement this chapter part, subject to the provisions of s. 456.025 ~~455.587~~.

Section 42. Section 455.594, Florida Statutes, is transferred, renumbered as section 456.009, Florida Statutes, and amended to read:

456.009 ~~455.594~~ Legal and investigative services.—

(1) The department shall provide board counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel. The primary responsibility of board counsel shall be to represent the interests of the citizens of the state. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. Fees and costs of such counsel shall be paid from a trust fund used by the department to implement this chapter part, subject to the provisions of s. 456.025 ~~455.587~~. All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided.

(2) The department may employ or use the legal services of outside counsel and the investigative services of outside personnel. However, no attorney employed or utilized by the department shall prosecute a matter and provide legal services to the board with respect to the same matter.

(3) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to a profession under the jurisdiction of the department shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

Section 43. Section 455.534, Florida Statutes, is transferred, renumbered as section 456.011, Florida Statutes, and amended to read:

456.011 ~~455.534~~ Boards; organization; meetings; compensation and travel expenses.—

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

(2) The board shall annually elect from among its number a chairperson and vice chairperson.

(3) The board shall meet at least once annually and may meet as often as is necessary. The chairperson or a quorum of the board shall have the

authority to call other meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this ~~chapter part~~ or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

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

(5) When two or more boards have differences between them, the boards may elect to, or the secretary may request that the boards, establish a special committee to settle those differences. The special committee shall consist of three members designated by each board, who may be members of the designating board or other experts designated by the board, and of one additional person designated and agreed to by the members of the special committee. In the event the special committee cannot agree on the additional designee, upon request of the special committee, the secretary may select the designee. The committee shall recommend rules necessary to resolve the differences. If a rule adopted pursuant to this provision is challenged, the participating boards shall share the costs associated with defending the rule or rules. The department shall provide legal representation for any special committee established pursuant to this section.

Section 44. Section 455.544, Florida Statutes, is transferred, renumbered as section 456.012, Florida Statutes, and amended to read:

456.012 ~~455.544~~ Board rules; final agency action; challenges.—

(1) The secretary of the department shall have standing to challenge any rule or proposed rule of a board under its jurisdiction pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the secretary, may declare all or part of a rule or proposed rule invalid if it:

(a) Does not protect the public from any significant and discernible harm or damages;

- (b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or
- (c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(2) In addition, either the secretary or the board shall be a substantially interested party for purposes of s. 120.54(7). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging the final agency action.

(3) No board created within the department shall have standing to challenge a rule or proposed rule of another board. However, if there is a dispute between boards concerning a rule or proposed rule, the boards may avail themselves of the provisions of s. 456.011(5) ~~455.534(5)~~.

Section 45. Section 455.564, Florida Statutes, is transferred, renumbered as section 456.013, Florida Statutes, and amended to read:

456.013 ~~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 shall consist of 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 revoked.

(3) The board, or the department when there is no board, may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter part or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete.

(4) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the department, the administrative law judge shall submit his or her recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for licensure may appeal the final order of the board in accordance with the provisions of chapter 120.

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

(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. 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 requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any continuing education 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 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, for serving as a volunteer expert witness for the department in a disciplinary case, or for 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 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 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.

(10) In any instance in which a licensee or applicant to the department is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, then the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day which is not a Saturday, Sunday, or legal holiday.

(11) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. 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.

Section 46. Section 455.647, Florida Statutes, is transferred and renumbered as section 456.014, Florida Statutes.

Section 47. Section 455.561, Florida Statutes, is transferred, renumbered as section 456.015, Florida Statutes, and amended to read:

456.015 ~~455.561~~ Limited licenses.—

(1) It is the intent of the Legislature that, absent a threat to the health, safety, and welfare of the public, the use of retired professionals in good standing to serve the indigent, underserved, or critical need populations of this state should be encouraged. To that end, the board, or the department when there is no board, may adopt rules to permit practice by retired professionals as limited licensees under this section.

(2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the board, or the department when there is no board, an application and fee, not to exceed \$300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of her or his profession, the application and all licensure fees shall be waived.

(3) The board, or the department when there is no board, may deny limited licensure to an applicant who has committed, or is under investigation or prosecution for, any act which would constitute the basis for discipline pursuant to the provisions of this chapter part or the applicable practice act.

(4) The recipient of a limited license may practice only in the employ of public agencies or institutions or nonprofit agencies or institutions which meet the requirements of s. 501(c)(3) of the Internal Revenue Code, and which provide professional liability coverage for acts or omissions of the limited licensee. A limited licensee may provide services only to the indigent, underserved, or critical need populations within the state. 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 board, or the department when there is no board, may adopt rules to define underserved and critical need areas and to ensure implementation of this section.

(5) A board, or the department when there is no board, may provide by rule for supervision of limited licensees to protect the health, safety, and welfare of the public.

(6) Each applicant granted a limited license is subject to all the provisions of this chapter part and the respective practice act under which the limited license is issued which are not in conflict with this section.

(7) This section does not apply to chapter 458 or chapter 459.

Section 48. Section 455.571, Florida Statutes, is transferred and renumbered as section 456.016, Florida Statutes.

Section 49. Section 455.574, Florida Statutes, is transferred, renumbered as section 456.017, Florida Statutes, and amended to read:

456.017 ~~455.574~~ Department of Health; examinations.—

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

(b) For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board, or the department when there is no board, shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade, and fees, where applicable, to cover the actual cost for any purchase, development, and administration of required examinations. This subsection does not apply to national examinations approved and administered pursuant to paragraph (c). If a practical examination is deemed to be necessary, the rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board, or the department when there is no board, may conduct such exercise. Therefore, board members, or employees of the department when there is no board, may serve as examiners at a practical examination with the consent of the board or department, as appropriate.

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

administer the examination. Any national examination approved by a board, or the department when there is no board, prior to October 1, 1997, is deemed certified under this paragraph.

(d) Each board, or the department when there is no board, shall adopt rules regarding the security and monitoring of examinations. The department shall implement those rules adopted by the respective boards. In order to maintain the security of examinations, the department may employ the procedures set forth in s. ~~456.065~~ ~~455.637~~ to seek fines and injunctive relief against an examinee who violates the provisions of s. ~~456.018~~ ~~455.577~~ or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules.

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

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

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

(3) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination

questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to this section.

(4) Meetings of any member of the department or of any board within the department held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. Any public records, such as tape recordings, minutes, or notes, generated during or as a result of such meetings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, these exemptions shall not affect the right of any person to review an examination as provided in subsection (2).

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

(6) In addition to meeting any other requirements for licensure by examination or by endorsement, an applicant may be required by a board, or the department when there is no board, to certify competency in state laws and rules relating to the applicable practice act.

Section 50. Section 455.577, Florida Statutes, is transferred, renumbered as section 456.018, Florida Statutes, and amended to read:

456.018 ~~455.577~~ Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. ~~456.072~~ ~~455.624~~, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 51. Sections 455.511 and 455.514, Florida Statutes, are transferred and renumbered as sections 456.019 and 456.021, Florida Statutes, respectively.

Section 52. Section 455.581, Florida Statutes, is transferred, renumbered as section 456.022, Florida Statutes, and amended to read:

456.022 ~~455.581~~ Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, within its jurisdiction, the department shall by rule provide procedures under which exiled professionals may be examined within each practice act. A person shall be eligible for such examination if the person:

(a) Immigrated to the United States after leaving the person's home country because of political reasons, provided such country is located in the Western Hemisphere and lacks diplomatic relations with the United States;

(b) Applies to the department and submits a fee;

(c) Was a Florida resident immediately preceding the person's application;

(d) Demonstrates to the department, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university; however, the department may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department shall develop rules for the approval of such programs for its boards.

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the department, for its boards, shall provide a written practical examination which tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. Evidence of meeting the requirements of subsection (1) shall be treated by the department as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant shall not be examined by the department on such fundamentals.

(3) The fees charged for the examinations offered under subsection (2) shall be established by the department, for its boards, by rule and shall be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4) The department shall examine any applicant who meets the requirements of subsections (1) and (2). Upon passing the examination and the issuance of the license, a licensee is subject to the administrative requirements of this chapter ~~part~~ and the respective practice act under which the

license is issued. Each applicant so licensed is subject to all provisions of this ~~chapter part~~ and the respective practice act under which the license was issued.

(5) Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language, provided that any translation costs are borne by the applicant.

(6) The department, for its boards, shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action which would constitute a violation of this ~~chapter part~~ or the professional practice acts administered by the department and the boards until such time as the investigation or prosecution is complete, at which time the provisions of the professional practice acts shall apply.

Section 53. Section 455.584, Florida Statutes, is transferred, renumbered as section 456.023, Florida Statutes, and amended to read:

456.023 ~~455.584~~ Exemption for certain out-of-state or foreign professionals; limited practice permitted.—

(1) A professional of any other state or of any territory or other jurisdiction of the United States or of any other nation or foreign jurisdiction is exempt from the requirements of licensure under this ~~chapter part~~ and the applicable professional practice act under the agency with regulatory jurisdiction over the profession if that profession is regulated in this state under the agency with regulatory jurisdiction over the profession and if that person:

- (a) Holds, if so required in the jurisdiction in which that person practices, an active license to practice that profession.
- (b) Engages in the active practice of that profession outside the state.
- (c) Is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event.

(2) A professional's practice under this section is limited to the members, coaches, and staff of the team for which that professional is employed or designated and to any animals used if the sporting event for which that professional is employed or designated involves animals. A professional practicing under authority of this section shall not have practice privileges in any licensed health care facility or veterinary facility without the approval of that facility.

Section 54. Section 455.507, Florida Statutes, is transferred and renumbered as section 456.024, Florida Statutes.

Section 55. Section 455.587, Florida Statutes, is transferred, renumbered as section 456.025, Florida Statutes, and amended to read:

456.025 ~~455.587~~ Fees; receipts; disposition.—

(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 profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter 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. ~~456.013(2)~~ ~~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.

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

(4) Each board authorized to approve continuing education providers, or the department if there is no board, may establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses and may establish by rule a biennial renewal fee not to exceed \$250 for the renewal of providership of such courses. This subsection does not apply to continuing education courses or providers approved by the board under chapter 465.

(5) All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter part. The Legislature shall appropriate funds from this trust fund sufficient to carry out this chapter part and the provisions of law with respect to professions regulated by the

Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this ~~chapter part~~ for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. The department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. ~~456.026~~ 455.644.

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

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

(8) The department or the appropriate board shall charge a fee not to exceed \$25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the appropriate board shall assess a fee for duplicating a public record as provided in s. 119.07(1)(a) and (b).

Section 56. Section 455.644, Florida Statutes, is transferred, renumbered as section 456.026, Florida Statutes, and amended to read:

456.026 ~~455.644~~ Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department is directed to prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(1) The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.

- (2) The number of complaints received and investigated.
- (3) The number of findings of probable cause made.
- (4) The number of findings of no probable cause made.
- (5) The number of administrative complaints filed.
- (6) The disposition of all administrative complaints.
- (7) A description of disciplinary actions taken.
- (8) A description of any effort by the department to reduce or otherwise close any investigation or disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this chapter part.
- (9) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 456.079 ~~455.627~~.
- (10) Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

Section 57. Sections 455.551, 455.554, and 455.547, Florida Statutes, are transferred and renumbered as sections 456.027, 456.028, and 456.029, Florida Statutes, respectively.

Section 58. Section 455.597, Florida Statutes, is transferred, renumbered as section 456.031, Florida Statutes, and amended to read:

456.031 ~~455.597~~ Requirement for instruction on domestic violence.—

(1)(a) The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 1-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, as part of biennial relicensure or recertification. The course shall consist of information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b) Each such licensee or certificateholder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for each biennial renewal.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that

requires a licensee to complete an educational course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(d) Any person holding two or more licenses subject to the provisions of this subsection shall be permitted to show proof of having taken one board-approved course on domestic violence, for purposes of relicensure or recertification for additional licenses.

(e) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. ~~456.072(1)(k)~~ ~~455.624(1)(k)~~. In addition to discipline by the board, the licensee shall be required to complete such course.

(2) The board shall also require, as a condition of granting a license under any chapter specified in paragraph (1)(a), that each applicant for initial licensure under the appropriate chapter complete an educational course acceptable to the board on domestic violence which is substantially equivalent to the course required in subsection (1). An applicant who has not taken such course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete such requirement.

(3) Each board may adopt rules to carry out the provisions of this section.

(4) Each board shall report to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate substantive committees of the Legislature by March 1 of each year as to the implementation of and compliance with the requirements of this section.

Section 59. Section 455.601, Florida Statutes, is transferred and renumbered as section 456.032, Florida Statutes.

Section 60. Section 455.604, Florida Statutes, is transferred, renumbered as section 456.033, Florida Statutes, and amended to read:

456.033 ~~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, 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.

(2) Each such licensee or certificateholder shall submit confirmation of having completed said course, on a form as provided by the board, when submitting fees for each biennial renewal.

(3) The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1). Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law.

(4) Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses.

(5) Failure to comply with the above requirements shall constitute grounds for disciplinary action under each respective licensing chapter and s. ~~456.072(1)(e)~~ ~~455.624(1)(e)~~. In addition to discipline by the board, the licensee shall be required to complete the course.

(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.

(7) The board shall have the authority to adopt rules to carry out the provisions of this section.

(8) The board shall report to the Legislature by March 1 of each year as to the implementation and compliance with the requirements of this section.

(9) In lieu of completing a course as required in subsection (1), the licensee may complete a course in end-of-life care and palliative health care, so long as the licensee completed an approved AIDS/HIV course in the immediately preceding biennium.

Section 61. Section 455.607, Florida Statutes, is transferred and renumbered as section 456.034, Florida Statutes.

Section 62. Section 455.717, Florida Statutes, is transferred, renumbered as section 456.035, Florida Statutes, and amended to read:

456.035 ~~455.717~~ Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of

practice, as defined by rule of the board or the department if there is no board. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

(2) Notwithstanding any other law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required under s. 456.076 ~~455.707~~.

Section 63. Section 455.711, Florida Statutes, is transferred, renumbered as section 456.036, Florida Statutes, and amended to read:

456.036 ~~455.711~~ Inactive and delinquent status.—

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession without an active status license is in violation of this section and s. 456.072 ~~455.624~~, and the board, or the department if there is no board, may impose discipline on the licensee.

(2) Each board, or the department if there is no board, shall permit a licensee to choose, at the time of licensure renewal, an active or inactive status. However, a licensee who changes from inactive to active status is not eligible to return to inactive status until the licensee thereafter completes a licensure cycle on active status.

(3) Each board, or the department if there is no board, shall by rule impose a fee for an inactive status license which is no greater than the fee for an active status license.

(4) An inactive status licensee may change to active status at any time, if the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the board, or the department if there is no board, and meets all continuing education requirements as specified in this section.

(5) A licensee 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 or inactive status license before the license expires. If a licensee fails to renew before the license expires, the license becomes delinquent in the license cycle following expiration.

(6) A delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department if there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle 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 an applicant for new licensure.

(7) Each board, or the department if there is no board, shall by rule impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, on a delinquent status licensee when such licensee applies for active or inactive status.

(8) Each board, or the department if there is no board, shall by rule impose an additional fee, not to exceed the biennial renewal fee for an active status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) Each board, or the department if there is no board, may by rule impose reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination to assess current competency, necessary to ensure that a licensee who has been on inactive status for more than two consecutive biennial licensure cycles and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive. The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) Before reactivation, an inactive or delinquent licensee must meet the same continuing education requirements, if any, imposed on an active status licensee for all biennial licensure periods in which the licensee was inactive or delinquent.

(11) The status or a change in status of a licensee 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 licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent.

(12) This section does not apply to a business establishment registered, permitted, or licensed by the department to do business.

Section 64. Section 455.712, Florida Statutes, is transferred, renumbered as section 456.037, Florida Statutes, and amended to read:

456.037 ~~455.712~~ Business establishments; requirements for active status licenses.—

(1) A business establishment regulated by the Division of Medical Quality Assurance pursuant to this ~~chapter 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. ~~456.072~~ 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 delin-

quent, 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 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 65. Section 455.714, Florida Statutes, is transferred and renumbered as section 456.038, Florida Statutes.

Section 66. Section 455.565, Florida Statutes, is transferred, renumbered as section 456.039, Florida Statutes, and amended to read:

456.039 ~~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. 456.049 ~~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. 456.049 ~~455.697~~.

(2) Before the issuance of the licensure renewal notice required by s. 456.038 ~~455.714~~, the Department of Health shall send a notice to each person licensed under chapter 458, chapter 459, chapter 460, or chapter 461,

at the licensee's last known address of record with the department, regarding the requirements for information to be submitted by those practitioners pursuant to this section in conjunction with the renewal of such license and under procedures adopted by the department.

(3) Each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under each respective licensing chapter and s. ~~456.072(1)(k)~~ 456.072(1)(k). For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

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

(b) Issue a citation to any licensee who fails to submit and update the required information and may fine the licensee up to \$50 for each day that the licensee is not in compliance with this subsection. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to follow the procedure under s. ~~456.073~~ 456.073 ~~455.624~~. If the licensee disputes the matter in the citation, the procedures set forth in s. ~~456.073~~ 456.073 ~~455.624~~ must be followed. However, if the licensee does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the licensee's last known address.

(4)(a) An applicant for initial licensure must submit a set of fingerprints to the Department of Health in accordance with s. 458.311, s. 458.3115, s. 458.3124, s. 458.313, s. 459.0055, s. 460.406, or s. 461.006.

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

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

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

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

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

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

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

Section 67. Section 455.5651, Florida Statutes, is transferred, renumbered as section 456.041, Florida Statutes, and amended to read:

456.041 ~~455.5651~~ Practitioner profile; creation.—

(1) Beginning July 1, 1999, the Department of Health shall compile the information submitted pursuant to s. ~~456.039~~ ~~455.565~~ into a practitioner profile of the applicant submitting the information, except that the Department of Health may develop a format to compile uniformly any information submitted under s. 456.039(4)(b) ~~455.565(4)(b)~~.

(2) On the profile required under subsection (1), the department shall indicate if the information provided under s. ~~456.039(1)(a)7.~~ ~~455.565(1)(a)7.~~ is not corroborated by a criminal history check conducted according to this subsection. If the information provided under s. 456.039(1)(a)7. ~~455.565(1)(a)7.~~ is corroborated by the criminal history check, the fact that the criminal history check was performed need not be indicated on the profile. The department, or the board having regulatory authority over the practitioner acting on behalf of the department, shall investigate any information received by the department or the board when it has reasonable grounds to believe that the practitioner has violated any law that relates to the practitioner's practice.

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

(4) The Department of Health shall include, with respect to a practitioner licensed under chapter 458 or chapter 459, a statement of how the practitioner has elected to comply with the financial responsibility requirements of s. 458.320 or s. 459.0085. The department shall include, with respect to practitioners licensed under chapter 458, chapter 459, or chapter 461, information relating to liability actions which has been reported under s. 456.049

455.697 or s. 627.912 within the previous 10 years for any paid claim that exceeds \$5,000. Such claims information shall be reported in the context of comparing an individual practitioner's claims to the experience of other physicians within the same specialty to the extent such information is available to the Department of Health. If information relating to a liability action is included in a practitioner's practitioner profile, the profile must also include the following statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

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

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

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

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

Section 68. Section 455.5652, Florida Statutes, is transferred and renumbered as section 456.042, Florida Statutes.

Section 69. Section 455.5653, Florida Statutes, is transferred, renumbered as section 456.043, Florida Statutes, and amended to read:

456.043 ~~455.5653~~ Practitioner profiles; data storage.—Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The department must develop, by the year 2000, a schedule and procedures for each practitioner within a

health care profession regulated within the Division of Medical Quality Assurance to submit relevant information to be compiled into a profile to be made available to the public. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution, so that the Department of Health may corroborate any information that physicians are required to report under s. 456.039 ~~455.565~~.

Section 70. Section 455.5654, Florida Statutes, is transferred, renumbered as section 456.044, Florida Statutes, and amended to read:

456.044 ~~455.5654~~ Practitioner profiles; rules; workshops.—Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under s. 456.039 ~~455.565~~.

Section 71. Sections 455.5655 and 455.5656, Florida Statutes, are transferred and renumbered as sections 456.045 and 456.046, Florida Statutes, respectively.

Section 72. Section 455.557, Florida Statutes, is transferred, renumbered as section 456.047, Florida Statutes, and amended to read:

456.047 ~~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 credentials collection program be established which provides that, once a health care practitioner's core credentials data are collected, they need not be collected again, except for corrections, updates, and modifications thereto. Participation 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 program, provided they meet the requirements of s. 456.039 ~~455.565~~.

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

(a) “Advisory council” or “council” means the Credentials Advisory Council.

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

(c) “Core credentials data” means the following data: current name, any former name, and any alias, any professional education, professional training, licensure, current Drug Enforcement Administration certification, social security number, specialty board certification, Educational Commission for Foreign Medical Graduates certification, hospital or other institutional affiliations, evidence of professional liability coverage or evidence of financial responsibility as required by s. 458.320 or s. 459.0085, history of claims, suits, judgments, or settlements, final disciplinary action reported pursuant to s. ~~456.039(1)(a)8.~~ 455.565(1)(a)8., and Medicare or Medicaid sanctions.

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

(e) “Credentials verification organization” means any organization certified or accredited as a credentials verification organization.

(f) “Department” means the Department of Health, Division of Medical Quality Assurance.

(g) “Designated credentials verification organization” means the credentials verification organization which is selected by the health care practitioner, if the health care practitioner chooses to make such a designation.

(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) “Health care entity” means:

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

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

3. Any accredited medical school in this state.

(j) “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.

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.—

(a) Every health care practitioner shall:

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

2. Notify the department within 45 days of any corrections, updates, or modifications to the core credentials data either through his or her designated credentials verification organization or by submitting the data directly. Corrections, updates, and modifications to the core credentials data provided the department under this section shall comply with the updating requirements of s. 456.039(3) ~~455.565(3)~~ related to profiling.

(b) 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 (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.

5. Establish a Credentials Advisory Council, consisting of 13 members, to assist the department as provided in this section. 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 subparagraph (a)2. A designated credentials verification organization shall:

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

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

(d) This section shall not be construed to restrict in any way the authority of the health care entity to credential and to approve or deny an application for hospital staff membership, clinical privileges, or managed care network participation.

**(4) DUPLICATION OF DATA PROHIBITED.—**

(a) A health care entity or credentials verification organization is prohibited from collecting or attempting to collect duplicate core credentials data from any health care practitioner if the information is available from the department. This section shall not be construed to restrict the right of any

health care entity or credentials verification organization to collect additional information from the health care practitioner which is not included in the core credentials data file. This section shall not be construed to prohibit a health care entity or credentials verification organization from obtaining all necessary attestation and release form signatures and dates.

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

(5) **STANDARDS AND REGISTRATION.**—Any credentials verification organization that does business in this state must be fully accredited or certified as a credentials verification organization by a national accrediting organization as specified in paragraph (2)(b) 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 such registration. The department shall establish by rule for biennial renewal of such registration. Failure by a registered credentials verification organization to maintain full accreditation or certification, to provide data as authorized by the health care practitioner, to report to the department changes, updates, and modifications to a health care practitioner's records within the time period specified in subparagraph (3)(a)2., or to comply with the prohibition against collection of duplicate core credentials data from a practitioner may result in denial of an application for renewal of registration or in revocation or suspension of a registration.

(6) **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.

(7) **LIABILITY INSURANCE REQUIREMENTS.**—Each credentials verification organization doing business in this state shall maintain liability insurance appropriate to meet the certification or accreditation requirements established in this section.

(8) **RULES.**—The department, in consultation with the advisory council, shall adopt rules necessary to develop and implement the standardized core credentials data collection 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 73. Section 455.694, Florida Statutes, is transferred, renumbered as section 456.048, Florida Statutes, and amended to read:

456.048 ~~455.694~~ Financial responsibility requirements for 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, 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, 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. 456.015 ~~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, 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, 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 74. Section 455.697, Florida Statutes, is transferred and renumbered as section 456.049, Florida Statutes.

Section 75. Section 455.698, Florida Statutes, is transferred, renumbered as section 456.051, Florida Statutes, and amended to read:

456.051 ~~455.698~~ Reports of professional liability actions; bankruptcies; Department of Health's responsibility to provide.—

(1) The report of a claim or action for damages for personal injury which is required to be provided to the Department of Health under s. ~~455.697~~ 456.049 or s. 627.912 is public information except for the name of the claimant or injured person, which remains confidential as provided in ss. ~~455.697(2)(d)~~ 456.049(2)(d) and 627.912(2)(e). The Department of Health shall, upon request, make such report available to any person.

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

Section 76. Section 455.701, Florida Statutes, is transferred and renumbered as section 456.052, Florida Statutes.

Section 77. Section 455.654, Florida Statutes, is transferred, renumbered as section 456.053, Florida Statutes, and amended to read:

456.053 ~~455.654~~ Financial arrangements between referring health care providers and providers of health care services.—

(1) SHORT TITLE.—This section may be cited as the “Patient Self-Referral Act of 1992.”

(2) LEGISLATIVE INTENT.—It is recognized by the Legislature that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest. The Legislature finds these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care. The Legislature also recognizes, however, that it may be appropriate for providers to own entities providing health care services, and to refer patients to such entities, as long as certain safeguards are present in the arrangement. It is the intent of the Legislature to provide guidance to health care providers regarding prohibited patient referrals between health care providers and entities providing health care services and to protect the people of Florida from unnecessary and costly health care expenditures.

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

(a) “Board” means any of the following boards relating to the respective professions: the Board of Medicine as created in s. 458.307; the Board of Osteopathic Medicine as created in s. 459.004; the Board of Chiropractic Medicine as created in s. 460.404; the Board of Podiatric Medicine as created in s. 461.004; the Board of Optometry as created in s. 463.003; the Board of Pharmacy as created in s. 465.004; and the Board of Dentistry as created in s. 466.004.

(b) “Comprehensive rehabilitation services” means services that are provided by health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

(c) “Designated health services” means, for purposes of this section, clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic-imaging services, and radiation therapy services.

(d) “Diagnostic imaging services” means magnetic resonance imaging, nuclear medicine, angiography, arteriography, computed tomography, positron emission tomography, digital vascular imaging, bronchography, lymphangiography, splenography, ultrasound, EEG, EKG, nerve conduction studies, and evoked potentials.

(e) “Direct supervision” means supervision by a physician who is present in the office suite and immediately available to provide assistance and direction throughout the time services are being performed.

(f) “Entity” means any individual, partnership, firm, corporation, or other business entity.

(g) “Fair market value” means value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use, and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

(h) “Group practice” means a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

1. In which each health care provider who is a member of the group provides substantially the full range of services which the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

2. For which substantially all of the services of the health care providers who are members of the group are provided through the group and are billed

in the name of the group and amounts so received are treated as receipts of the group; and

3. In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(i) "Health care provider" means any physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or any health care provider licensed under chapter 463 or chapter 466.

(j) "Immediate family member" means a health care provider's spouse, child, child's spouse, grandchild, grandchild's spouse, parent, parent-in-law, or sibling.

(k) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments. The following investment interests shall be excepted from this definition:

1. An investment interest in an entity that is the sole provider of designated health services in a rural area;

2. An investment interest in notes, bonds, debentures, or other debt instruments issued by an entity which provides designated health services, as an integral part of a plan by such entity to acquire such investor's equity investment interest in the entity, provided that the interest rate is consistent with fair market value, and that the maturity date of the notes, bonds, debentures, or other debt instruments issued by the entity to the investor is not later than October 1, 1996.

3. An investment interest in real property resulting in a landlord-tenant relationship between the health care provider and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or exceeds fair market value; or

4. An investment interest in an entity which owns or leases and operates a hospital licensed under chapter 395 or a nursing home facility licensed under chapter 400.

(l) "Investor" means a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. s. 413.17, in an entity.

(m) "Outside referral for diagnostic imaging services" means a referral of a patient to a group practice or sole provider for diagnostic imaging services by a physician who is not a member of the group practice or of the sole provider's practice and who does not have an investment interest in the group practice or sole provider's practice, for which the group practice or sole provider billed for both the technical and the professional fee for the patient,

and the patient did not become a patient of the group practice or sole provider's practice.

(n) "Patient of a group practice" or "patient of a sole provider" means a patient who receives a physical examination, evaluation, diagnosis, and development of a treatment plan if medically necessary by a physician who is a member of the group practice or the sole provider's practice.

(o) "Referral" means any referral of a patient by a health care provider for health care services, including, without limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. The following orders, recommendations, or plans of care shall not constitute a referral by a health care provider:

a. By a radiologist for diagnostic-imaging services.

b. By a physician specializing in the provision of radiation therapy services for such services.

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer and the complications thereof.

d. By a cardiologist for cardiac catheterization services.

e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician.

f. By a health care provider who is the sole provider or member of a group practice for designated health services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the direct supervision of such referring health care provider or group practice; provided, however, that effective July 1, 1999, a physician licensed pursuant to chapter 458, chapter 459, chapter 460, or chapter 461 may refer a patient to a sole provider or group practice for diagnostic imaging services, excluding radiation therapy services, for which the sole provider or group practice billed both the technical and the professional fee for or on behalf of the patient, if the referring physician has no investment interest in the practice. The diagnostic imaging service referred to a group practice or sole provider must be a diagnostic imaging service normally provided within the scope of practice to the patients of the group practice or sole provider. The group practice or sole provider may accept no more than

15 percent of their patients receiving diagnostic imaging services from outside referrals, excluding radiation therapy services.

g. By a health care provider for services provided by an ambulatory surgical center licensed under chapter 395.

h. By a health care provider for diagnostic clinical laboratory services where such services are directly related to renal dialysis.

i. By a urologist for lithotripsy services.

j. By a dentist for dental services performed by an employee of or health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member.

k. By a physician for infusion therapy services to a patient of that physician or a member of that physician's group practice.

l. By a nephrologist for renal dialysis services and supplies.

(p) "Present in the office suite" means that the physician is actually physically present; provided, however, that the health care provider is considered physically present during brief unexpected absences as well as during routine absences of a short duration if the absences occur during time periods in which the health care provider is otherwise scheduled and ordinarily expected to be present and the absences do not conflict with any other requirement in the Medicare program for a particular level of health care provider supervision.

(q) "Rural area" means a county with a population density of no greater than 100 persons per square mile, as defined by the United States Census.

(r) "Sole provider" means one health care provider licensed under chapter 458, chapter 459, chapter 460, or chapter 461, who maintains a separate medical office and a medical practice separate from any other health care provider and who bills for his or her services separately from the services provided by any other health care provider. A sole provider shall not share overhead expenses or professional income with any other person or group practice.

#### (4) REQUIREMENTS FOR ACCEPTING OUTSIDE REFERRALS FOR DIAGNOSTIC IMAGING.—

(a) A group practice or sole provider accepting outside referrals for diagnostic imaging services is required to comply with the following conditions:

1. Diagnostic imaging services must be provided exclusively by a group practice physician or by a full-time or part-time employee of the group practice or of the sole provider's practice.

2. All equity in the group practice or sole provider's practice accepting outside referrals for diagnostic imaging must be held by the physicians comprising the group practice or the sole provider's practice, each of whom must provide at least 75 percent of his professional services to the group.

Alternatively, the group must be incorporated under chapter 617 and must be exempt under the provisions of s. 501(c)(3) of the Internal Revenue Code and be part of a foundation in existence prior to January 1, 1999, that is created for the purpose of patient care, medical education, and research.

3. A group practice or sole provider may not enter into, extend or renew any contract with a practice management company that provides any financial incentives, directly or indirectly, based on an increase in outside referrals for diagnostic imaging services from any group or sole provider managed by the same practice management company.

4. The group practice or sole provider accepting outside referrals for diagnostic imaging services must bill for both the professional and technical component of the service on behalf of the patient, and no portion of the payment, or any type of consideration, either directly or indirectly, may be shared with the referring physician.

5. Group practices or sole providers that have a Medicaid provider agreement with the Agency for Health Care Administration must furnish diagnostic imaging services to their Medicaid patients and may not refer a Medicaid recipient to a hospital for outpatient diagnostic imaging services unless the physician furnishes the hospital with documentation demonstrating the medical necessity for such a referral. If necessary, the Agency for Health Care Administration may apply for a federal waiver to implement this subparagraph.

6. All group practices and sole providers accepting outside referrals for diagnostic imaging shall report annually to the Agency for Health Care Administration providing the number of outside referrals accepted for diagnostic imaging services and the total number of all patients receiving diagnostic imaging services.

(b) If a group practice or sole provider accepts an outside referral for diagnostic imaging services in violation of this subsection or if a group practice or sole provider accepts outside referrals for diagnostic imaging services in excess of the percentage limitation established in subparagraph (a)2., the group practice or the sole provider shall be subject to the penalties in subsection (5).

(c) Each managing physician member of a group practice and each sole provider who accepts outside referrals for diagnostic imaging services shall submit an annual attestation signed under oath to the Agency for Health Care Administration which shall include the annual report required under subparagraph (a)6. and which shall further confirm that each group practice or sole provider is in compliance with the percentage limitations for accepting outside referrals and the requirements for accepting outside referrals listed in paragraph (a). The agency may verify the report submitted by group practices and sole providers.

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

(a) A health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor or has an investment interest.

(b) A health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:

1. The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:

a. Whose shares are traded on a national exchange or on the over-the-counter market; and

b. Whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million; or

2. With respect to an entity other than a publicly held corporation described in subparagraph 1., and a referring provider's investment interest in such entity, each of the following requirements are met:

a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.

b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals.

c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity.

d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor.

3. With respect to either such entity or publicly held corporation:

a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest.

b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

4. Each board and, in the case of hospitals, the Agency for Health Care Administration, shall encourage the use by licensees of the declaratory statement procedure to determine the applicability of this section or any rule adopted pursuant to this section as it applies solely to the licensee. Boards shall submit to the Agency for Health Care Administration the name of any

entity in which a provider investment interest has been approved pursuant to this section, and the Agency for Health Care Administration shall adopt rules providing for periodic quality assurance and utilization review of such entities.

(c) No claim for payment may be presented by an entity to any individual, third-party payor, or other entity for a service furnished pursuant to a referral prohibited under this section.

(d) If an entity collects any amount that was billed in violation of this section, the entity shall refund such amount on a timely basis to the payor or individual, whichever is applicable.

(e) Any person that presents or causes to be presented a bill or a claim for service that such person knows or should know is for a service for which payment may not be made under paragraph (c), or for which a refund has not been made under paragraph (d), shall be subject to a civil penalty of not more than \$15,000 for each such service to be imposed and collected by the appropriate board.

(f) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement, which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil penalty of not more than \$100,000 for each such circumvention arrangement or scheme to be imposed and collected by the appropriate board.

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

(h) Any hospital licensed under chapter 395 that discriminates against or otherwise penalizes a health care provider for compliance with this act.

(i) The provision of paragraph (a) shall not apply to referrals to the offices of radiation therapy centers managed by an entity or subsidiary or general partner thereof, which performed radiation therapy services at those same offices prior to April 1, 1991, and shall not apply also to referrals for radiation therapy to be performed at no more than one additional office of any entity qualifying for the foregoing exception which, prior to February 1, 1992, had a binding purchase contract on and a nonrefundable deposit paid for a linear accelerator to be used at the additional office. The physical site of the radiation treatment centers affected by this provision may be relocated as a result of the following factors: acts of God; fire; strike; accident; war; eminent domain actions by any governmental body; or refusal by the lessor to renew a lease. A relocation for the foregoing reasons is limited to relocation of an existing facility to a replacement location within the county

of the existing facility upon written notification to the Office of Licensure and Certification.

(j) A health care provider who meets the requirements of paragraphs (b) and (i) must disclose his or her investment interest to his or her patients as provided in s. ~~456.052~~ 455.704.

Section 78. Sections 455.657, 455.684, and 455.691, Florida Statutes, are transferred and renumbered as sections 456.054, 456.055, and 456.056, Florida Statutes, respectively.

Section 79. Section 455.667, Florida Statutes, is transferred, renumbered as section 456.057, Florida Statutes, and amended to read:

~~456.057~~ ~~455.667~~ Ownership and control of patient records; report or copies of records to be furnished.—

(1) As used in this section, the term “records owner” means any health care practitioner who generates a medical record after making a physical or mental examination of, or administering treatment or dispensing legend drugs to, any person; any health care practitioner to whom records are transferred by a previous records owner; or any health care practitioner’s employer, including, but not limited to, group practices and staff-model health maintenance organizations, provided the employment contract or agreement between the employer and the health care practitioner designates the employer as the records owner.

(2) As used in this section, the terms “records owner,” “health care practitioner,” and “health care practitioner’s employer” do not include any of the following persons or entities; furthermore, the following persons or entities are not authorized to acquire or own medical records, but are authorized under the confidentiality and disclosure requirements of this section to maintain those documents required by the part or chapter under which they are licensed or regulated:

- (a) Certified nursing assistants regulated under s. 400.211.
- (b) Pharmacists and pharmacies licensed under chapter 465.
- (c) Dental hygienists licensed under s. 466.023.
- (d) Nursing home administrators licensed under part II of chapter 468.
- (e) Respiratory therapists regulated under part V of chapter 468.
- (f) Athletic trainers licensed under part XIII of chapter 468.
- (g) Electrologists licensed under chapter 478.
- (h) Clinical laboratory personnel licensed under part III of chapter 483.
- (i) Medical physicists licensed under part IV of chapter 483.
- (j) Opticians and optical establishments licensed or permitted under part I of chapter 484.

(k) Persons or entities practicing under s. 627.736(7).

(3) This section does not apply to facilities licensed under chapter 395.

(4) Any health care practitioner licensed by the department or a board within the department who makes a physical or mental examination of, or administers treatment or dispenses legend drugs to, any person shall, upon request of such person or the person's legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information. However, when a patient's psychiatric, chapter 490 psychological, or chapter 491 psychotherapeutic records are requested by the patient or the patient's legal representative, the health care practitioner may provide a report of examination and treatment in lieu of copies of records. Upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.

(5) Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization under the following circumstances:

(a) To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

(b) When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff.

(c) In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records.

(d) For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(6) Except in a medical negligence action or administrative proceeding when a health care practitioner or provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care practitioners and providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.

(7)(a)1. The department may obtain patient 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 ~~chapter 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 ~~chapter part~~ or any professional practice act 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. ~~456.054~~ 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 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. 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.

(8) All patient records obtained by the department and any other documents maintained by the department which identify the patient by name are confidential and exempt from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the department or the appropriate board.

(9) All records owners shall develop and implement policies, standards, and procedures to protect the confidentiality and security of the medical record. Employees of records owners shall be trained in these policies, standards, and procedures.

(10) Records owners are responsible for maintaining a record of all disclosures of information contained in the medical record to a third party, including the purpose of the disclosure request. The record of disclosure may be maintained in the medical record. The third party to whom information is disclosed is prohibited from further disclosing any information in the medical record without the expressed written consent of the patient or the patient's legal representative.

(11) Notwithstanding the provisions of s. ~~456.058~~ 455.677, records owners shall place an advertisement in the local newspaper or notify patients, in writing, when they are terminating practice, retiring, or relocating, and no longer available to patients, and offer patients the opportunity to obtain a copy of their medical record.

(12) Notwithstanding the provisions of s. ~~456.058~~ 455.677, records owners shall notify the appropriate board office when they are terminating practice, retiring, or relocating, and no longer available to patients, specifying who the new records owner is and where medical records can be found.

(13) Whenever a records owner has turned records over to a new records owner, the new records owner shall be responsible for providing a copy of the complete medical record, upon written request, of the patient or the patient's legal representative.

(14) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(15) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed \$5,000 per violation.

(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.

(17) Nothing in this section shall be construed to limit health care practitioner consultations, as necessary.

(18) A records owner shall release to a health care practitioner who, as an employee of the records owner, previously provided treatment to a patient, those records that the health care practitioner actually created or generated when the health care practitioner treated the patient. Records released pursuant to this subsection shall be released only upon written request of the health care practitioner and shall be limited to the notes, plans of care, and orders and summaries that were actually generated by the health care practitioner requesting the record.

Section 80. Section 455.677, Florida Statutes, is transferred and renumbered as section 456.058, Florida Statutes.

Section 81. Section 455.671, Florida Statutes, is transferred, renumbered as section 456.059, Florida Statutes, and amended to read:

456.059 ~~455.671~~ Communications confidential; exceptions.—Communications between a patient and a psychiatrist, as defined in s. 394.455, shall be held confidential and shall not be disclosed except upon the request of the patient or the patient's legal representative. Provision of psychiatric records and reports shall be governed by s. 456.057 ~~455.667~~. Notwithstanding any other provision of this section or s. 90.503, where:

- (1) A patient is engaged in a treatment relationship with a psychiatrist;
- (2) Such patient has made an actual threat to physically harm an identifiable victim or victims; and
- (3) The treating psychiatrist makes a clinical judgment that the patient has the apparent capability to commit such an act and that it is more likely than not that in the near future the patient will carry out that threat,

the psychiatrist may disclose patient communications to the extent necessary to warn any potential victim or to communicate the threat to a law enforcement agency. No civil or criminal action shall be instituted, and there shall be no liability on account of disclosure of otherwise confidential communications by a psychiatrist in disclosing a threat pursuant to this section.

Section 82. Sections 455.674, 455.664, and 455.567, Florida Statutes, are transferred and renumbered as sections 456.061, 456.062, and 456.063, Florida Statutes, respectively.

Section 83. Section 455.641, Florida Statutes, is transferred, renumbered as section 456.064, Florida Statutes, and amended to read:

456.064 ~~455.641~~ Unlicensed activities; fees; disposition.—In order to protect the public and to ensure a consumer-oriented department, it is the

intent of the Legislature that vigorous enforcement of regulation for all professional activities is a state priority. All enforcement costs should be covered by professions regulated by the department. Therefore, the department shall impose, upon initial licensure and each renewal thereof, a special fee of \$5 per licensee. Such fee shall be in addition to all other fees collected from each licensee and shall fund efforts to combat unlicensed activity. The board with concurrence of the department, or the department when there is no board, may earmark \$5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash balance. The department shall make direct charges to this fund by profession and shall not allocate indirect overhead. The department shall seek board advice regarding enforcement methods and strategies prior to expenditure of funds. The department shall directly credit, by profession, revenues received from the department's efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 456.025 455.587. The department shall not charge the account of any profession for the costs incurred on behalf of any other profession. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession.

Section 84. Section 455.637, Florida Statutes, is transferred, renumbered as section 456.065, Florida Statutes, and amended to read:

456.065 ~~455.637~~ Unlicensed practice of a profession; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected.—

(1) When the department has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this ~~chapter part~~ or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order. In addition to the foregoing remedies, the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120 or may issue a citation pursuant to the provisions of subsection (3). If the department is required to seek enforcement of the agency order for a penalty pursuant to s. 120.569, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department may seek the imposition of a civil penalty through the circuit

court for any violation for which the department may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than \$500 and no more than \$5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation.

(3)(a) Notwithstanding the provisions of s. ~~456.073~~ 455.621, the department shall adopt rules to permit the issuance of citations for unlicensed practice of a profession. The citation shall be issued to the subject and shall contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. ~~456.073~~ 455.621. If the subject disputes the matter in the citation, the procedures set forth in s. ~~456.073~~ 455.621 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The penalty shall be a fine of not less than \$500 or more than \$5,000 or other conditions as established by rule.

(b) Each day that the unlicensed practice continues after issuance of a citation constitutes a separate violation.

(c) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to department rule as part of the penalty levied pursuant to the citation.

(d) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(4) All fines, fees, and costs collected through the procedures set forth in this section shall be allocated to the professions in the manner provided for in s. ~~456.064~~ 455.641 for the allocation of the fees assessed and collected to combat unlicensed practice of a profession.

(5) The provisions of this section apply only to the professional practice acts administered by the department.

Section 85. Section 455.634, Florida Statutes, is transferred and renumbered as section 456.066, Florida Statutes.

Section 86. Section 455.631, Florida Statutes, is transferred, renumbered as section 456.067, Florida Statutes, and amended to read:

456.067 ~~455.631~~ Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. ~~456.072~~ 455.624, the act of knowingly giving false information in the course of applying for or obtaining a license from the department, or any board thereunder, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license from the department, or any board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony

of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 87. Section 455.699, Florida Statutes, is transferred and renumbered as section 456.068, Florida Statutes.

Section 88. Section 455.681, Florida Statutes, is transferred, renumbered as section 456.069, Florida Statutes, and amended to read:

~~456.069~~ ~~455.681~~ Authority to inspect.—In addition to the authority specified in s. 465.017, duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours:

(1) Any pharmacy; or

(2) Any establishment at which the services of a licensee authorized to prescribe controlled substances specified in chapter 893 are offered,

for the purpose of determining if any of the provisions of this ~~chapter~~ ~~part~~ or any practice act of a profession or any rule adopted thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

Section 89. Section 455.611, Florida Statutes, is transferred and renumbered as section 456.071, Florida Statutes.

Section 90. Section 455.624, Florida Statutes, is transferred, renumbered as section 456.072, Florida Statutes, and amended to read:

~~456.072~~ ~~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:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

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

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted pursuant to s. 501.122(2) governing the registration of such devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of

licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

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

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter part, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter part, the chapter regulating the profession, or the rules of the department or the board.

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

(l) 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, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

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

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

(o) 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.

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

(q) Violating any provision of this chapter part, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(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 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. ~~456.077~~ 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) 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. 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.

(5) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this ~~chapter part~~, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

(6) In the event the board, or the department when there is no board, determines that revocation of a license is the appropriate penalty, the revo-

cation shall be permanent. However, the board may establish by rule requirements for reapplication by applicants whose licenses have been permanently revoked. Such requirements may include, but shall not be limited to, satisfying current requirements for an initial license.

Section 91. Section 455.621, Florida Statutes, is transferred, renumbered as section 456.073, Florida Statutes, and amended to read:

456.073 ~~455.621~~ Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter part, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent

of the Legislature that the term “expeditiously” means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

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

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board’s former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the proba-

ble cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter part. All proceedings of the probable cause panel are exempt from s. 120.525.

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

raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (5) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed-upon settlement shall be subject to the approval of the department.

(7) The department shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the secretary of the Department of Health or his or her designee, as appropriate, who shall issue the final summary order.

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

(b) In any disciplinary case for which probable cause has been found, the department shall provide to the person who filed the complaint a copy of the administrative complaint and:

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

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

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

(c) In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the probable cause panel which may be relevant to the decision. In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation and pursuant to a written request by the subject, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to

the subject a copy of the investigative file. Notwithstanding s. ~~456.057~~ ~~455.667~~, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. ~~456.057~~ ~~455.667~~. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

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

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

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

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

Section 92. Section 455.687, Florida Statutes, is transferred, renumbered as section 456.074, Florida Statutes, and amended to read:

456.074 ~~455.687~~ Certain health care practitioners; immediate suspension of license.—

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409 or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the Secretary of Health shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the authority of the secretary of the department to issue an emergency order.

(3) The department may issue an emergency order suspending or restricting the license of any health care practitioner as defined in s. ~~456.001(4)~~ 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 93. Section 455.704, Florida Statutes, is transferred and renumbered as section 456.075, Florida Statutes.

Section 94. Section 455.707, Florida Statutes, is transferred, renumbered as section 456.076, Florida Statutes, and amended to read:

456.076 ~~455.707~~ Treatment programs for impaired practitioners.—

(1) For professions that do not have impaired practitioner programs provided for in their practice acts, the department shall, by rule, designate approved treatment programs under this section. The department may adopt rules setting forth appropriate criteria for approval of treatment providers based on the policies and guidelines established by the Impaired Practitioners Committee. The rules must specify the manner in which the consultant works with the department in intervention, requirements for evaluating and treating a professional, and requirements for the continued care and monitoring of a professional by the consultant at a department-approved treatment provider. The department shall not compel any impaired practitioner program in existence on October 1, 1992, to serve additional professions.

(2) The department shall retain one or more impaired practitioner consultants as recommended by the committee. A consultant shall be a licensee or recovered licensee under the jurisdiction of the Division of Medical Quality Assurance within the department, and at least one consultant must be a practitioner or recovered practitioner licensed under chapter 458, chapter 459, or chapter 464. The consultant shall assist the probable cause panel and department in carrying out the responsibilities of this section. This shall include working with department investigators to determine whether a practitioner is, in fact, impaired.

(3)(a) Whenever the department receives a written or oral legally sufficient complaint alleging that a licensee under the jurisdiction of the Division of Medical Quality Assurance within the department is impaired as a result

of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition which could affect the licensee's ability to practice with skill and safety, and no complaint against the licensee other than impairment exists, the reporting of such information shall not constitute a complaint within the meaning of s. 456.073 ~~455.621~~ if the probable cause panel of the appropriate board, or the department when there is no board, finds:

1. The licensee has acknowledged the impairment problem.
2. The licensee has voluntarily enrolled in an appropriate, approved treatment program.
3. The licensee has voluntarily withdrawn from practice or limited the scope of practice as determined by the panel, or the department when there is no board, in each case, until such time as the panel, or the department when there is no board, is satisfied the licensee has successfully completed an approved treatment program.
4. The licensee has executed releases for medical records, authorizing the release of all records of evaluations, diagnoses, and treatment of the licensee, including records of treatment for emotional or mental conditions, to the consultant. The consultant shall make no copies or reports of records that do not regard the issue of the licensee's impairment and his or her participation in a treatment program.

(b) If, however, the licensee agrees to withdraw from practice until such time as the consultant determines the licensee has satisfactorily completed an approved treatment program or evaluation, the probable cause panel, or the department when there is no board, shall not become involved in the licensee's case.

(c) Inquiries related to impairment treatment programs designed to provide information to the licensee and others and which do not indicate that the licensee presents a danger to the public shall not constitute a complaint within the meaning of s. 456.073 ~~455.621~~ and shall be exempt from the provisions of this subsection.

(d) Whenever the department receives a legally sufficient complaint alleging that a licensee is impaired as described in paragraph (a) and no complaint against the licensee other than impairment exists, the department shall forward all information in its possession regarding the impaired licensee to the consultant. For the purposes of this section, a suspension from hospital staff privileges due to the impairment does not constitute a complaint.

(e) The probable cause panel, or the department when there is no board, shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel, or the department when there is no board, shall remain confidential and exempt from the provisions of s. 119.07(1), subject to the provisions of subsections (5) and (6).

(f) A finding of probable cause shall not be made as long as the panel, or the department when there is no board, is satisfied, based upon information

it receives from the consultant and the department, that the licensee is progressing satisfactorily in an approved treatment program.

(4) In any disciplinary action for a violation other than impairment in which a licensee establishes the violation for which the licensee is being prosecuted was due to or connected with impairment and further establishes the licensee is satisfactorily progressing through or has successfully completed an approved treatment program pursuant to this section, such information may be considered by the board, or the department when there is no board, as a mitigating factor in determining the appropriate penalty. This subsection does not limit mitigating factors the board may consider.

(5)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a licensee's impairment and participation in the treatment program. All information obtained by the consultant and department pursuant to this section is confidential and exempt from the provisions of s. 119.07(1), subject to the provisions of this subsection and subsection (6). Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

(b) If in the opinion of the consultant, after consultation with the treatment provider, an impaired licensee has not progressed satisfactorily in a treatment program, all information regarding the issue of a licensee's impairment and participation in a treatment program in the consultant's possession shall be disclosed to the department. Such disclosure shall constitute a complaint pursuant to the general provisions of s. ~~456.073~~ 455.621. Whenever the consultant concludes that impairment affects a licensee's practice and constitutes an immediate, serious danger to the public health, safety, or welfare, that conclusion shall be communicated to the secretary of the department.

(6) A consultant, licensee, or approved treatment provider who makes a disclosure pursuant to this section is not subject to civil liability for such disclosure or its consequences. The provisions of s. 766.101 apply to any officer, employee, or agent of the department or the board and to any officer, employee, or agent of any entity with which the department has contracted pursuant to this section.

Section 95. Section 455.617, Florida Statutes, is transferred, renumbered as section 456.077, Florida Statutes, and amended to read:

456.077 ~~455.617~~ Authority to issue citations.—

(1) Notwithstanding s. ~~456.073~~ 455.621, the board, or the department if there is no board, shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. ~~456.073~~ 455.621. If the subject disputes the matter in the citation, the procedures set forth in s. ~~456.073~~ 455.621 must be followed. However, if the subject 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. The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department if there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board or department rule, as part of the penalty levied pursuant to the citation.

(4) A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6) A board created on or after January 1, 1992, has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

Section 96. Section 455.614, Florida Statutes, is transferred, renumbered as section 456.078, Florida Statutes, and amended to read:

456.078 ~~455.614~~ Mediation.—

(1) Notwithstanding the provisions of s. ~~456.073~~ ~~455.621~~, the board, or the department when there is no board, shall adopt rules to designate which violations of the applicable professional practice act are appropriate for mediation. The board, or the department when there is no board, may designate as mediation offenses those complaints where harm caused by the licensee is economic in nature or can be remedied by the licensee.

(2) After the department determines a complaint is legally sufficient and the alleged violations are defined as mediation offenses, the department or any agent of the department may conduct informal mediation to resolve the complaint. If the complainant and the subject of the complaint agree to a resolution of a complaint within 14 days after contact by the mediator, the mediator shall notify the department of the terms of the resolution. The department or board shall take no further action unless the complainant and the subject each fail to record with the department an acknowledgment of satisfaction of the terms of mediation within 60 days of the mediator's notification to the department. In the event the complainant and subject fail to reach settlement terms or to record the required acknowledgment, the department shall process the complaint according to the provisions of s. ~~456.073~~ ~~455.621~~.

(3) Conduct or statements made during mediation are inadmissible in any proceeding pursuant to s. ~~456.073~~ ~~455.621~~. Further, any information

relating to the mediation of a case shall be subject to the confidentiality provisions of s. 456.073 ~~455.621~~.

(4) No licensee shall go through the mediation process more than three times without approval of the department. The department may consider the subject and dates of the earlier complaints in rendering its decision. Such decision shall not be considered a final agency action for purposes of chapter 120.

(5) Any board created on or after January 1, 1995, shall have 6 months to adopt rules designating which violations are appropriate for mediation, after which time the department shall have exclusive authority to adopt rules pursuant to this section. A board shall have continuing authority to amend its rules adopted pursuant to this section.

Section 97. Section 455.627, Florida Statutes, is transferred, renumbered as section 456.079, Florida Statutes, and amended to read:

456.079 ~~455.627~~ Disciplinary guidelines.—

(1) Each board, or the department if there is no board, shall adopt by rule and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department if there is no board, pursuant to this chapter part, the respective practice acts, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

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

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

Section 98. Section 455.537, Florida Statutes, is transferred and renumbered as section 456.081, Florida Statutes.

Section 99. Section 455.651, Florida Statutes, is transferred, renumbered as section 456.082, Florida Statutes, and amended to read:

456.082 ~~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. 456.072 ~~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 100. Subsection (2) of section 457.103, Florida Statutes, is amended to read:

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

(2) All provisions of ~~part II of chapter 456~~ 455 relating to the board shall apply.

Section 101. Subsection (6) of section 458.307, Florida Statutes, is amended to read:

458.307 Board of Medicine.—

(6) All provisions of ~~part II of chapter 456~~ 455 relating to activities of the board shall apply.

Section 102. Paragraph (c) of subsection (1) and paragraph (a) of subsection (3) of section 458.3115, Florida Statutes, are amended to read:

458.3115 Restricted license; certain foreign-licensed physicians; examination; restrictions on practice; full licensure.—

(1)

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

1. Has taken, upon approval by the board, and completed, in November 1990 or November 1992, one of the special preparatory medical update courses authorized by the board and the University of Miami Medical School and subsequently passed the final course examination; 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 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 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 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 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 chapter 456 or 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 chapter 456 or this chapter ~~or part II of chapter 455~~ and that substantially threatened or threatens the public health, safety, or welfare.

(3)(a) A restricted license issued by the department under this section is valid for 2 years unless sooner revoked or suspended, and a restricted licensee is subject to the requirements of chapter 456, 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.

Section 103. Paragraph (d) of subsection (1) of section 458.3124, Florida Statutes, is amended to read:

458.3124 Restricted license; certain experienced foreign-trained physicians.—

(1) A person who was trained in a medical school that is listed in the World Directory of Medical Schools published by the World Health Organization and is located in a country other than the United States, Canada, or Puerto Rico may apply to take Step III of the United States Medical Licensing Examination, if the person:

(d) Is not subject to discipline, investigation, or prosecution in any jurisdiction for acts that threaten the public health, safety, or welfare or violate ~~part II of chapter 456~~ 455 or this chapter; and

Section 104. Subsections (1) and (4) of section 458.319, Florida Statutes, are amended to read:

458.319 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, evidence that the applicant has actively practiced medicine or has been on the active teaching faculty of an accredited medical school for at least 2 years of the immediately preceding 4 years, and a fee not to exceed \$500; provided, however, that if the licensee is either a resident physician, assistant resident physician, fellow, house physician, or intern in an approved postgraduate training program, as defined by the board by rule, the fee shall not exceed \$100 per annum. If the licensee has not actively practiced medicine for at least 2 years of the immediately preceding 4 years, the board shall require that the licensee successfully complete a board-approved clinical competency examination prior to renewal of the license. "Actively practiced medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, including physicians practicing administrative medicine. An applicant for a renewed license must also submit the information required under s. ~~456.039~~ 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. ~~456.039~~ 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. ~~456.039~~ 455.565. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. ~~456.073~~ 455.621. If the applicant disputes the matter in the citation, the procedures set forth in s. ~~456.073~~ 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.

(4) Notwithstanding the provisions of s. ~~456.033~~ 455.604, a physician may complete continuing education on end-of-life care and palliative health care in lieu of continuing education in AIDS/HIV, if that physician has

completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 105. Paragraph (e) of subsection (1) and subsection (6) of section 458.331, Florida Statutes, are amended to read:

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

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

(e) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board. A treatment provider approved pursuant to s. ~~456.076~~ 455.707 shall provide the department or consultant with information in accordance with the requirements of s. ~~456.076(3), (4), (5), and (6)~~ 455.707(3), (4), (5), and (6).

(6) Upon the department's receipt from an insurer or self-insurer of a report of a closed claim against a physician pursuant to s. 627.912 or from a health care practitioner of a report pursuant to s. ~~456.049~~ 455.697, or upon the receipt from a claimant of a presuit notice against a physician pursuant to s. 766.106, the department shall review each report and determine whether it potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. ~~456.073~~ 455.621 shall apply. However, if it is reported that a physician has had three or more claims with indemnities exceeding \$25,000 each within the previous 5-year period, the department shall investigate the occurrences upon which the claims were based and determine if action by the department against the physician is warranted.

Section 106. Section 458.343, Florida Statutes, is amended to read:

458.343 Subpoena of certain records.—Notwithstanding the provisions of s. ~~456.057~~ 455.667, the department may issue subpoenas duces tecum requiring the names and addresses of some or all of the patients of a physician against whom a complaint has been filed pursuant to s. ~~456.073~~ 455.621.

Section 107. Paragraph (g) of subsection (7) and subsections (10) and (16) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(g) The Board of Medicine may impose any of the penalties specified in ss. ~~456.072~~ 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~~ 456 455.

(10) INACTIVE AND DELINQUENT STATUS.—A license on inactive or delinquent status may be reactivated only as provided in s. ~~456.036~~ 455.711.

(16) LEGAL SERVICES.—Legal services shall be provided to the council pursuant to s. ~~456.009(1)~~ 455.594(1).

Section 108. Subsection (5) of section 458.351, Florida Statutes, is amended to read:

458.351 Reports of adverse incidents in office practice settings.—

(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. ~~456.073~~ 455.621 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

Section 109. Subsection (4) of section 459.004, Florida Statutes, is amended to read:

459.004 Board of Osteopathic Medicine.—

(4) All provisions of ~~part II of chapter 456~~ 455 relating to activities of the board shall apply.

Section 110. Subsections (1) and (5) of section 459.008, Florida Statutes, are amended to read:

459.008 Renewal of licenses and certificates.—

(1) The department shall renew a license or certificate upon receipt of the renewal application and fee. An applicant for a renewed license must also submit the information required under s. ~~456.039~~ 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. ~~456.039~~ 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. ~~456.039~~ 455.565. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. ~~456.073~~ 455.621. If the applicant disputes the matter in the citation, the procedures set forth in s. ~~456.073~~ 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.

(5) Notwithstanding the provisions of s. ~~456.033~~ 455.604, an osteopathic physician may complete continuing education on end-of-life and palliative health care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 111. Paragraph (e) of subsection (1) and subsection (6) of section 459.015, Florida Statutes, are 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:

(e) Failing to report to the department or the department's impaired professional consultant any person who the licensee or certificateholder knows is in violation of this chapter or of the rules of the department or the board. A treatment provider, approved pursuant to s. ~~456.076~~ 455.707, shall provide the department or consultant with information in accordance with the requirements of s. ~~456.076(3), (4), (5), and (6)~~ 455.707(3), (4), (5), and (6).

(6) Upon the department's receipt from an insurer or self-insurer of a report of a closed claim against an osteopathic physician pursuant to s. 627.912 or from a health care practitioner of a report pursuant to s. ~~456.049~~ 455.697, or upon the receipt from a claimant of a presuit notice against an osteopathic physician pursuant to s. 766.106, the department shall review each report and determine whether it potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. ~~456.073~~ 455.621 shall apply. However, if it is reported that an osteopathic physician has had three or more claims with indemnities exceeding \$25,000 each within the previous 5-year period, the department shall investigate the occurrences upon which the claims were based and determine if action by the department against the osteopathic physician is warranted.

Section 112. Section 459.019, Florida Statutes, is amended to read:

459.019 Subpoena of certain records.—Notwithstanding the provisions of s. ~~456.057~~ 455.667, the department may issue subpoenas duces tecum requiring the names and addresses of some or all of the patients of an osteopathic physician against whom a complaint has been filed pursuant to s. ~~456.073~~ 455.621.

Section 113. Paragraph (f) of subsection (7) and subsections (10) and (16) of section 459.022, Florida Statutes, are amended to read:

459.022 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(f) The Board of Osteopathic Medicine may impose any of the penalties specified in ss. ~~456.072~~ 455.624 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or ~~part II of chapter 456~~ 455.

(10) INACTIVE AND DELINQUENT STATUS.—A license on inactive or delinquent status may be reactivated only as provided in s. ~~456.036~~ 455.711.

(16) LEGAL SERVICES.—Legal services shall be provided to the council pursuant to s. ~~456.009(1)~~ 455.594(1).

Section 114. Subsection (5) of section 459.026, Florida Statutes, is amended to read:

459.026 Reports of adverse incidents in office practice settings.—

(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. ~~456.073~~ 455.621 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

Section 115. Subsection (4) of section 460.404, Florida Statutes, is amended to read:

460.404 Board of Chiropractic Medicine; membership; appointment; terms.—

(4) All provisions of ~~part II of chapter 456~~ 455 relating to the board shall apply.

Section 116. Paragraph (c) of subsection (1) of section 460.4061, Florida Statutes, is amended to read:

460.4061 Restricted license.—

(1) An applicant for licensure as a chiropractic physician may apply to the department for a restricted license without undergoing a state or national written or clinical competency examination for licensure if the applicant initially applies not later than October 31, 1994, for the restricted license and:

(c) Has never been disciplined for an offense that would be a violation under this chapter or ~~part II of chapter 456~~ 455, imposed by another jurisdiction on the applicant's license to practice as a chiropractic physician.

Section 117. Subsection (1) of section 460.407, Florida Statutes, is amended to read:

460.407 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed \$500. An applicant for a renewed license must also submit the information required under s. ~~456.039 455.565~~ 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. ~~456.039 455.565~~ 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. ~~456.039 455.565~~. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. ~~456.073 455.621~~. If the applicant disputes the matter in the citation, the procedures set forth in s. ~~456.073 455.621~~ 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 118. Subsection (4) of section 461.004, Florida Statutes, is amended to read:

461.004 Board of Podiatric Medicine; membership; appointment; terms.—

(4) All provisions of ~~part II of chapter 456~~ 455 relating to the board shall apply. However, notwithstanding the requirement of s. ~~456.073(4) 455.621(4)~~ that the board provide by rule for the determination of probable cause by a panel composed of its members or by the department, the board may provide by rule that its probable cause panel may be composed of one current member of the board and one past member of the board, as long as the past member is a licensed podiatric physician in good standing. The past board member must be appointed to the panel by the chair of the board with the approval of the secretary for a maximum of 2 years.

Section 119. Subsection (1) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and a fee not to exceed \$350 set by the board, 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. ~~456.039~~ ~~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. ~~456.039~~ ~~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. ~~456.039~~ ~~455.565~~. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. ~~456.073~~ ~~455.621~~. If the applicant disputes the matter in the citation, the procedures set forth in s. ~~456.073~~ ~~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 120. Paragraph (w) of subsection (1) and paragraph (a) of subsection (5) of section 461.013, Florida Statutes, are amended to read:

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

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

(w) Violating any provision of this chapter or ~~part II of~~ chapter 456 455, any rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(5)(a) Upon the department's receipt from an insurer or self-insurer of a report of a closed claim against a podiatric physician pursuant to s. 627.912, or upon the receipt from a claimant of a presuit notice against a podiatric physician pursuant to s. 766.106, the department shall review each report and determine whether it potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. 456.073 455.621 shall apply. However, if it is reported that a podiatric physician has had three or more claims with indemnities exceeding \$25,000 each within the previous 5-year period, the department shall investigate the occurrences upon which the claims were based and determine if action by the department against the podiatric physician is warranted.

Section 121. Subsection (4) of section 463.003, Florida Statutes, is amended to read:

463.003 Board of Optometry.—

(4) All applicable provisions of ~~part II of~~ chapter 456 455 relating to activities of regulatory boards shall apply.

Section 122. Paragraph (h) of subsection (1) of section 463.016, Florida Statutes, is amended to read:

463.016 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:

(h) A violation or repeated violations of provisions of this chapter, or of ~~part II of~~ chapter 456 455, and any rules promulgated pursuant thereto.

Section 123. Subsection (4) of section 464.004, Florida Statutes, is amended to read:

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

(4) All provisions of ~~part II of~~ chapter 456 455 relating to activities of the board shall apply.

Section 124. Subsection (4) of section 465.004, Florida Statutes, is amended to read:

465.004 Board of Pharmacy.—

(4) All provisions of ~~part II of~~ chapter 456 455 relating to activities of the board shall apply.

Section 125. Section 465.006, Florida Statutes, is amended to read:

465.006 Disposition of fees; expenditures.—All moneys received under this chapter shall be deposited and expended pursuant to the provisions of s. ~~456.025~~ ~~455.587~~. All expenditures for duties of the board authorized by this chapter shall be paid upon presentation of vouchers approved by the executive director of the board.

Section 126. Paragraph (q) of subsection (1) of section 465.016, Florida Statutes, is amended to read:

465.016 Disciplinary actions.—

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

(q) Using or releasing a patient's records except as authorized by this chapter and chapter ~~456~~ 455.

Section 127. Subsection (2) of section 465.017, Florida Statutes, is amended to read:

465.017 Authority to inspect.—

(2) Except as permitted by this chapter, and chapters 406, 409, ~~456~~ 455, 499, and 893, records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs shall not be furnished to any person other than to the patient for whom the drugs were dispensed, or her or his legal representative, or to the department pursuant to existing law, or, in the event that the patient is incapacitated or unable to request said records, her or his spouse except upon the written authorization of such patient. Such records may be furnished in any civil or criminal proceeding, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or her or his legal representative by the party seeking such records.

Section 128. Subsections (4) and (6) of section 466.004, Florida Statutes, are amended to read:

466.004 Board of Dentistry.—

(4) The board is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter and ~~part II of chapter~~ 456 ~~455~~, including the establishment of a fee to defray the cost of duplicating any license certification or permit, not to exceed \$10 per duplication.

(6) All provisions of ~~part II of chapter~~ 456 ~~455~~ relating to the board shall apply.

Section 129. Paragraph (b) of subsection (4) of section 466.007, Florida Statutes, is amended to read:

466.007 Examination of dental hygienists.—

(4) To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

(b) A practical or clinical examination. The practical or clinical examination shall test competency in areas to be established by rule of the board which shall include testing the ability to adequately perform a prophylaxis. On or after October 1, 1986, every applicant who is otherwise qualified shall be eligible to take the examination a total of three times, notwithstanding the number of times the applicant has previously failed. If an applicant fails the examination three times, the applicant shall no longer be eligible to take the examination unless he or she obtains additional educational requirements established by the board. The department shall require a mandatory standardization exercise pursuant to s. 456.017(1)(b) ~~455.574(1)(b)~~ for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists and dental hygienists who have substantially adhered to the standard of grading established at such exercise. It is the intent of the Legislature that the examinations relate to those procedures which are actually performed by a dental hygienist in general practice.

Section 130. Subsection (1) of section 466.018, Florida Statutes, is amended to read:

466.018 Dentist of record; patient records.—

(1) Each patient shall have a dentist of record. The dentist of record shall remain primarily responsible for all dental treatment on such patient regardless of whether the treatment is rendered by the dentist or by another dentist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The dentist of record shall be identified in the record of the patient. If treatment is rendered by a dentist other than the dentist of record or by a dental hygienist or assistant, the name or initials of such person shall be placed in the record of the patient. In any disciplinary proceeding brought pursuant to this chapter or ~~part II of chapter 456~~ chapter 455, it shall be presumed as a matter of law that treatment was rendered by the dentist of record unless otherwise noted on the patient record pursuant to this section. The dentist of record and any other treating dentist are subject to discipline pursuant to this chapter or ~~part II of chapter 456~~ chapter 455 for treatment rendered the patient and performed in violation of such chapter. One of the purposes of this section is to ensure that the responsibility for each patient is assigned to one dentist in a multidentist practice of any nature and to assign primary responsibility to the dentist for treatment rendered by a dental hygienist or assistant under her or his supervision. This section shall not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist not in practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

Section 131. Subsection (1) of section 466.022, Florida Statutes, is amended to read:

466.022 Peer review; records; immunity.—

(1) The Legislature finds that effective peer review of consumer complaints by professional associations of dentists is a valuable service to the public. In performing such service, any member of a peer review organization or committee shall, pursuant to s. 466.028(1)(f), report to the department the name of any licensee who he or she believes has violated this chapter. Any such peer review committee member shall be afforded the privileges and immunities of any other complainant or witness which are provided by s. ~~456.073(11)~~ 455.621(11). Furthermore, a professional organization or association of dentists which sponsors, sanctions, or otherwise operates or participates in peer review activities is hereby afforded the same privileges and immunities afforded to any member of a duly constituted medical review committee by s. 766.101(3).

Section 132. Paragraph (aa) of subsection (1) and subsections (6) and (7) of section 466.028, Florida Statutes, are amended to read:

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

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

(aa) The violation or the repeated violation of this chapter, ~~part II of chapter 456~~ 455, or any rule promulgated pursuant to ~~part II of chapter 456~~ 455 or this chapter; the violation of a lawful order of the board or department previously entered in a disciplinary hearing; or failure to comply with a lawfully issued subpoena of the board or department.

(6) Upon the department's receipt from an insurer or self-insurer of a report of a closed claim against a dentist pursuant to s. 627.912 or upon the receipt from a claimant of a presuit notice against a dentist pursuant to s. 766.106 the department shall review each report and determine whether it potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. ~~456.073~~ 455.621 shall apply. However, if it is reported that a dentist has had any indemnity paid in excess of \$25,000 in a judgment or settlement or has had three or more claims for dental malpractice within the previous 5-year period which resulted in indemnity being paid, the department shall investigate the occurrence upon which the claims were based and determine if action by the department against the dentist is warranted.

(7) Subject to the authority and conditions established in s. ~~456.073~~ 455.621, the probable cause panel of the board may recommend that the department seek a specified penalty in cases in which probable cause has been found and the panel has directed that an administrative complaint be filed. If the department seeks a penalty other than that recommended by the probable cause panel, the department shall provide the board with a written statement which sets forth the reasons therefor. Nothing in this subsection shall preclude a probable cause panel of any other board under the jurisdiction of the department from making similar recommendations as penalties.

Section 133. Subsection (5) of section 468.1135, Florida Statutes, is amended to read:

468.1135 Board of Speech-Language Pathology and Audiology.—

(5) All provisions of ~~part II of~~ chapter 456 ~~455~~ relating to activities of regulatory boards shall apply to the board.

Section 134. Subsection (10) of section 468.1145, Florida Statutes, is amended to read:

468.1145 Fees; establishment; disposition.—

(10) All moneys derived from fees and fines imposed pursuant to this part shall be deposited as required by s. 456.025 ~~455.587~~.

Section 135. Subsection (4) of section 468.1185, Florida Statutes, is amended to read:

468.1185 Licensure.—

(4) The board may refuse to certify any applicant who is under investigation in any jurisdiction for an act which would constitute a violation of this part or ~~part II of~~ chapter 456 ~~455~~ until the investigation is complete and disciplinary proceedings have been terminated.

Section 136. Subsection (1) of section 468.1295, Florida Statutes, is amended to read:

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for both disciplinary actions as set forth in subsection (2) and cease and desist or other related actions by the department as set forth in s. 456.065 ~~455.637~~:

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

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

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

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

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

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

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

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

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

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

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

(l) Aiding, assisting, procuring, employing, or advising any licensee or business entity to practice speech-language pathology or audiology contrary to this part, ~~part II of~~ chapter 456 455, or any rule adopted pursuant thereto.

(m) Violating any provision of this part or ~~part II of~~ chapter 456 455 or any rule adopted pursuant thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 137. Subsection (4) of section 468.1665, Florida Statutes, is amended to read:

468.1665 Board of Nursing Home Administrators; membership; appointment; terms.—

(4) All provisions of ~~part II of~~ chapter ~~456~~ 455 relating to activities of regulatory boards shall apply.

Section 138. Paragraphs (a) and (i) of subsection (1) of section 468.1755, Florida Statutes, are amended to read:

468.1755 Disciplinary proceedings.—

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

(a) Violation of any provision of s. ~~456.072(1)~~ 455.624(1) or s. 468.1745(1).

(i) A violation or repeated violations of this part, ~~part II of~~ chapter ~~456~~ 455, or any rules promulgated pursuant thereto.

Section 139. Section 468.1756, Florida Statutes, is amended to read:

468.1756 Statute of limitations.—An administrative complaint may only be filed pursuant to s. ~~456.073~~ 455.624 for an act listed in s. 468.1755(1)(c)-(q) within 4 years from the time of the incident giving rise to the complaint, or within 4 years from the time the incident is discovered or should have been discovered.

Section 140. Subsection (5) of section 468.205, Florida Statutes, is amended to read:

468.205 Board of Occupational Therapy Practice.—

(5) All provisions of ~~part II of~~ chapter ~~456~~ 455 relating to activities of the board shall apply.

Section 141. Subsection (1) of section 468.219, Florida Statutes, is amended to read:

468.219 Renewal of license; continuing education.—

(1) Licenses issued under this part are subject to biennial renewal as provided in s. ~~456.004~~ 455.524.

Section 142. Paragraph (c) of subsection (3) of section 468.354, Florida Statutes, is amended to read:

468.354 Board of Respiratory Care; organization; function.—

(3)

(c) All provisions of ~~part II of~~ chapter ~~456~~ 455, relating to boards apply to this part.

Section 143. Subsection (3) of section 468.364, Florida Statutes, is amended to read:

468.364 Fees; establishment; disposition.—

(3) All moneys collected by the department under this part shall be deposited as required by s. ~~456.025~~ 455.587.

Section 144. Paragraph (j) of subsection (1) of section 468.365, Florida Statutes, is amended to read:

468.365 Disciplinary grounds and actions.—

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

(j) Violation of any rule adopted pursuant to this part or ~~part II of chapter 456~~ 455.

Section 145. Paragraph (b) of subsection (1) of section 468.402, Florida Statutes, is amended to read:

468.402 Duties of the department; authority to issue and revoke license; adoption of rules.—

(1) The department may take any one or more of the actions specified in subsection (5) against any person who has:

(b) Violated any provision of this part, ~~part I of chapter 455~~, any lawful disciplinary order of the department, or any rule of the department.

Section 146. Subsection (3) of section 468.4315, Florida Statutes, is amended to read:

468.4315 Regulatory Council of Community Association Managers.—

(3) To the extent the council is authorized to exercise functions otherwise exercised by a board pursuant to ~~part I of chapter 455~~, the provisions of ~~part I of chapter 455~~ and s. 20.165 relating to regulatory boards shall apply, including, but not limited to, provisions relating to board rules and the accountability and liability of board members. All proceedings and actions of the council are subject to the provisions of chapter 120. In addition, the provisions of ~~part I of chapter 455~~ and s. 20.165 shall apply to the department in carrying out the duties and authorities conferred upon the department by this part.

Section 147. Paragraphs (c) and (d) of subsection (2) of section 468.453, Florida Statutes, are amended to read:

468.453 Licensure required; qualifications; examination; bond.—

(2) A person shall be licensed as an athlete agent if the applicant:

(c) Passes an examination provided by the department which tests the applicant's proficiency to practice as an athlete agent, including, but not limited to, knowledge of the laws and rules of this state relating to athlete agents, this part, and ~~part I of chapter 455~~.

(d) Has completed the application form and remitted an application fee not to exceed \$500, an examination fee not to exceed the actual cost for the examination plus \$500, an active licensure fee not to exceed \$2,000, and all other applicable fees provided for in this part or in ~~part I~~ of chapter 455.

Section 148. Paragraph (a) of subsection (1) of section 468.456, Florida Statutes, is amended to read:

468.456 Prohibited acts.—

(1) The following acts shall be grounds for the disciplinary actions provided for in subsection (3):

(a) A violation of any law relating to the practice as an athlete agent including, but not limited to, violations of this part and ~~part I~~ of chapter 455 and any rules promulgated thereunder.

Section 149. Subsection (1) of section 468.4571, Florida Statutes, is amended to read:

468.4571 Saving clauses.—

(1) An athlete agent registration valid on October 1, 1995, shall remain in full force and effect until the expiration of the registration. Upon expiration of such valid registration, the registrant shall be entitled to licensure pursuant to this part, provided that any discipline in effect pursuant to that registration shall be continued as discipline under the new license. All regulation of athlete agents and all licenses or permits for athlete agents shall be applied for and renewed in accordance with this part and ~~part I~~ of chapter 455.

Section 150. Section 468.506, Florida Statutes, 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 of the department, whose decision shall be final. The board shall fix council members' compensation and pay their expenses in the same manner as provided in s. ~~456.011~~ 455.534.

Section 151. Section 468.507, Florida Statutes, is amended to read:

468.507 Authority to adopt rules.—The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part and ~~part II of chapter 456~~ 455 conferring duties upon it. The powers and duties of the board as set forth in this part shall in no way limit or interfere with the powers and duties of the board as set forth in chapter 458. All powers and duties of the board set forth in this part shall be supplemental and additional powers and duties to those conferred upon the board by chapter 458.

Section 152. Subsection (3) of section 468.513, Florida Statutes, is amended to read:

468.513 Dietitian/nutritionist; licensure by endorsement.—

(3) The agency shall not issue a license by endorsement under this section to any applicant who is under investigation in any jurisdiction for any act which would constitute a violation of this part or ~~part II of chapter 456~~ 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 153. Section 468.523, Florida Statutes, is amended to read:

468.523 Applicability of s. 20.165 and ~~pt. I of ch. 455~~.—All provisions of s. 20.165 and ~~part I of chapter 455~~ relating to activities of regulatory boards shall apply.

Section 154. Subsection (3) of section 468.526, Florida Statutes, is amended to read:

468.526 License required; fees.—

(3) Each employee leasing company and employee leasing company group licensee shall pay to the department upon the initial issuance of a license and upon each renewal thereafter a license fee not to exceed \$2,500 to be established by the board. In addition to the license fee, the board shall establish an annual assessment for each employee leasing company and each employee leasing company group sufficient to cover all costs for regulation of the profession pursuant to this chapter, ~~part I of chapter 455~~, and any other applicable provisions of law. The annual assessment shall:

(a) Be due and payable upon initial licensure and subsequent renewals thereof and 1 year before the expiration of any licensure period; and

(b) Be based on a fixed percentage, variable classes, or a combination of both, as determined by the board, of gross Florida payroll for employees leased to clients by the applicant or licensee during the period beginning five quarters before and ending one quarter before each assessment. It is the

intent of the Legislature that the greater weight of total fees for licensure and assessments should be on larger companies and groups.

Section 155. Paragraph (i) of subsection (1) of section 468.532, Florida Statutes, is amended to read:

468.532 Discipline.—

(1) The following constitute grounds for which disciplinary action against a licensee may be taken by the board:

(i) Violating any provision of this part or any lawful order or rule issued under the provisions of this part or ~~part I~~ of chapter 455.

Section 156. Subsection (1) of section 468.535, Florida Statutes, is amended to read:

468.535 Investigations; audits; review.—

(1) The department may make investigations, audits, or reviews within or outside this state as it deems necessary:

(a) To determine whether a person or company has violated or is in danger of violating any provision of this part, ~~part I~~ of chapter 455, or any rule or order thereunder; or

(b) To aid in the enforcement of this part or ~~part I~~ of chapter 455.

Section 157. Subsections (2) and (5) of section 468.703, Florida Statutes, are amended to read:

468.703 Board of Athletic Training.—

(2) Five members of the board must be licensed athletic trainers. One member of the board must be a physician licensed under chapter 458 or chapter 459. One member of the board must be a physician licensed under chapter 460. Two members of the board shall be consumer members, each of whom must 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. ~~456.001(4)~~ 455.501(4).

(5) All provisions of ~~part II~~ of chapter ~~456~~ 455 relating to activities of the board shall apply.

Section 158. Section 468.705, Florida Statutes, is amended to read:

468.705 Rulemaking authority.—The board is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this part conferring duties upon it. The provisions of s. ~~456.011(5)~~ 455.534(5) shall apply to the board's activity. Such rules shall include, but not be limited to, the allowable scope of practice regarding the use of equipment, procedures, and medication, 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 159. Subsection (2) of section 468.707, Florida Statutes, is amended to read:

468.707 Licensure by examination; requirements.—

(2) Pursuant to the requirements of s. 456.034 ~~455.607~~, each applicant shall complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of initial licensure.

Section 160. Subsections (1) and (3) of section 468.711, Florida Statutes, are amended to read:

468.711 Renewal of license; continuing education.—

(1) The department shall renew a license upon receipt of the renewal application and fee, provided the applicant is in compliance with the provisions of this part, ~~part II of chapter 456~~ 455, and rules promulgated pursuant thereto.

(3) Pursuant to the requirements of s. 456.034 ~~455.607~~, each licensee shall complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure.

Section 161. Paragraph (a) of subsection (1) and subsection (2) of section 468.719, Florida Statutes, are amended to read:

468.719 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary actions provided for in subsection (2):

(a) A violation of any law relating to the practice of athletic training, including, but not limited to, any violation of this part, s. 456.072 ~~455.624~~, or any rule adopted pursuant thereto.

(2) When the board finds any person guilty of any of the acts set forth in subsection (1), the board may enter an order imposing one or more of the penalties provided in s. 456.072 ~~455.624~~.

Section 162. Subsection (4) of section 468.801, Florida Statutes, is amended to read:

468.801 Board of Orthotists and Prosthetists; appointment; membership; terms; headquarters.—

(4) The provisions of ~~part II of chapter 456~~ 455 relating to activities of regulatory boards apply to the board.

Section 163. Section 468.811, Florida Statutes, is amended to read:

**468.811 Disciplinary proceedings.—**

(1) The following acts are grounds for disciplinary action against a licensee and the issuance of cease and desist orders or other related action by the department, pursuant to s. 456.072 ~~455.624~~, against any person who engages in or aids in a violation.

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

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

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

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

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

(f) Violation of this act or ~~part II of chapter 456~~ 455, or any rules adopted thereunder.

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

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

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

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

(2) The board may enter an order imposing one or more of the penalties in s. 456.072(2) ~~455.624(2)~~ against any person who violates any provision of subsection (1).

Section 164. Subsection (5) of section 468.823, Florida Statutes, is amended to read:

**468.823 Certified nursing assistants; certification requirement.—**

(5) A certified nursing assistant shall maintain a current address with the department in accordance with s. 456.035 ~~455.717~~.

Section 165. Paragraph (b) of subsection (1) of section 468.824, Florida Statutes, is amended to read:

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):

(b) Intentionally violating any provision of this chapter, chapter 456 ~~455~~, or the rules adopted by the department.

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.

Section 166. Section 468.825, Florida Statutes, is amended to read:

468.825 Availability of disciplinary records and proceedings.—Pursuant to s. 456.073 ~~455.624~~, 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.

Section 167. Paragraph (b) of subsection (1) of section 469.009, Florida Statutes, is amended to read:

469.009 License revocation, suspension, and denial of issuance or renewal.—

(1) The department may revoke, suspend, or deny the issuance or renewal of a license; reprimand, censure, or place on probation any contractor, consultant, financially responsible officer, or business organization; require financial restitution to a consumer; impose an administrative fine not to exceed \$5,000 per violation; require continuing education; or assess costs associated with any investigation and prosecution if the contractor or consultant, or business organization or officer or agent thereof, is found guilty of any of the following acts:

(b) Violating any provision of ~~part I~~ of chapter 455.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

Section 168. Subsection (4) of section 470.003, Florida Statutes, is amended to read:

470.003 Board of Funeral Directors and Embalmers; membership; appointment; terms.—

(4) All provisions of ~~part I of~~ chapter 455 and s. 20.165 relating to activities of regulatory boards shall apply.

Section 169. Paragraph (h) of subsection (1) of section 470.036, Florida Statutes, is amended to read:

470.036 Disciplinary proceedings.—

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

(h) A violation or repeated violation of this chapter or of ~~part I of~~ chapter 455 and any rules promulgated pursuant thereto.

Section 170. Section 471.008, Florida Statutes, is amended to read:

471.008 Rules of the board.—The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this chapter or ~~part I of~~ chapter 455 conferring duties upon it.

Section 171. Subsection (4) of section 471.015, Florida Statutes, is amended to read:

471.015 Licensure.—

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of ss. 471.001-471.037 or of ~~part I of~~ chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 172. Paragraphs (c) and (h) of subsection (1) of section 471.033, Florida Statutes, are amended to read:

471.033 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(c) Having a license to practice engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this chapter or ~~part I of~~ chapter 455.

(h) Violating ~~part I of~~ chapter 455.

Section 173. Subsections (4) and (5) of section 471.038, Florida Statutes, are amended to read:

471.038 Florida Engineers Management Corporation.—

(4) The Florida Engineers Management Corporation is created to provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of ~~part I of~~ chapter 455 and this chapter. The corporation may hire staff as necessary to carry out its functions. Such staff

are not public employees for the purposes of chapter 110 or chapter 112. The provisions of s. 768.28 apply to the corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state, but which is not an agency within the meaning of s. 20.03(11). The corporation shall:

(a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.

(b) Provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of ~~part I of~~ chapter 455 and this chapter.

(c) Receive, hold, and administer property and make expenditures for the benefit of the board.

(d) Be approved by the board and the department to operate for the benefit of the board and in the best interest of the state.

(e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.

(f) Have a seven-member board of directors, five of whom are to be appointed by the board and must be registrants regulated by the board and two of whom are to be appointed by the secretary and must be laypersons not regulated by the board. The corporation shall select its officers in accordance with its bylaws. The members of the board of directors may be removed by the board, with the concurrence of the department, for the same reasons that a board member may be removed.

(g) Operate under a written contract with the department which is approved by the board and renewed annually. The initial contract must be entered into no later than March 1, 1998. The contract must provide for:

1. Approval of the articles of incorporation and bylaws of the corporation by the department and the board.

2. Submission by the corporation of an annual budget that complies with board rules for approval by the board and the department.

3. Annual certification by the board and the department that the corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. This certification must be reported in the board's minutes.

4. Employment by the department of a contract administrator to actively supervise the administrative, investigative, and prosecutorial activities of the corporation to ensure compliance with the contract and the provisions of ~~part I of~~ chapter 455 and this chapter and to act as a liaison for the department, the board, and the corporation to ensure the effective operation of the corporation.

5. Funding of the corporation through appropriations allocated to the regulation of professional engineers from the Professional Regulation Trust Fund.

6. The reversion to the board, or the state if the board ceases to exist, of moneys and property held in trust by the corporation for the benefit of the board, if the corporation is no longer approved to operate for the board or the board ceases to exist.

7. The securing and maintaining by the corporation, during the term of the contract and for all acts performed during the term of the contract, of all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the corporation and its officers and employees, the department and its employees, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The corporation must provide proof of insurance to the department. The department and its employees and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the corporation. Violation of this subparagraph shall be grounds for terminating the contract.

(h) Provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in conjunction with the Auditor General. The annual audit report must be submitted to the board and the department for review and approval. Copies of the audit must be submitted to the secretary and the Legislature together with any other information requested by the secretary, the board, or the Legislature.

(i) Submit to the secretary, the board, and the Legislature, on or before January 1 of each year, a report on the status of the corporation which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include: the number of license applications received; the number approved and denied and the number of licenses issued; the number of examinations administered and the number of applicants who passed or failed the examination; the number of complaints received; the number determined to be legally sufficient; the number dismissed; the number determined to have probable cause; the number of administrative complaints issued and the status of the complaints; and the number and nature of disciplinary actions taken by the board.

(5) The corporation may not exercise any authority specifically assigned to the board under ~~part I of~~ chapter 455 or this chapter, including determining probable cause to pursue disciplinary action against a licensee, taking final action on license applications or in disciplinary cases, or adopting administrative rules under chapter 120.

Section 174. Subsection (4) of section 472.015, Florida Statutes, is amended to read:

472.015 Licensure.—

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of ss. 472.001-472.041 or ~~part I of~~ chapter 455 until

such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 175. Subsection (1) of section 473.3035, Florida Statutes, is amended to read:

473.3035 Division of Certified Public Accounting.—

(1) All services concerning this chapter, including, but not limited to, recordkeeping services, examination services, legal services, and investigative services, and those services in ~~part I of~~ chapter 455 necessary to perform the duties of this chapter shall be provided by the Division of Certified Public Accounting. The board may, by majority vote, delegate a duty or duties to the appropriate division within the department. The board may, by majority vote, rescind any such delegation of duties at any time.

Section 176. Subsection (5) of section 473.308, Florida Statutes, is amended to read:

473.308 Licensure.—

(5) The board may refuse to certify for licensure any applicant who is under investigation in another state for any act which would constitute a violation of this act or ~~part I of~~ chapter 455, until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 177. Subsection (1) of section 473.311, Florida Statutes, is amended to read:

473.311 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and fee and upon certification by the board that the licensee has satisfactorily completed the continuing education requirements of s. 473.312 and has passed an examination approved by the board on ~~part I of~~ chapter 455 and this chapter and the related administrative rules.

Section 178. Paragraph (h) of subsection (1) of section 473.323, Florida Statutes, is amended to read:

473.323 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(h) Violation of any rule adopted pursuant to this chapter or ~~part I of~~ chapter 455.

Section 179. Subsection (3) of section 474.204, Florida Statutes, is amended to read:

474.204 Board of Veterinary Medicine.—

(3) All provisions of ~~part I of~~ chapter 455 relating to activities of regulatory boards shall apply.

Section 180. Paragraph (f) of subsection (1) of section 474.214, Florida Statutes, is amended to read:

474.214 Disciplinary proceedings.—

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

(f) Violating any provision of this chapter or ~~part I~~ of chapter 455, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.

Section 181. Subsection (1) of section 475.021, Florida Statutes, is amended to read:

475.021 Division of Real Estate.—

(1) All services concerning this chapter, including, but not limited to, recordkeeping services, examination services, legal services, and investigative services, and those services in ~~part I~~ of chapter 455 necessary to perform the duties of this chapter shall be provided by the Division of Real Estate. The commission may, by majority vote, delegate a duty or duties to the appropriate division within the department. The commission may, by majority vote, rescind any such delegation of duties at any time.

Section 182. Subsection (3) of section 475.181, Florida Statutes, is amended to read:

475.181 Licensure.—

(3) The department may not issue a license to any applicant who is under investigation in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction for any act that would constitute a violation of this part or ~~part I~~ of chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 183. Paragraph (e) of subsection (1) of section 475.25, Florida Statutes, is amended to read:

475.25 Discipline.—

(1) The commission may deny an application for licensure, registration, or permit, or renewal thereof; may place a licensee, registrant, or permittee on probation; may suspend a license, registration, or permit for a period not exceeding 10 years; may revoke a license, registration, or permit; may impose an administrative fine not to exceed \$1,000 for each count or separate offense; and may issue a reprimand, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant:

(e) Has violated any of the provisions of this chapter or any lawful order or rule made or issued under the provisions of this chapter or ~~part I~~ of chapter 455.

Section 184. Subsection (4) of section 475.624, Florida Statutes, is amended to read:

475.624 Discipline.—The board may deny an application for registration, licensure, or certification; may investigate the actions of any appraiser registered, licensed, or certified under this part; may reprimand or impose an administrative fine not to exceed \$5,000 for each count or separate offense against any such appraiser; and may revoke or suspend, for a period not to exceed 10 years, the registration, license, or certification of any such appraiser, or place any such appraiser on probation, if it finds that the registered assistant, licensee, or certificateholder:

(4) Has violated any of the provisions of this section or any lawful order or rule issued under the provisions of this section or ~~part I~~ of chapter 455.

Section 185. Paragraph (i) of subsection (1) of section 476.204, Florida Statutes, is amended to read:

476.204 Penalties.—

(1) It is unlawful for any person to:

(i) Violate or refuse to comply with any provision of this chapter or ~~part I~~ of chapter 455 or a rule or final order of the board.

Section 186. Paragraph (i) of subsection (1) of section 477.029, Florida Statutes, is amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(i) Violate or refuse to comply with any provision of this chapter or ~~part I~~ of chapter 455 or a rule or final order of the board or the department.

Section 187. Subsection (5) of section 480.044, Florida Statutes, is amended to read:

480.044 Fees; disposition.—

(5) All moneys collected by the department from fees authorized by this act shall be paid into the Medical Quality Assurance Trust Fund in the department and shall be applied in accordance with the provisions of s. ~~456.025~~ ~~455.587~~. The Legislature may appropriate any excess moneys from this fund to the General Revenue Fund.

Section 188. Section 481.2055, Florida Statutes, is amended to read:

481.2055 Authority to make rules.—The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this part and ~~part I~~ of chapter 455 conferring duties upon it.

Section 189. Subsection (5) of section 481.213, Florida Statutes, is amended to read:

## 481.213 Licensure.—

(5) The board may refuse to certify any applicant who is under investigation in any jurisdiction for any act which would constitute a violation of this part or of ~~part I~~ of chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 190. Paragraphs (a) and (c) of subsection (1) of section 481.225, Florida Statutes, are amended to read:

## 481.225 Disciplinary proceedings against registered architects.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(a) Violating any provision of s. 455.227(1), s. 481.221, or s. 481.223, or any rule of the board or department lawfully adopted pursuant to this part or ~~part I~~ of chapter 455.

(c) Having a license to practice architecture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this part or of ~~part I~~ of chapter 455.

Section 191. Paragraph (b) of subsection (1) of section 481.2251, Florida Statutes, is amended to read:

## 481.2251 Disciplinary proceedings against registered interior designers.—

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

(b) Having a license to practice interior design revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction for any act which would constitute a violation of this part or of ~~part I~~ of chapter 455;

## Section 192. Section 481.306, Florida Statutes, is amended to read:

481.306 Authority to make rules.—The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter and ~~part I~~ of chapter 455 conferring duties upon it.

Section 193. Subsection (5) of section 481.311, Florida Statutes, is amended to read:

## 481.311 Licensure.—

(5) The board may refuse to certify any applicant who is under investigation in any jurisdiction for any act which would constitute a violation of this act or of ~~part I~~ of chapter 455, until the investigation is complete and disciplinary proceedings have been terminated.

Section 194. Paragraph (h) of subsection (1) of section 481.325, Florida Statutes, is amended to read:

481.325 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(h) Violation of any rule adopted pursuant to this part or ~~part I~~ of chapter 455.

Section 195. Subsection (5) of section 483.805, Florida Statutes, is amended to read:

483.805 Board of Clinical Laboratory Personnel.—

(5) All provisions of ~~part II~~ of chapter ~~456~~ 455 relating to activities of regulatory boards shall apply to the board.

Section 196. Subsection (10) of section 483.807, Florida Statutes, is amended to read:

483.807 Fees; establishment; disposition.—

(10) All fees shall be established, collected, and deposited in accordance with s. ~~456.025~~ 455.587.

Section 197. Paragraph (j) of subsection (4) and paragraph (b) of subsection (5) of section 483.901, Florida Statutes, 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.

(j) A council member may be removed from the council if the member:

1. Did not have the required qualifications at the time of appointment;
2. Does not maintain the required qualifications while serving on the council; or
3. Fails to attend the regularly scheduled council meetings in a calendar year as required by s. ~~456.011~~ 455.534.

(5) POWERS OF COUNCIL.—The council shall:

(b) Recommend practice standards for the practice of medical physics which are consistent with the Guidelines for Ethical Practice for Medical Physicists prepared by the American Association of Physicists in Medicine and disciplinary guidelines adopted under s. ~~456.079~~ 455.627.

Section 198. Subsection (1) of section 484.014, Florida Statutes, is amended to read:

## 484.014 Disciplinary actions.—

(1) The following acts relating to the practice of opticianry shall be grounds for both disciplinary action against an optician as set forth in this section and cease and desist or other related action by the department as set forth in s. ~~456.065~~ 455.637 against any person operating an optical establishment who engages in, aids, or abets any such violation:

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

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

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

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

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

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

(g) Violation or repeated violation of this part or of ~~part II of~~ chapter 456 ~~455~~ or any rules promulgated pursuant thereto.

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

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

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

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

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

(m) Failing to keep written prescription files.

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

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

(p) Gross or repeated malpractice.

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

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

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

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

Section 199. Subsection (4) of section 484.042, Florida Statutes, is amended to read:

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

(4) All provisions of ~~part II of chapter 456~~ 455 relating to activities of regulatory boards apply to the board. However, notwithstanding the requirement of s. ~~456.073(4)~~ 455.621(4) that the board provide by rule for the determination of probable cause by a panel composed of its members or by the department, the board may provide by rule that its probable cause panel may be composed of one current member of the board and one past member of the board, as long as the past member is a licensed hearing aid specialist in good standing. The past board member shall be appointed to the panel for a maximum of 2 years by the chair of the board with the approval of the secretary.

Section 200. Subsection (1) of section 484.056, Florida Statutes, 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. ~~456.065~~ 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. ~~456.072(1)~~ 455.624(1), s. 484.0512, or s. 484.053.

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

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

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

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

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

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

(h) Violation or repeated violation of this part or of ~~part II of~~ chapter 456 455, or any rules promulgated pursuant thereto.

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

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

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

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

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

(n) Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of

the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

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

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

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

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

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

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

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

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

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

Section 201. Sections 456.30, 456.31, 456.32, 456.33, and 456.34, Florida Statutes, are transferred and renumbered as sections 485.001, 485.002, 485.003, 485.004, and 485.005, Florida Statutes, respectively.

Section 202. Subsection (4) of section 486.023, Florida Statutes, is amended to read:

486.023 Board of Physical Therapy Practice.—

(4) All provisions of ~~part II of chapter 456~~ 455 relating to activities of the board shall apply.

Section 203. Section 486.115, Florida Statutes, is amended to read:

486.115 Disposition of fees.—All moneys collected by the department under this chapter shall be deposited and expended pursuant to the provisions of s. ~~456.025~~ 455-587.

Section 204. Section 486.172, Florida Statutes, is amended to read:

486.172 Application of s. 456.021 455.514.—The provisions of s. 456.021 455.514 shall also be applicable to the provisions of this chapter.

Section 205. Paragraph (c) of subsection (1) and paragraph (a) of subsection (11) of section 489.129, Florida Statutes, are amended to read:

489.129 Disciplinary proceedings.—

(1) The board may take any of the following actions against any certificateholder or registrant: place on probation or reprimand the licensee, revoke, suspend, or deny the issuance or renewal of the certificate, registration, or certificate of authority, require financial restitution to a consumer for financial harm directly related to a violation of a provision of this part, impose an administrative fine not to exceed \$5,000 per violation, require continuing education, or assess costs associated with investigation and prosecution, if the contractor, financially responsible officer, or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195 is found guilty of any of the following acts:

(c) Violating any provision of ~~part I~~ of chapter 455.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender. A contractor does not commit a violation of this subsection when the contractor relies on a building code interpretation rendered by a building official or person authorized by s. 553.80 to enforce the building code, absent a finding of fraud or deceit in the practice of contracting, or gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property on the part of the building official, in a proceeding under chapter 120.

(11)(a) Notwithstanding the provisions of ~~chapters~~ chapter 120 and ~~part I of chapter~~ 455, upon receipt of a legally sufficient consumer complaint alleging a violation of this part, the department may provide by rule for binding arbitration between the complainant and the certificateholder or registrant, provided the following conditions exist:

1. There is evidence that the complainant has suffered or is likely to suffer monetary damages resulting from the violation of this part;

2. The certificateholder or registrant does not have a history of repeated or similar violations;

3. Reasonable grounds exist to believe that the public interest will be better served by arbitration than by disciplinary action; and

4. The complainant and certificateholder or registrant have not previously entered into private arbitration, and no civil court action based on the same transaction has been filed.

Section 206. Paragraph (a) of subsection (1) and paragraphs (a) and (e) of subsection (7) of section 489.533, Florida Statutes, are amended to read:

489.533 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for disciplinary actions as provided in subsection (2):

(a) Failure to comply with any provision of ~~part I~~ of chapter 455.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

(7)(a) The department may, by rule, provide for a mediation process for the complainant and the licensee. Notwithstanding the provisions of ~~chapters chapter~~ 120 and ~~part I of chapter~~ 455, upon receipt of a legally sufficient consumer complaint alleging a violation of this part, both the licensee and the complainant may consent in writing to mediation within 15 days following notification of this process by the department. The department may suspend all action in the matter for 45 days when notice of consent to mediation is received by the department. If the mediation process is successfully concluded within the 60-day period, the department may close the case file with a notation of the disposition and the licensee's record shall reflect only that a complaint was filed and resolved through mediation. If mediation is rejected by either the complainant or licensee, or should said parties fail to reach a mediated solution within the 60-day period, the department shall process the complaint in the manner required by chapters chapter 120 and ~~part I of chapter~~ 455. The mediator shall provide a written report to the department of the mediation results within 10 days of the conclusion of the mediation process as provided by rule.

(e) The department, in conjunction with the board, shall determine by rule the types of cases which may be included in the mediation process. The department may initiate or continue disciplinary action, pursuant to ~~part I~~ of chapter 455 and this chapter against the licensee as determined by rule.

Section 207. Subsection (5) of section 490.004, Florida Statutes, is amended to read:

490.004 Board of Psychology.—

(5) All applicable provisions of ~~part II of chapter~~ 456 455 relating to activities of regulatory boards shall apply to the board.

Section 208. Section 490.00515, Florida Statutes, is amended to read:

490.00515 Exemptions from public records and meetings requirements.—The exemptions from s. 119.07(1) provided by ss. 456.073(2) and (10) 455.621(2) and (10) and 456.076(3)(e) and (5)(a) 455.707(3)(e) and (5)(a) also apply to information concerning a provisional psychologist regulated by the Agency for Health Care Administration and the Department of Health under this chapter, a registered clinical social worker intern, a registered

marriage and family therapist intern, a registered mental health counselor intern, a provisional clinical social worker, a provisional marriage and family therapist, or a provisional mental health counselor regulated by the Agency for Health Care Administration and the Department of Health under chapter 491. The exemption from s. 286.011 provided by s. ~~456.073(4)~~ 455.621(4) also applies to the proceedings of a probable cause panel with respect to an investigation concerning a provisional psychologist, a registered clinical social worker intern, a registered marriage and family therapist intern, a registered mental health counselor intern, a provisional clinical social worker, a provisional marriage and family therapist, or a provisional mental health counselor regulated by the agency and department under this chapter or chapter 491. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 209. Paragraph (q) of subsection (2) of section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

(2) The following acts of a licensee, provisional licensee, or applicant are grounds for which the disciplinary actions listed in subsection (1) may be taken:

(q) Violating provisions of this chapter, or of ~~part II of chapter 456~~ 455, or any rules adopted pursuant thereto.

Section 210. Section 490.0141, Florida Statutes, is amended to read:

490.0141 Practice of hypnosis.—A licensed psychologist who is qualified as determined by the board may practice hypnosis as defined in s. ~~485.003(1)~~ 456.32(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter ~~485~~ 456 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

Section 211. Subsection (1) of section 490.015, Florida Statutes, is amended to read:

490.015 Duties of the department.—

(1) All functions reserved to boards under ~~part II of chapter 456~~ 455 shall be exercised by the department with respect to the regulation of school psychologists and in a manner consistent with the exercise of its regulatory functions.

Section 212. Subsection (6) of section 491.004, Florida Statutes, is amended to read:

491.004 Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.—

(6) All applicable provisions of ~~part II of~~ chapter ~~456~~ 455 relating to activities of regulatory boards shall apply to the board.

Section 213. Section 491.0047, Florida Statutes, is amended to read:

491.0047 Exemptions from public records and meetings requirements.— The exemptions from s. 119.07(1) provided by ss. ~~456.073(2) and (10) 455.621(2) and (10) and 456.076(3)(e) and (5)(a) 455.707(3)(e) and (5)(a)~~ also apply to information concerning a provisional psychologist regulated by the Agency for Health Care Administration and the Department of Health under chapter 490, a registered clinical social worker intern, a registered marriage and family therapist intern, a registered mental health counselor intern, a provisional clinical social worker, a provisional marriage and family therapist, or a provisional mental health counselor regulated by the Agency for Health Care Administration and the Department of Health under this chapter. The exemption from s. 286.011 provided by s. ~~456.073(4) 455.621(4)~~ also applies to the proceedings of a probable cause panel with respect to an investigation concerning a provisional psychologist, a registered clinical social worker intern, a registered marriage and family therapist intern, a registered mental health counselor intern, a provisional clinical social worker, a provisional marriage and family therapist, or a provisional mental health counselor regulated by the agency and department under chapter 490 or this chapter. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 214. Paragraph (q) of subsection (2) of section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

(2) The following acts of a licensee, provisional licensee, registered intern, certificateholder, or applicant are grounds for which the disciplinary actions listed in subsection (1) may be taken:

(q) Violating provisions of this chapter, or of ~~part II of~~ chapter ~~456~~ 455, or any rules adopted pursuant thereto.

Section 215. Section 491.0141, Florida Statutes, is amended to read:

491.0141 Practice of hypnosis.—A person licensed under this chapter who is qualified as determined by the board may practice hypnosis as defined in s. ~~485.003(1) 456.32(1)~~. The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter ~~485~~ 456 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

Section 216. Subsection (1) of section 491.015, Florida Statutes, is amended to read:

491.015 Duties of the department as to certified master social workers.—

(1) All functions reserved to boards under ~~part II~~ of chapter ~~456~~ 455 shall be exercised by the department with respect to the regulation of certified master social workers and in a manner consistent with the exercise of its regulatory functions.

Section 217. Subsection (2) of section 492.103, Florida Statutes, is amended to read:

492.103 Board of Professional Geologists.—

(2) All provisions of ~~part I~~ of chapter 455 relating to activities of the board shall apply.

Section 218. Paragraph (h) of subsection (1) of section 492.113, Florida Statutes, is amended to read:

492.113 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(h) Violation of ~~part I~~ of chapter 455.

Section 219. Subsection (3) of section 627.668, Florida Statutes, is amended to read:

627.668 Optional coverage for mental and nervous disorders required; exception.—

(3) Insurers must maintain strict confidentiality regarding psychiatric and psychotherapeutic records submitted to an insurer for the purpose of reviewing a claim for benefits payable under this section. These records submitted to an insurer are subject to the limitations of s. ~~456.057~~ 455.667, relating to the furnishing of patient records.

Section 220. Subsection (1) of section 627.912, Florida Statutes, is amended to read:

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

(1) Each self-insurer authorized under s. 627.357 and each insurer or joint underwriting association providing professional liability insurance to a practitioner of medicine licensed under chapter 458, to a practitioner of osteopathic medicine licensed under chapter 459, to a podiatric physician licensed under chapter 461, to a dentist licensed under chapter 466, to a hospital licensed under chapter 395, to a crisis stabilization unit licensed under part IV of chapter 394, to a health maintenance organization certified under part I of chapter 641, to clinics included in chapter 390, to an ambulatory surgical center as defined in s. 395.002, or to a member of The Florida Bar shall report in duplicate to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's

professional services or based on a claimed performance of professional services without consent, if the claim resulted in:

- (a) A final judgment in any amount.
- (b) A settlement in any amount.

Reports shall be filed with the department and, if the insured party is licensed under chapter 458, chapter 459, chapter 461, or chapter 466, with the Department of Health, no later than 30 days following the occurrence of any event listed in paragraph (a) or paragraph (b). The Department of Health shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 456.073 ~~455.621~~ shall apply. The Department of Health, as part of the annual report required by s. 456.026 ~~455.644~~, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the Department of Health or the appropriate regulatory board.

Section 221. Section 636.039, Florida Statutes, is amended to read:

636.039 Examination by the department.—The department shall examine the affairs, transactions, accounts, business records, and assets of any prepaid limited health service organization, in the same manner and subject to the same terms and conditions that apply to insurers under part II of chapter 624, as often as it deems it expedient for the protection of the people of this state, but not less frequently than once every 3 years. In lieu of making its own financial examination, the department may accept an independent certified public accountant's audit report prepared on a statutory accounting basis consistent with this act. However, except when the medical records are requested and copies furnished pursuant to s. 456.057 ~~455.667~~, medical records of individuals and records of physicians providing service under contract to the prepaid limited health service organization are not subject to audit, but may be subject to subpoena by court order upon a showing of good cause. For the purpose of examinations, the department may administer oaths to and examine the officers and agents of a prepaid limited health service organization concerning its business and affairs. The expenses of examination of each prepaid limited health service organization by the department are subject to the same terms and conditions as apply to insurers under part II of chapter 624. Expenses of all examinations of a prepaid limited health service organization may never exceed a maximum of \$20,000 for any 1-year period.

Section 222. Subsection (1) of section 641.27, Florida Statutes, is amended to read:

641.27 Examination by the department.—

(1) The department shall examine the affairs, transactions, accounts, business records, and assets of any health maintenance organization as often as it deems it expedient for the protection of the people of this state,

but not less frequently than once every 3 years. In lieu of making its own financial examination, the department may accept an independent certified public accountant's audit report prepared on a statutory accounting basis consistent with this part. However, except when the medical records are requested and copies furnished pursuant to s. 456.057 ~~455.667~~, medical records of individuals and records of physicians providing service under contract to the health maintenance organization shall not be subject to audit, although they may be subject to subpoena by court order upon a showing of good cause. For the purpose of examinations, the department may administer oaths to and examine the officers and agents of a health maintenance organization concerning its business and affairs. The examination of each health maintenance organization by the department shall be subject to the same terms and conditions as apply to insurers under chapter 624. In no event shall expenses of all examinations exceed a maximum of \$20,000 for any 1-year period. Any rehabilitation, liquidation, conservation, or dissolution of a health maintenance organization shall be conducted under the supervision of the department, which shall have all power with respect thereto granted to it under the laws governing the rehabilitation, liquidation, reorganization, conservation, or dissolution of life insurance companies.

Section 223. Paragraph (b) of subsection (2) and subsection (6) of section 641.316, Florida Statutes, are amended to read:

641.316 Fiscal intermediary services.—

(2)

(b) The term “fiscal intermediary services organization” means a person or entity which performs fiduciary or fiscal intermediary services to health care professionals who contract with health maintenance organizations other than a fiscal intermediary services organization owned, operated, or controlled by a hospital licensed under chapter 395, an insurer licensed under chapter 624, a third-party administrator licensed under chapter 626, a prepaid limited health service organization licensed under chapter 636, a health maintenance organization licensed under this chapter, or physician group practices as defined in s. 456.053(3)(h) ~~455.654(3)(f)~~.

(6) Any fiscal intermediary services organization, other than a fiscal intermediary services organization owned, operated, or controlled by a hospital licensed under chapter 395, an insurer licensed under chapter 624, a third-party administrator licensed under chapter 626, a prepaid limited health service organization licensed under chapter 636, a health maintenance organization licensed under this chapter, or physician group practices as defined in s. 456.053(3)(h) ~~455.654(3)(f)~~, must register with the department and meet the requirements of this section. In order to register as a fiscal intermediary services organization, the organization must comply with ss. 641.21(1)(c) and (d) and 641.22(6). Should the department determine that the fiscal intermediary services organization does not meet the requirements of this section, the registration shall be denied. In the event that the registrant fails to maintain compliance with the provisions of this section, the department may revoke or suspend the registration. In lieu of

revocation or suspension of the registration, the department may levy an administrative penalty in accordance with s. 641.25.

Section 224. Paragraphs (b) and (c) of subsection (5) and subsections (6) and (8) of section 641.55, Florida Statutes, are amended to read:

641.55 Internal risk management program.—

(5)

(b) The information reported to the agency under paragraph (a) which relates to providers licensed under chapter 458, chapter 459, chapter 461, or chapter 466 must also be reported to the agency quarterly. The agency shall review the information and determine whether any of the incidents potentially involved conduct by a licensee that is subject to disciplinary action, in which case s. 456.073 ~~455.621~~ applies.

(c) Except as otherwise provided in this subsection, any identifying information contained in the annual report and the quarterly reports under paragraphs (a) and (b) is confidential and exempt from s. 119.07(1). This information must not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency shall make available, upon written request by a practitioner against whom probable cause has been found, any such information contained in the records that form the basis of the determination of probable cause under s. 456.073 ~~455.621~~.

(6) If an adverse or untoward incident, whether occurring in the facilities of the organization or arising from health care prior to enrollment by the organization or admission to the facilities of the organization or in a facility of one of its providers, results in:

(a) The death of a patient;

(b) Severe brain or spinal damage to a patient;

(c) A surgical procedure being performed on the wrong patient; or

(d) A surgical procedure unrelated to the patient's diagnosis or medical needs being performed on any patient,

the organization must report this incident to the agency within 3 working days after its occurrence. A more detailed followup report must be submitted to the agency within 10 days after the first report. The agency may require an additional, final report. Reports under this subsection must be sent immediately by the agency to the appropriate regulatory board whenever they contain references to a provider licensed under chapter 458, chapter 459, chapter 461, or chapter 466. These reports are confidential and are exempt from s. 119.07(1). This information is not available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency shall make available, upon written

request by a practitioner against whom probable cause has been found, any such information contained in the records that form the basis of the determination of probable cause under s. ~~456.073~~ 455.621. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken by the organization in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the licensee which is subject to disciplinary action, in which case s. ~~456.073~~ 455.621 applies.

(8) The agency and, upon subpoena issued under s. ~~456.071~~ 455.611, the appropriate regulatory board must be given access to all organization records necessary to carry out the provisions of this section. Any identifying information contained in the records obtained under this section is confidential and exempt from s. 119.07(1). The identifying information contained in records obtained under s. ~~456.071~~ 455.611 is exempt from s. 119.07(1) to the extent that it is part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency must make available, upon written request by a practitioner against whom probable cause has been found, any such information contained in the records that form the basis of the determination of probable cause under s. ~~456.073~~ 455.621, except that, with respect to medical review committee records, s. 766.101 controls.

The gross data compiled under this section or s. 395.0197 shall be furnished by the agency upon request to organizations to be utilized for risk management purposes. The agency shall adopt rules necessary to carry out the provisions of this section.

Section 225. Subsection (2) of section 766.106, Florida Statutes, is amended to read:

766.106 Notice before filing action for medical malpractice; presuit screening period; offers for admission of liability and for arbitration; informal discovery; review.—

(2) After completion of presuit investigation pursuant to s. 766.203 and prior to filing a claim for medical malpractice, a claimant shall notify each prospective defendant and, if any prospective defendant is a health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, the Department of Health by certified mail, return receipt requested, of intent to initiate litigation for medical malpractice. Notice to the Department of Health must include the full name and address of the claimant; the full names and any known addresses of any health care providers licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who are prospective defendants identified at the time; the date and a summary of the occurrence giving rise to the claim; and a description of the injury to the claimant. The requirement for notice to the Department of Health does not impair the claimant's legal rights or ability to seek relief for his or her claim, and the notice provided to the department is not discoverable or admissible in any civil or administrative action. The Department of Health shall review each incident and determine whether it involved

conduct by a licensee which is potentially subject to disciplinary action, in which case the provisions of s. 456.073 ~~455.621~~ apply.

Section 226. Subsection (4) of section 766.305, Florida Statutes, is amended to read:

766.305 Filing of claims and responses; medical disciplinary review.—

(4) Upon receipt of such petition, the Division of Medical Quality Assurance shall review the information therein and determine whether it involved conduct by a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459 that is subject to disciplinary action, in which case the provisions of s. 456.073 ~~455.621~~ shall apply.

Section 227. Paragraph (b) of subsection (4) of section 766.314, Florida Statutes, is amended to read:

766.314 Assessments; plan of operation.—

(4) The following persons and entities shall pay into the association an initial assessment in accordance with the plan of operation:

(b)1. On or before October 15, 1988, all physicians licensed pursuant to chapter 458 or chapter 459 as of October 1, 1988, other than participating physicians, shall be assessed an initial assessment of \$250, which must be paid no later than December 1, 1988.

2. Any such physician who becomes licensed after September 30, 1988, and before January 1, 1989, shall pay into the association an initial assessment of \$250 upon licensure.

3. Any such physician who becomes licensed on or after January 1, 1989, shall pay an initial assessment equal to the most recent assessment made pursuant to this paragraph, paragraph (5)(a), or paragraph (7)(b).

4. However, if the physician is a physician specified in this subparagraph, the assessment is not applicable:

a. A resident physician, assistant resident physician, or intern in an approved postgraduate training program, as defined by the Board of Medicine or the Board of Osteopathic Medicine by rule;

b. A retired physician who has withdrawn from the practice of medicine but who maintains an active license as evidenced by an affidavit filed with the Department of Health. Prior to reentering the practice of medicine in this state, a retired physician as herein defined must notify the Board of Medicine or the Board of Osteopathic Medicine and pay the appropriate assessments pursuant to this section;

c. A physician who holds a limited license pursuant to s. 458.317 and who is not being compensated for medical services;

d. A physician who is employed full time by the United States Department of Veterans Affairs and whose practice is confined to United States Department of Veterans Affairs hospitals; or

e. A physician who is a member of the Armed Forces of the United States and who meets the requirements of s. 456.024 ~~455.507~~.

f. A physician who is employed full time by the State of Florida and whose practice is confined to state-owned correctional institutions, a county health department, or state-owned mental health or developmental services facilities, or who is employed full time by the Department of Health.

Section 228. Paragraph (b) of subsection (3) of section 817.505, Florida Statutes, is amended to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

(3) This section shall not apply to:

(b) Any payment, compensation, or financial arrangement within a group practice as defined in s. 456.053 ~~455.654~~, provided such payment, compensation, or arrangement is not to or from persons who are not members of the group practice.

Section 229. Section 937.031, Florida Statutes, is amended to read:

937.031 Dental records of missing persons; access and use.—When a person has been reported missing and has not been located within 30 days after such report, the law enforcement agency conducting the investigation of the missing person shall request the family or next of kin to provide written consent to contact the dentist of the missing person and request that person's dental records. Notwithstanding the provisions of s. 456.057 ~~455.667~~, a dentist, upon receipt of proof of written consent, shall release a copy of the dental records of the missing person to the law enforcement agency requesting such records, providing or encoding the dental records in a form requested by the Department of Law Enforcement. The law enforcement agency shall then enter the dental records into the criminal justice information system for the purpose of comparing such records to those of unidentified deceased persons.

Reviser's note.—Transfers sections that comprise part II of chapter 455, pertaining to regulation of health-related professions, to chapter 456; transfers sections in present chapter 456, pertaining to hypnosis, to new chapter 485; and amends applicable references in the Florida Statutes to conform to such transfers.

Approved by the Governor May 25, 2000.

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