

## Committee Substitute for Senate Bill No. 1016

An act relating to regulation of professions under the Department of Business and Professional Regulation; amending s. 458.319, F.S.; providing that renewal of medical licenses of members of the Legislature shall be continued during term of legislative office; requiring the completion of continuing medical education and payment of fees for renewal of such licenses; providing the period during which such licenses may be renewed; providing the period during which such renewed licenses shall be valid; providing for the subsequent renewal of such licenses; amending s. 310.071, F.S.; providing for disqualification from applying for and denial of deputy pilot certification for being found guilty of, or having pled guilty or nolo contendere to, certain crimes; amending s. 310.151, F.S.; providing for deposit and disposition of amounts received from imposition of pilotage rates pending rendition of a final order regarding such rates; amending s. 399.061, F.S.; revising requirements for elevator inspections and service maintenance contracts; amending s. 455.211, F.S.; limiting a board's authority to adopt rules under a specific circumstance; amending s. 455.217, F.S.; revising provisions relating to translation of examinations in Spanish; amending s. 455.2179, F.S.; providing for approval of continuing education providers; providing fees; providing rulemaking authority; amending s. 455.219, F.S., and repealing subsection (3), relating to fees required for approval as a continuing education provider; authorizing the department to adopt rules to provide for waiver of license renewal fees under certain circumstances and for a limited period; creating s. 455.32, F.S.; creating the Management Privatization Act; providing definitions; authorizing the department to contract with a corporation or other business entity to perform support services specified pursuant to contract; providing contract requirements; providing corporation powers and responsibilities; establishing reporting and audit requirements; providing for future review and repeal; amending s. 468.382, F.S.; defining the term "absolute auction"; amending s. 468.385, F.S.; revising requirements relating to the conduct, administration, approval, and scope of the examination for licensure as an auctioneer; specifying that an auction may only be conducted by an active licensee; creating s. 468.3855, F.S.; providing requirements for auctioneer apprentices; amending s. 468.388, F.S.; adding requirements and responsibilities relating to the conduct of an auction; deleting exceptions from a requirement that auctions be conducted pursuant to a written agreement; amending s. 468.389, F.S.; providing for disciplinary action against licensees who fail to account for certain property; providing penalties; reenacting ss. 468.385(3), 468.391, F.S., relating to licensure as an auctioneer and to a criminal penalty, respectively, to incorporate the amendment to s. 468.389, F.S., in references thereto; amending s. 468.392, F.S.; authorizing the designee of the Secretary of Business and Professional Regulation to sign vouchers for payment or disbursement

from the Auctioneer Recovery Fund; amending s. 468.395, F.S.; revising conditions of recovery from the Auctioneer Recovery Fund; providing for recovery from the fund pursuant to an order issued by the Florida Board of Auctioneers; deleting a requirement that notice be given to the board at the time action is commenced; providing limitations on bringing claims for certain acts; providing subrogation rights for the fund; amending s. 468.397, F.S., relating to payment of claim; correcting language; amending s. 468.433, F.S.; revising requirements for licensure as a community association manager, to include certain prelicensure education; providing for provider approval, including fees; repealing s. 468.525(3)(h), F.S., relating to a prohibition on employee leasing companies and groups from including employees who engage in services or arrangements that are not within the definition of employee leasing; amending s. 468.526, F.S.; modifying qualifications for licensure as an employee leasing company group; amending s. 468.531, F.S.; providing prohibitions against offering to practice employee leasing without being licensed and against the use of certain titles relating to employee leasing without being registered; providing penalties; amending s. 470.005, F.S.; providing rulemaking authority to the Board of Funeral Directors and Embalmers relating to inspection of direct disposal establishments, funeral establishments, and cinerator facilities and the records of each establishment or facility; amending s. 470.015, F.S.; requiring board approval of continuing education providers; revising provisions relating to continuing education hours; amending ss. 470.016, 470.018, F.S.; revising provisions relating to continuing education hours; requiring a recommendation regarding registration of direct disposers; amending s. 470.021, F.S.; prohibiting colocation of certain direct disposal establishments with more than one funeral establishment or direct disposal establishment; amending s. 470.028, F.S.; revising provisions relating to registration of agents for preneed sales; amending s. 470.0301, F.S.; revising provisions relating to registration of centralized embalming facilities to provide for operating procedures; providing requirements for full-time embalmers in charge; amending ss. 471.003, 471.0035, 471.011, 471.023, 471.037, F.S.; updating references relating to regulation of engineering to incorporate provisions relating to the Florida Engineers Management Corporation and engineers performing building code inspector duties; amending s. 471.005, F.S.; defining the terms “retired professional engineer” and “professional engineer, retired”; updating references; amending s. 471.015, F.S.; revising educational requirements for licensure by endorsement; updating references; amending s. 471.017, F.S.; granting the Board of Professional Engineers rulemaking authority to establish biennial licensure renewal procedures; replacing continuing education provisions with provisions requiring certain demonstration of continuing professional competency; amending s. 471.019, F.S., to create s. 471.0195, F.S.; separating provisions relating to building code training from provisions relating to licensure reactivation requirements; amending s. 471.025, F.S.; requiring final bid documents to be signed, dated, and sealed and authorizing the electronic transfer of such documents;

amending s. 471.031, F.S.; providing a penalty for certain activities prohibited under ch. 471, F.S., relating to engineering; updating references; amending s. 474.202, F.S.; revising the definition of the term "veterinarian"; amending s. 474.203, F.S.; revising and providing exemptions from regulation under ch. 474, F.S., relating to veterinary medical practice; providing that certain exempt persons are duly licensed practitioners for purposes of prescribing drugs or medicinal supplies; amending s. 474.211, F.S.; providing that criteria for providers of continuing veterinary medical education shall be approved by the board; amending s. 474.214, F.S.; increasing the administrative fine; reenacting ss. 474.207(2), 474.217(2), F.S., relating to licensure by examination and licensure by endorsement, to incorporate the amendment to s. 474.214, F.S., in references thereto; amending s. 474.215, F.S.; requiring limited service permittees to register each location and providing a registration fee; providing requirements for certain temporary rabies vaccination efforts; providing permit and other requirements for persons who are not licensed veterinarians, but who desire to own and operate a veterinary medical establishment; providing disciplinary actions applicable to holders of premises permits; amending s. 474.2165, F.S.; providing requirements with respect to ownership and control of veterinary medical patient records; providing for the furnishing of reports or copies of records; providing for participation of veterinarians in impaired practitioner treatment programs; amending s. 475.045, F.S.; abolishing the Florida Real Estate Commission Education and Research Foundation Advisory Committee and transferring its duties to the commission; amending s. 477.013, F.S.; revising a definition; amending s. 477.0132, F.S.; restricting to the Board of Cosmetology authority to review, evaluate, and approve courses required for hair braiding, hair wrapping, and body wrapping registration; exempting providers of such courses from certain licensure; amending s. 477.019, F.S.; revising requirements for licensure to practice cosmetology; providing fees; amending ss. 492.101, 492.102, 492.104, 492.105, 492.108, 492.112, 492.113, 492.116, 492.1165, F.S.; revising cross-references; amending s. 492.107, F.S.; revising provisions relating to the use of seals by licensed geologists; amending s. 492.111, F.S.; providing requirements relating to geologists of record for firms, corporations, and partnerships; amending s. 310.0015, F.S.; requiring the establishment of competency-based mentor programs for minority persons seeking to become licensed state pilots or certificated deputy pilots; requiring an annual report thereon to the Governor and Legislature; amending s. 468.456, F.S.; providing an additional prohibited act as grounds for disciplinary action; requiring suspension or revocation of license for certain violations; creating s. 468.45615, F.S.; prohibiting the provision of illegal inducements to athletes; providing penalties; amending s. 468.4562, F.S.; providing for the award of treble damages to colleges or universities that prevail in civil actions with respect to illegal acts by athlete agents; providing an appropriation; providing an effective date.

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

Section 1. Effective upon becoming law and retroactive to January 1, 1996, subsection (4) is added to section 458.319, Florida Statutes, to read:

458.319 Renewal of license.—

(4)(a) Notwithstanding any provision of this chapter or part II, chapter 455, the requirements for the biennial renewal of the license of any licensee who is a member of the Legislature shall stand continued and extended without the requirement of any filing by such a licensee of any notice or application for renewal with the board or the department and such licensee's license shall be an active status license under this chapter, throughout the period that the licensee is a member of the Legislature and for a period of 60 days after the licensee ceases to be a member of the Legislature.

(b) At any time during the licensee's legislative term of office and during the period of 60 days after the licensee ceases to be a member of the Legislature, the licensee may file a completed renewal application that shall consist solely of:

1. A license renewal fee of \$250 for each year the licensee's license renewal has been continued and extended pursuant to the terms of this subsection since the last otherwise regularly scheduled biennial renewal year and each year during which the renewed license shall be effective until the next regularly scheduled biennial renewal date;

2. Documentation of the completion by the licensee of 10 hours of continuing medical education credits for each year from the effective date of the last renewed license for the licensee until the year in which the application is filed;

3. The information from the licensee expressly required in s. 455.565(1)(a)1.-8. and (b), and (4)(a), (b), and (c),

(c) The department and board may not impose any additional requirements for the renewal of such licenses and, not later than 20 days after receipt of a completed application as specified in paragraph (b), shall renew the active status license of the licensee, effective on and retroactive to the last previous renewal date of the licensee's license. Said license renewal shall be valid until the next regularly scheduled biennial renewal date for said license, and thereafter shall be subject to the biennial requirements for renewal in this chapter and chapter 455, part II.

Section 2. Subsection (4) is added to section 310.071, Florida Statutes, to read:

310.071 Deputy pilot certification.—

(4) Notwithstanding s. 112.011 or any other provision of law relating to the restoration of civil rights, an applicant shall be disqualified from applying for and shall be denied a deputy pilot certificate if the applicant, regardless of adjudication, has ever been found guilty of, or pled guilty or nolo contendere to, a charge which was:

(a) A felony or first degree misdemeanor which directly related to the navigation or operation of a vessel; or

(b) A felony involving the sale of or trafficking in, or conspiracy to sell or traffic in, a controlled substance as defined by chapter 893, or an offense under the laws of any state or country which, if committed in this state, would constitute the felony of selling or trafficking in, or conspiracy to sell or traffic in, such controlled substance.

Section 3. Subsection (4) of section 310.151, Florida Statutes, is amended to read:

310.151 Rates of pilotage; Pilotage Rate Review Board.—

(4)(a) The applicant shall be given written notice, either in person or by certified mail, that the board intends to modify the pilotage rates in that port and that the applicant may, within 21 days after receipt of the notice, request a hearing pursuant to the Administrative Procedure Act. Notice of the intent to modify the pilotage rates in that port shall also be published in the Florida Administrative Weekly and in a newspaper of general circulation in the affected port area and shall be mailed to any person who has formally requested notice of any rate change in the affected port area. Within 21 days after receipt or publication of notice, any person whose substantial interests will be affected by the intended board action may request a hearing pursuant to the Administrative Procedure Act. If the board concludes that the petitioner has raised a disputed issue of material fact, the board shall designate a hearing, which shall be conducted by formal proceeding before an administrative law judge assigned by the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57(1), unless waived by all parties. If the board concludes that the petitioner has not raised a disputed issue of material fact and does not designate the petition for hearing, that decision shall be considered final agency action for purposes of s. 120.68. The failure to request a hearing within 21 days after receipt or publication of notice shall constitute a waiver of any right to an administrative hearing and shall cause the order modifying the pilotage rates in that port to be entered. If an administrative hearing is requested pursuant to this subsection, notice of the time, date, and location of the hearing shall be published in the Florida Administrative Weekly and in a newspaper of general circulation in the affected port area and shall be mailed to the applicant and to any person who has formally requested notice of any rate change for the affected port area.

(b) In any administrative proceeding pursuant to this section, the board's proposed rate determination shall be immediately effective and shall not be stayed during the administrative proceeding, provided that, pending rendition of the board's final order, the pilot or pilots in the subject port deposit in an interest-bearing account all amounts received which represent the difference between the previous rates and the proposed rates. The pilot or pilots in the subject port shall keep an accurate accounting of all amounts deposited, specifying by whom or on whose behalf such amounts were paid, and shall produce such an accounting upon request of the board. Upon rendition of the board's final order:

1. Any amounts deposited in the interest-bearing account which are sustained by the final order shall be paid over to the pilot or pilots in the subject port, including all interest accrued on such funds; and

2. Any amounts deposited which exceed the rates sustained in the board's final order shall be refunded, with the accrued interest, to those customers from whom the funds were collected. Any funds that are not refunded after diligent effort of the pilot or pilots to do so shall be disbursed by the pilot or pilots as the board shall direct.

Section 4. Subsection (1) of section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; correction of deficiencies.—

~~(1)(a) All For those elevators subject to this chapter must be inspected pursuant to s. 399.13 by a third-party inspection service certified as a Qualified Elevator Inspector or maintained pursuant to a service maintenance contract continuously in force. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. All elevators for which a service maintenance contract is not continuously in force, the division shall inspect such elevators at least once between July 1 of any year and June 30 of the next year, the state's fiscal year.~~

~~(b) When a service maintenance contract is continuously maintained with an elevator company, the division shall verify with the elevator company before the end of each fiscal year that the contract is in force and is being implemented. An elevator covered by such a service maintenance contract shall be inspected by a certificate-of-competency holder state elevator inspector at least once every 2 fiscal years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

~~(b)(c)~~ The division may inspect an elevator whenever necessary to ensure its safe operation.

Section 5. Section 455.211, Florida Statutes, is amended to read:

455.211 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. 455.207(5).

(4) Any proposed board rule that has not been modified to remove proposed committee objections of the Administrative Procedures Committee must receive approval from the department prior to filing the rule with the Department of State for final adoption. The department may repeal any rule enacted by the board which has taken effect without having met proposed committee objections of the Administrative Procedures Committee.

Section 6. Subsection (6) 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.

(6) 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 or Spanish. Requests for translated examinations, except for those in Spanish, must be on file in the board office, or with the department when there is no board, 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 or Spanish, the board, or the department when there is no board, shall consider the percentage of the population who speak the applicant's native language.

Section 7. Section 455.2179, Florida Statutes, is amended to read:

455.2179 Continuing education provider approval; cease and desist orders.—

(1) If a board, or the department if there is no board, requires completion of continuing education as a requirement for renewal of a license, the board,

or the department if there is no board, shall approve providers of the continuing education. ~~The approval of a continuing education provider, the approval~~ must be for a specified period of time, not to exceed 4 years. An approval that does not include such a time limitation may remain in effect only until July 1, 2001, unless earlier replaced by an approval that includes such a time limitation.

(2) The department, on its own motion or at the request of a board, shall issue an order requiring a person or entity to cease and desist from offering any continuing education programs for licensees, and revoking any approval of the provider previously granted by the department or a board, if the department or a board determines that the person or entity failed to provide appropriate continuing education services that conform to approved course material.

(3) 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 fee not to exceed \$250 for the renewal of providership of such courses. The Florida Real Estate Commission, authorized under the provisions of chapter 475 to approve prelicensure, precertification, and postlicensure education providers, may establish, by rule, an application fee not to exceed \$250 for anyone seeking approval to offer prelicensure, precertification, or postlicensure education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of such courses.

(4) The department and each affected board may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

Section 8. Subsection (3) of section 455.219, Florida Statutes, is repealed, and subsection (1) of that section is amended to read:

455.219 Fees; receipts; disposition; periodic management reports.—

(1) Each board within the department shall determine by rule the amount of license fees for its profession, based upon department-prepared long-range estimates of the revenue required to implement all provisions of law relating to the regulation of professions by the department and any board; however, when the department has determined, based on the long-range estimates of such revenue, that a profession's trust fund moneys are in excess of the amount required to cover the necessary functions of the board, or the department when there is no board, the department may adopt rules to implement a waiver of license renewal fees for that profession for a period not to exceed 2 years, as determined by the department. Each board, or the department when there is no board, shall ensure license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the department, with advice of the applicable board. If sufficient action is not taken by a board within 1 year of 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 legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for the advancement of sufficient funds to any profession or the Florida State Boxing Commission operating with a negative cash balance. Such advancement may be for a period not to exceed 2 consecutive years and shall require interest to be paid by the regulated profession. Interest shall be calculated at the current rate earned on Professional Regulation Trust Fund investments. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

Section 9. Section 455.32, Florida Statutes, is created to read:

455.32 Management Privatization Act.—

(1) This section may be cited as the “Management Privatization Act.”

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

(a) “Corporation” means the corporation or other business entity with which the department contracts pursuant to subsection (3).

(b) “Executive director” means the person appointed by the department pursuant to s. 455.203.

(c) “Secretary” means the Secretary of Business and Professional Regulation.

(3) Based upon the request of any board, commission, or council, the department is authorized to contract with a corporation or other business entity to perform support services specified in the contract. The contract must be in compliance with this section and other applicable laws and must be approved by the board before the department enters into the contract. The department shall retain responsibility for any duties it currently exercises relating to its police powers and any other current duty that is not provided to the corporation by the contract. The contract shall provide, at a minimum, that:

(a) The corporation provide administrative, investigative, examination, licensing, and prosecutorial support services in accordance with the provisions of this section and the practice act of the relevant profession. With approval of the department, the corporation may subcontract for any of these services.

(b) The corporation utilize computer technology compatible with the department to ensure compatibility and availability to the public of information provided for other professions by the department.

(c) The corporation submit an annual budget for approval by the board and the department.

(d) The corporation keep financial and statistical information as necessary to completely disclose the financial condition and operation of the proj-

ect and as requested by the Office of Program Policy Analysis and Government Accountability, the Auditor General, and the department.

(e) If the certification process in subsection (10) determines noncompliance, the contract provide for methods and mechanisms to resolve the situation.

(f) The corporation provide to the board and the department, on or before October 1 of each year, a report describing all of the activities of the corporation for the previous fiscal year. The report shall include:

1. Any audit performed under subsection (9), including financial reports and performance audits.

2. The number of license applications received, the number of licenses approved and denied, the number of licenses issued, and the average time required to issue a license.

3. The number of examinations administered and the number of applicants who passed or failed the examination.

4. The number of complaints received, the number of complaints determined to be legally sufficient, the number of complaints dismissed, and the number of complaints determined to have probable cause.

5. The number of administrative complaints issued and the status of the complaints.

6. The number and nature of disciplinary actions taken by the board.

7. All revenue received and all expenses incurred by the corporation over the previous 12 months in its performance of the duties under the contract.

8. The status of the compliance of the corporation with all performance-based program measures adopted by the board.

(4) 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).

(5) The corporation shall be funded through appropriations allocated to the regulation of the relevant profession from the Professional Regulation Trust Fund.

(6) If the corporation is no longer approved to operate for the board or the board ceases to exist, moneys and property held in trust by the corporation for the benefit of the board shall revert to the board, or to the state if the board ceases to exist.

(7) The executive director shall supervise the activities of the corporation to ensure compliance with the contract and provisions of this section and the practice act of the relevant profession. The executive director shall be an employee of the department and serve as a liaison between the department, the board, and the corporation and shall ensure that the police powers of the state are not exercised by the corporation.

(8) The corporation may not exercise any authority assigned to the department or board under this section or the practice act of the relevant profession, including determining legal sufficiency and 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.

(9) The corporation shall provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with generally accepted auditing standards. The annual audit report shall include a detailed supplemental schedule of expenditures for each expenditure category and a management letter. The annual audit report must be submitted to the board, the department, and the Auditor General for review. The Auditor General may, pursuant to his or her authority or at the direction of the Legislative Auditing Committee, conduct an audit of the corporation.

(10) The board and the department shall annually certify 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.

(11) Nothing in this section shall limit the ability of the corporation to enter into contracts and perform all other acts incidental to those contracts that are necessary for the administration of its affairs and for the attainment of its purposes.

(12) The corporation may acquire by lease, and maintain, use, and operate, any real or personal property necessary to perform the duties provided by the contract and this section.

(13) No later than October 1, 2000, the department shall contract with a corporation in accordance with subsection (3) for the provision of services for architects and interior designers.

(14) The department shall retain the independent authority to open, investigate, or prosecute any cases or complaints, as necessary, to protect the public health, safety, or welfare. In addition, the department shall retain sole authority to issue emergency suspension or restriction orders pursuant to s. 120.60 and to prosecute unlicensed activity cases pursuant to ss. 455.228 and 455.2281.

(15) Corporation records are public records subject to the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution; however, public records exemptions set forth in ss. 455.217 and 455.229 for records created or maintained by the department shall apply to records created or maintained by the corporation. The exemptions set forth in s. 455.225, relating to complaints and information obtained pursuant to an investigation by the department, shall apply to such records created or obtained by the corporation only until an investigation ceases to be active. For the purposes of this subsection, an investigation is considered active so long as the corporation or any law enforcement or administrative agency is proceeding with reasonable dispatch and has a reasonable, good-faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation

ceases to be active when the case is dismissed prior to a finding of probable cause and the board has not exercised its option to pursue the case or 10 days after the board makes a determination regarding probable cause. All information, records, and transcriptions regarding a complaint that has been determined to be legally sufficient to state a claim within the jurisdiction of the board become available to the public when the investigation ceases to be active, except information that is otherwise confidential or exempt from s. 119.07(1). However, in response to an inquiry about the licensure status of an individual, the corporation shall disclose the existence of an active investigation if the nature of the violation under investigation involves the potential for substantial physical or financial harm. The department and the board shall have access to all records of the corporation, as necessary, to exercise their authority to approve and supervise the contract.

(16) If any provision of this section is held to be unconstitutional or is held to violate the state or federal antitrust laws, the following shall occur:

(a) The corporation shall cease and desist from exercising any powers and duties enumerated in this section.

(b) The department shall resume the performance of such activities. The department shall regain and receive, hold, invest, and administer property and make expenditures for the benefit of the board.

(c) The Executive Office of the Governor, notwithstanding chapter 216, is authorized to reestablish positions, budget authority, and salary rate necessary to carry out the department's responsibilities related to the board.

(17) This section is repealed on October 1, 2005, and shall be reviewed by the Legislature prior to that date for the purpose of determining its continued existence.

Section 10. Subsection (8) is added to section 468.382, Florida Statutes, to read:

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

(8) "Absolute auction" means an auction that requires no minimum opening bid that limits the sale other than to the highest bidder.

Section 11. Subsections (4), (6), and (7) of section 468.385, Florida Statutes, are amended to read:

468.385 Licenses required; qualifications; examination; bond.—

(4) Any person seeking a license as an auctioneer must shall pass a written examination approved by the board prepared and administered by the department which tests his or her general knowledge of the laws of this state relating to provisions of the Uniform Commercial Code that are relevant to bulk sales, auctions, the laws of agency brokerage, and the provisions of this act.

(6) No person shall be licensed as an auctioneer unless he or she:

(a) Has held an apprentice license and has served as an apprentice for 1 year or more, or has completed a course of study, consisting of not less than 80 classroom hours of instruction, that meets standards adopted by the board;

(b) Has passed the required an examination conducted by the department; and

(c) Is approved by the board.

(7)(a) Any auction that is subject to the provisions of this part must be conducted by an auctioneer who has an active license or an apprentice who has an active apprentice auctioneer license and who has received prior written sponsor consent.

(b) No business shall auction or offer to auction any property in this state unless it is licensed as an auction business by the board or is exempt from licensure under this act. Each application for licensure shall include the names of the owner and the business, the business mailing address and location, and any other information which the board may require. The owner of an auction business shall report to the board within 30 days of any change in this required information.

Section 12. Section 468.3855, Florida Statutes, is created to read:

468.3855 Apprenticeship training requirements.—

(1) An auctioneer may not sponsor more than three apprentices at one time. Any auctioneer who serves as a sponsor must have held an active, valid license for 3 consecutive years preceding the date on which that auctioneer is named as sponsor of the apprentice.

(2) Any auctioneer who undertakes the sponsorship of an apprentice shall ensure that the apprentice receives training as required by board rule.

(3) An apprentice must actively participate in auction sales as required by board rule, and a record of each auction for which participation credit is claimed must be made as required by board rule.

(4) Apprentices are prohibited from conducting any auction without the prior express written consent of the sponsor. The apprentice's sponsor must be present at the auction site at any time the apprentice is actively participating in the conduct of the auction. If the apprentice's sponsor cannot attend a particular auction, the sponsor may appoint a qualified auctioneer who meets the requirements of board rule to attend the auction in his or her place. Prior written consent must be given by the apprentice's sponsor for each substitution.

(5) Each apprentice and sponsor shall file reports as required by board rule.

(6) A sponsor may not authorize an apprentice to conduct an auction or act as principal auctioneer unless the sponsor has determined that the apprentice has received adequate training to do so.

(7) The sponsor shall be responsible for any acts or omissions of the apprentice which constitute a violation of law in relation to the conduct of an auction.

(8) All apprentice applications shall be valid for a period of 6 months after board approval. Any applicant who fails to complete the licensure process within that time shall be required to make application as a new applicant.

(9) Any licensed apprentice who wishes to change the sponsor under whom he or she is licensed must submit a new application and application fee. However, a new license fee shall not be required and credit shall be awarded for training received or any period of apprenticeship served under the previous sponsor.

(10) Credit for training received or any period of apprenticeship served shall not be allowed unless it occurred under the supervision of the sponsor under whose supervision the apprentice is licensed.

Section 13. Section 468.388, Florida Statutes, is amended to read:

468.388 Conduct of an auction.—

(1) Prior to conducting an auction in this state, an auctioneer or auction business shall execute a written agreement with the owner, or the agent of the owner, of any property to be offered for sale, stating:

(a) The name and address of the owner of the property;

(b) The name and address of the person employing the auctioneer or auction business, if different from the owner; and

(c) The terms or conditions upon which the auctioneer or auction business will receive the property for sale and remit the sales proceeds to the owner.

(2) The auctioneer or auction business shall give the owner one copy of the agreement and shall keep one copy for 2 years after the date of the auction.

~~(3) A written agreement shall not be required if:~~

~~(a) The auction is to be conducted at an auction house or similar place where the public regularly offers property for sale;~~

~~(b) There has been no prior negotiation between the owner or the owner's agent and the auctioneer or auction business involving terms or conditions pertaining to the property being offered for sale; and~~

~~(c) The total estimated value of the property is \$500 or less. If the actual sale price of the property exceeds \$550, the written agreement required by subsection (1) shall be executed after the sale.~~

(3)(4) Each auctioneer or auction business shall maintain a record book of all sales ~~for which a written agreement is required~~. The record book shall be open to inspection by the board at reasonable times.

(4) Each auction must be conducted by an auctioneer who has an active license or by an apprentice who has an active apprentice auctioneer license and who has received prior written sponsor consent. Each auction must be conducted under the auspices of a licensed auction business. Any auctioneer or apprentice auctioneer conducting an auction, and any auction business under whose auspices such auction is held, shall be responsible for determining that any auctioneer, apprentice, or auction business with whom they are associated in conducting such auction has an active Florida auctioneer, apprentice, or auction business license.

(5) The principal auctioneer shall prominently display at the auction site the licenses of the principal auctioneer, the auction business, and any other licensed auctioneers or apprentices who are actively participating in the auction. If such a display is not practicable, then an oral announcement at the beginning of the auction or a prominent written announcement that these licenses are available for inspection at the auction site must be made. Each auctioneer or auction business shall prominently display his or her license, or make it otherwise available for inspection, at each auction in which he or she participates.

(6) If a buyer premium or any surcharge is a condition to sale at any auction, the amount of the premium or surcharge must be announced at the beginning of the auction and a written notice of this information must be conspicuously displayed or distributed to the public at the auction site.

(7) At the beginning of an auction must be announced the terms of bidding and sale and whether the sale is with reserve, without reserve, or absolute or if a minimum bid is required. If the sale is absolute and has been announced or advertised as such, an article or lot may not be withdrawn from sale once a bid has been accepted. If no bid is received within a reasonable time, the item or lot may be withdrawn.

(8) If an auction has been advertised as absolute, no bid shall be accepted from the owner of the property or from someone acting on behalf of the owner unless the right to bid is specifically permitted by law.

(9) The auction business under which the auction is conducted is responsible for all other aspects of the auction as required by board rule. The auction business may delegate in whole, or in part, different aspects of the auction only to the extent that such delegation is permitted by law and that such delegation will not impede the principal auctioneer's ability to ensure the proper conduct of his or her independent responsibility for the auction. The auction business under whose auspices the auction is conducted is responsible for ensuring compliance as required by board rule.

(10)(a) When settlement is not made immediately after an auction, all sale proceeds received for another person must be deposited in an escrow or trust account in an insured bank or savings and loan association located in this state within 2 working days after the auction. A maximum of \$100 may be kept in the escrow account for administrative purposes.

(b) Each auction business shall maintain, for not less than 2 years, a separate ledger showing the funds held for another person deposited and

disbursed by the auction business for each auction. The escrow or trust account must be reconciled monthly with the bank statement. A signed and dated record shall be maintained for a 2-year period and be available for inspection by the department or at the request of the board.

(c) Any interest which accrues to sale proceeds on deposit shall be the property of the seller for whom the funds were received unless the parties have agreed otherwise by written agreement executed prior to the auction.

(d) Unless otherwise provided by written agreement executed prior to the auction, funds received by a licensee from the seller or his or her agent for expenses, including advertising, must be expended for the purposes advanced or refunded to the seller at the time of final settlement. Any funds so received shall be maintained in an escrow or trust account in an insured bank or savings and loan association located in this state. However, this does not prohibit advanced payment of a flat fee.

(11)(a)(6) All advertising by an auctioneer or auction business shall include the name and Florida license number of such auctioneer and auction business. The term "advertising" shall not include articles of clothing, directional signs, or other promotional novelty items.

(b) No licensed auctioneer, apprentice, or auction business may disseminate or cause to be disseminated any advertisement or advertising which is false, deceptive, misleading, or untruthful. Any advertisement or advertising shall be deemed to be false, deceptive, misleading, or untruthful if it:

1. Contains misrepresentations of facts.
2. Is misleading or deceptive because, in its content or in the context in which it is presented, it makes only a partial disclosure of relevant facts.
3. Creates false or unjustified expectations of the services to be performed.
4. Contains any representation or claim which the advertising licensee fails to perform.
5. Fails to include the name and license number of the principal auctioneer and the auction business.
6. Fails to include the name and license number of the sponsor if an apprentice is acting as the principal auctioneer.
7. Advertises an auction as absolute without specifying any and all items to be sold with reserve or with minimum bids.
8. Fails to include the percentage amount of any buyer's premium or surcharge which is a condition to sale.

(c) The provisions of this subsection apply to media exposure of any nature, regardless of whether it is in the form of paid advertising.

(d) The auction business shall be responsible for the content of all advertising disseminated in preparation for an auction.

Section 14. Paragraph (c) of subsection (1) of section 468.389, Florida Statutes, is amended to read:

468.389 Prohibited acts; penalties.—

(1) The following acts shall be grounds for the disciplinary activities provided in subsections (2) and (3):

(c) Failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction.

Section 15. For the purpose of incorporating the amendment to section 468.389, Florida Statutes, in references thereto, subsection (3) of section 468.385 and section 468.391, Florida Statutes, are reenacted to read:

468.385 Licenses required; qualifications; examination; bond.—

(3) No person shall be licensed as an auctioneer or apprentice if he or she:

(a) Is under 18 years of age; or

(b) Has committed any act or offense in this state or any other jurisdiction which would constitute a basis for disciplinary action under s. 468.389.

468.391 Penalty.—Any auctioneer, apprentice, or auction business or any owner or manager thereof, or, in the case of corporate ownership, any substantial stockholder of the corporation owning the auction business, who operates without an active license or violates any provision of the prohibited acts listed under s. 468.389 commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Subsection (2) of section 468.392, Florida Statutes, is amended to read:

468.392 Auctioneer Recovery Fund.—There is created the Auctioneer Recovery Fund as a separate account in the Professional Regulation Trust Fund. The fund shall be administered by the Florida Board of Auctioneers.

(2) All payments and disbursements from the Auctioneer Recovery Fund shall be made by the Treasurer upon a voucher signed by the Secretary of Business and Professional Regulation or the secretary's designee. Amounts transferred to the Auctioneer Recovery Fund shall not be subject to any limitation imposed by an appropriation act of the Legislature.

Section 17. Section 468.395, Florida Statutes, is amended to read:

468.395 Conditions of recovery; eligibility.—

(1) Recovery from the Auctioneer Recovery Fund may be obtained as follows:

(a) Any aggrieved person is eligible to receive recovery from the Auctioneer Recovery Fund if the Florida Board of Auctioneers has issued a final

order directing an offending licensee to pay restitution to the claimant as the result of the licensee violating, within this state, any provision of s. 468.389 or any rule adopted by the board and if the board determined that the order of restitution cannot be enforced; or

~~(b)(4) Any aggrieved person who obtains a final judgment in any court against any licensee to recover damages for any actual loss that results from the violation, within this state, by failure to meet the obligations of a licensee of any provision of s. 468.389 or any rule under this part and the rules adopted by the board, with or without findings by the board, that results in an actual cash loss to the aggrieved person may, upon termination of all proceedings, including appeals and proceedings supplemental to judgment for collection purposes, file a verified application to the board in the court in which the judgment was entered for an order directing payment out of the Auctioneer Recovery Fund of the amount of actual and direct loss in the transaction that remains unpaid upon the judgment. Notwithstanding subsection (3), any application received by the court in which the judgment was entered within 6 months of termination of all proceedings, including appeals and proceedings supplemental to judgment for collection purposes, shall be considered timely filed. The amount of actual and direct loss may include court costs, but shall not include attorney's fees or punitive damages awarded.~~

(2) The amount paid from the Auctioneer Recovery Fund may not exceed \$50,000 per claim judgment or claims judgments arising out of the same transaction or auction or and an aggregate lifetime limit of \$100,000 with respect to any one licensee. For purposes of this subsection, auctions conducted under a single contract, agreement, or consignment shall be considered a single transaction or auction even though conducted at more than one time or place.

~~(2) At the time the action is commenced, such person shall give notice thereof to the board by certified mail, except that, if no notice is given to the board, the claim may still be honored if, in the opinion of the board, the claim is otherwise valid.~~

(3) A claim for recovery from the Auctioneer Recovery Fund shall be made within 2 years from the time of the act giving rise to the claim or within 2 years from the time the act is discovered or should have been discovered with the exercise of due diligence; however, in no event may a claim for recovery be made more than 4 years after the date of the act giving rise to the claim.

(4) The board court shall not issue an order for payment of a claim from the Auctioneer Recovery Fund unless the claimant has reasonably established to for the board court that she or he has taken proper and reasonable action to collect the amount of her or his claim from the licensee licensed auctioneer responsible for the loss and that any recovery made has been applied to reduce the amount of the claim on the Auctioneer Recovery Fund.

(5) Notwithstanding any other provision of this part, no claim based on any act or omission that occurred outside this state or that occurred before

October 1, 1991, shall be payable submitted for payment to or payment from the Auctioneer Recovery Fund until after October 1, 1995.

(6) In case of payment of loss from the Auctioneer Recovery Fund, the fund shall be subrogated, to the extent of the amount of the payment, to all the rights of the claimant against any licensee with respect to the loss.

Section 18. Section 468.397, Florida Statutes, is amended to read:

468.397 Payment of claim.—Upon a final order of the court directing that payment be made out of the Auctioneer Recovery Fund, the board shall, subject to the provisions of this part, make the payment out of to the Auctioneer Recovery Fund as provided in s. 468.395.

Section 19. Section 468.433, Florida Statutes, is amended to read:

468.433 Licensure by examination.—

(1) A person desiring to be licensed as a community association manager shall apply to the department to take the licensure examination. Each applicant must file a complete set of fingerprints that have been taken by an authorized law enforcement officer, which set of fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The cost of processing shall be borne by the applicant.

(2) The department shall examine each applicant who is at least 18 years of age, who has successfully completed all precensure education requirements, and who the department certifies is of good moral character.

(a) Good moral character means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.

(b) The department may refuse to certify an applicant only if:

1. There is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a community association manager; and

2. The finding by the department of lack of good moral character is supported by clear and convincing evidence.

(c) When an applicant is found to be unqualified for a license because of a lack of good moral character, the department shall furnish the applicant a statement containing its findings, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

(d) The council shall establish by rule the required amount of precensure education, which shall consist of not more than 24 hours of in-person instruction by a department-approved provider and which shall cover all areas of the examination specified in subsection (3). Such instruction shall be completed within 12 months prior to the date of the examination. Precensure education providers shall be considered continuing education pro-

viders for purposes of establishing provider approval fees. A licensee shall not be required to comply with the continuing education requirements of s. 468.4337 prior to the first license renewal. The department shall, by rule, set standards for exceptions to the requirement of in-person instruction in cases of hardship or disability.

(3)(2) The council shall approve an examination for licensure. The examination must demonstrate that the applicant has a fundamental knowledge of state and federal laws relating to the operation of all types of community associations and state laws relating to corporations and nonprofit corporations, proper preparation of community association budgets, proper procedures for noticing and conducting community association meetings, insurance matters relating to community associations, and management skills.

(4)(3) The department shall issue a license to practice in this state as a community association manager to any applicant who successfully completes the examination in accordance with this section and pays the appropriate fee.

Section 20. Paragraph (h) of subsection (3) of section 468.525, Florida Statutes, is repealed.

Section 21. Subsection (2) of section 468.526, Florida Statutes, is amended to read:

468.526 License required; fees.—

(2) Two or more, but not more than five, employee leasing companies that are ~~corporations which are~~ majority owned by the same ultimate parent, entity, or persons may be licensed as an employee leasing company group. An employee leasing company group may satisfy the reporting and financial requirements of this licensing law on a consolidated basis. As a condition of licensure as an employee leasing company group, each company that is a member of the group shall guarantee payment of all financial obligations of each other member.

Section 22. Section 468.531, Florida Statutes, is amended to read:

468.531 Prohibitions; penalties.—

(1) No person or entity shall:

(a) Practice or offer to practice as an employee leasing company, an employee leasing company group, or a controlling person unless such person or entity is licensed pursuant to this part;

(b) Practice or offer to practice as an employee leasing company or employee leasing company group unless all controlling persons thereof are licensed pursuant to this part;

(c) Use the name or title “licensed employee leasing company,” “employee leasing company,” “employee leasing company group,” “professional employer,” “professional employer organization,” or “controlling person,” or words that would tend to lead one to believe that such person or entity is registered

pursuant to this part, when such person or entity has not registered pursuant to this part;

(d) Present as his or her own or his or her entity's own the license of another;

(e) Knowingly give false or forged evidence to the board or a member thereof; or

(f) Use or attempt to use a license that has been suspended or revoked.

(2) Any person or entity that violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 23. Subsection (3) of section 470.005, Florida Statutes, is amended to read:

470.005 Rulemaking authority of board and department.—

(3) The board shall adopt rules which establish requirements for inspection of direct disposal establishments, funeral establishments, and cinerator facilities and the records directly relating to the regulated activities of the licensee to ensure compliance with the provisions of this chapter and rules adopted hereunder. Such rules shall include, but not be limited to, requirements to inspect for compliance with federal and state laws relating to the receiving, handling, storage, and disposal of biohazardous and hazardous waste.

Section 24. Section 470.015, Florida Statutes, is amended to read:

470.015 Renewal of funeral director and embalmer licenses.—

(1) The department shall renew a funeral director or embalmer license upon receipt of the renewal application and fee set by the board not to exceed \$250. The board may prescribe by rule continuing education requirements of up to 12 classroom hours and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to a board-approved course on communicable diseases that includes the course on human immunodeficiency virus and acquired immune deficiency syndrome required by s. 455.2226, for the renewal of a funeral director or embalmer license. The board may provide for the waiver of continuing education requirements in circumstances that would justify the waiver, such as hardship, disability, or illness. The continuing education requirement is not required after July 1, 1996, for a licensee who is over the age of 75 years if the licensee does not qualify as the sole person in charge of an establishment or facility.

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

(3) The board shall adopt rules to establish requirements for the advertising of continuing education courses.

Section 25. Subsection (1) of section 470.016, Florida Statutes, is amended to read:

470.016 Inactive status.—

(1) A funeral director or embalmer license that has become inactive may be reactivated under s. 470.015 upon application to the department. The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license may not exceed 12 classroom hours and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to a board-approved course on communicable diseases, for each year the license was inactive.

Section 26. The Department of Business and Professional Regulation shall by January 1, 2001, make a recommendation to the President of the Senate and the Speaker of the House of Representatives regarding whether persons should continue to be registered as direct disposers under section 470.017, Florida Statutes, after June 30, 2001.

Section 27. Subsection (2) of section 470.018, Florida Statutes, is amended to read:

470.018 Renewal of registration of direct disposer.—

(2) The department shall adopt rules establishing a procedure for the biennial renewal of registrations. The board shall prescribe by rule continuing education requirements of up to 3 classroom hours and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to a board-approved course on communicable diseases that includes the course on human immunodeficiency virus and acquired immune deficiency syndrome required by s. 455.2226, for the renewal of a registration.

Section 28. Subsection (10) is added to section 470.021, Florida Statutes, to read:

470.021 Direct disposal establishment; standards and location; registration.—

(10) A direct disposal establishment may not be operated at the same location as any other direct disposal establishment or funeral establishment unless such establishments were licensed as colocated establishments on July 1, 2000.

Section 29. Section 470.028, Florida Statutes, is amended to read:

470.028 Preneed sales; registration of agents.—

(1) All sales of preneed funeral service contracts or direct disposition contracts shall be made pursuant to chapter 497.

(2) No person may act as an agent for a ~~funeral director~~, funeral establishment, ~~direct disposer~~, or direct disposal disposer establishment with

respect to the sale of preneed contracts unless such person is registered pursuant to chapter 497.

(3) Each licensee or registrant shall be subject to discipline if his or her agent violates any provision of this chapter applicable to such licensee or registrant as established by board rule.

Section 30. Subsection (2) of section 470.0301, Florida Statutes, is amended to read:

470.0301 Removal services; refrigeration facilities; centralized embalming facilities.—In order to ensure that the removal, refrigeration, and embalming of all dead human bodies is conducted in a manner that properly protects the public's health and safety, the board shall adopt rules to provide for the registration of removal services, refrigeration facilities, and centralized embalming facilities operated independently of funeral establishments, direct disposal establishments, and cinerator facilities.

(2) CENTRALIZED EMBALMING FACILITIES.—In order to ensure that all funeral establishments have access to embalming facilities that comply with all applicable health and safety requirements, the board shall adopt rules to provide for the registration and operation of centralized embalming facilities and shall require, at a minimum, the following:

(a) All centralized embalming facilities shall contain all of the equipment and meet all of the requirements that a preparation room located in a funeral establishment is required to meet, but such facilities shall not be required to comply with any of the other requirements for funeral establishments, as set forth in s. 470.024.

(b) Each licensed centralized embalming facility shall have at least one full-time embalmer in charge. The full-time embalmer in charge must have an active license and may not be the full-time embalmer in charge, full-time funeral director in charge, or full-time direct disposer in charge of any other establishment licensed under this chapter.

(c) Any person, regardless of whether such person is otherwise regulated by this chapter, may own such a facility, provided that such facility is operated in accordance with the rules established by the board.

(d) A centralized embalming facility may only provide services to funeral establishments.

(e) The practice of embalming done at a centralized embalming facility shall only be practiced by an embalmer licensed under this chapter and shall be provided only to licensed funeral establishments.

(f) Application for registration of a centralized embalming facility shall be made on forms furnished by the department and shall be accompanied by a nonrefundable fee not to exceed \$300 as set by board rule, and registration shall be renewed biennially pursuant to procedures and upon payment of a nonrefundable fee not to exceed \$300 as set by board rule. The board may also establish by rule a late fee not to exceed \$50. Any registration not

renewed within 30 days after the renewal date shall expire without further action by the department.

(g) The board shall set by rule an annual inspection fee not to exceed \$100, payable upon application for registration and upon renewal of such registration.

(h) The board shall, by rule, establish operating procedures which shall require, at a minimum, that centralized embalming facilities maintain a system of identification of human remains received for embalming.

Section 31. Subsections (2) and (3) of section 471.003, Florida Statutes, are amended to read:

471.003 Qualifications for practice, exemptions.—

(2) The following persons are not required to register under the provisions of this chapter ss. 471.001-471.037 as a registered engineer:

(a) Any person practicing engineering for the improvement of, or otherwise affecting, property legally owned by her or him, unless such practice involves a public utility or the public health, safety, or welfare or the safety or health of employees. This paragraph shall not be construed as authorizing the practice of engineering through an agent or employee who is not duly registered under the provisions of this chapter ss. 471.001-471.037.

(b)1. A person acting as a public officer employed by any state, county, municipal, or other governmental unit of this state when working on any project the total estimated cost of which is \$10,000 or less.

2. Persons who are employees of any state, county, municipal, or other governmental unit of this state and who are the subordinates of a person in responsible charge registered under this chapter ss. 471.001-471.037, to the extent that the supervision meets standards adopted by rule of the board.

(c) Regular full-time employees of a corporation not engaged in the practice of engineering as such, whose practice of engineering for such corporation is limited to the design or fabrication of manufactured products and servicing of such products.

(d) Regular full-time employees of a public utility or other entity subject to regulation by the Florida Public Service Commission, Federal Energy Regulatory Commission, or Federal Communications Commission.

(e) Employees of a firm, corporation, or partnership who are the subordinates of a person in responsible charge, registered under this chapter ss. 471.001-471.037.

(f) Any person as contractor in the execution of work designed by a professional engineer or in the supervision of the construction of work as a foreman or superintendent.

(g) A registered surveyor and mapper who takes, or contracts for, professional engineering services incidental to her or his practice of surveying and

mapping and who delegates such engineering services to a registered professional engineer qualified within her or his firm or contracts for such professional engineering services to be performed by others who are registered professional engineers under the provisions of this chapter ss. 471.001-471.037.

(h) Any electrical, plumbing, air-conditioning, or mechanical contractor whose practice includes the design and fabrication of electrical, plumbing, air-conditioning, or mechanical systems, respectively, which she or he installs by virtue of a license issued under chapter 489, under part I of chapter 553, or under any special act or ordinance when working on any construction project which:

1. Requires an electrical or plumbing or air-conditioning and refrigeration system with a value of \$50,000 or less; and

2.a. Requires an aggregate service capacity of 600 amperes (240 volts) or less on a residential electrical system or 800 amperes (240 volts) or less on a commercial or industrial electrical system;

b. Requires a plumbing system with fewer than 250 fixture units; or

c. Requires a heating, ventilation, and air-conditioning system not to exceed a 15-ton-per-system capacity, or if the project is designed to accommodate 100 or fewer persons.

(i) Any general contractor, certified or registered pursuant to the provisions of chapter 489, when negotiating or performing services under a design-build contract as long as the engineering services offered or rendered in connection with the contract are offered and rendered by an engineer licensed or registered in accordance with this chapter.

(3) Notwithstanding the provisions of this chapter ss. 471.001-471.037 or of any other law, no registered engineer whose principal practice is civil or structural engineering, or employee or subordinate under the responsible supervision or control of the engineer, is precluded from performing architectural services which are purely incidental to her or his engineering practice, nor is any registered architect, or employee or subordinate under the responsible supervision or control of the architect, precluded from performing engineering services which are purely incidental to her or his architectural practice. However, no engineer shall practice architecture or use the designation "architect" or any term derived therefrom, and no architect shall practice engineering or use the designation "engineer" or any term derived therefrom.

Section 32. Section 471.0035, Florida Statutes, is amended to read:

471.0035 Instructors in postsecondary educational institutions; exemption from registration requirement.—For the sole purpose of teaching the principles and methods of engineering design, notwithstanding the provisions of s. 471.005(6), a person employed by a public postsecondary educational institution, or by an independent postsecondary educational institution licensed or exempt from licensure pursuant to the provisions of chapter

246, is not required to register under the provisions of this chapter ss. 471.001-471.037 as a registered engineer.

Section 33. Section 471.005, Florida Statutes, is amended to read:

471.005 Definitions.—As used in this chapter ss. 471.001-471.037, the term:

- (1) “Board” means the Board of Professional Engineers.
- (2) “Certificate of authorization” means a license to practice engineering issued by the department to a corporation or partnership.
- (3) “Department” means the Department of Business and Professional Regulation.
- (4) “Engineer” includes the terms “professional engineer” and “registered engineer” and means a person who is registered to engage in the practice of engineering under this chapter ss. 471.001-471.037.
- (5) “Engineer intern” means a person who has graduated from, or is in the final year of, an engineering curriculum approved by the board and has passed the fundamentals of engineering examination as provided by rules adopted by the board.
- (6) “Engineering” includes the term “professional engineering” and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is registered under this chapter ss. 471.001-471.037; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter ss. 471.001-471.037.
- (7) “License” means the registration of engineers or certification of businesses to practice engineering in this state.

(8) “Retired professional engineer” or “professional engineer, retired” means a person who has been duly licensed as a professional engineer by the board and who chooses to relinquish or not to renew his or her license and applies to and is approved by the board to be granted the title “Professional Engineer, Retired.”

Section 34. Subsection (1) of section 471.011, Florida Statutes, is amended to read:

471.011 Fees.—

(1) The board by rule may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, and recordmaking and recordkeeping. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this chapter ss. 471.001-471.037 and the provisions of law with respect to the regulation of engineers.

Section 35. Subsection (4) and paragraph (a) of subsection (5) of section 471.015, Florida Statutes, are 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 this chapter 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.

(5)(a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to part I of the engineering examination when such applicant:

1. Has held a valid professional engineer’s registration in another state for 15 years and has had 20 years of continuous professional-level engineering experience;

2. Has received a doctorate degree in engineering from an institution that has an undergraduate a nationally accredited engineering degree program which is accredited by the Accreditation Board for Engineering Technology; or

3. Has received a doctorate degree in engineering and has taught engineering full time for at least 3 years, at the baccalaureate level or higher, after receiving that degree.

Section 36. Subsections (2) and (3) of section 471.017, Florida Statutes, are amended to read:

471.017 Renewal of license.—

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

(3) The board shall require a demonstration of continuing professional competency of engineers as a condition of license renewal or relicensure. Every licensee must complete 4 professional development hours, for each year of the license renewal period. For each renewal period for such continuing education, 4 hours shall relate to this chapter and the rules adopted under this chapter and the remaining 4 hours shall relate to the licensee's area of practice. The board shall adopt rules that are consistent with the guidelines of the National Council of Examiners for Engineering and Surveying for multijurisdictional licensees for the purpose of avoiding proprietary continuing professional competency requirements and shall allow nonclassroom hours to be credited. The board may, by rule, exempt from continuing professional competency requirements retired professional engineers who no longer sign and seal engineering documents and licensees in unique circumstances that severely limit opportunities to obtain the required professional development hours. Commencing with licensure renewal in 2002, each licensee actively participating in the design of engineering works or systems in connection with buildings, structures, and facilities covered by the Florida Building Code shall submit proof to the board that the licensee participates in continuing education courses relating to the core curriculum courses or the building code training program or evidence of passing an equivalency test on the core curriculum courses or specialized or advanced courses on any portion of the Florida Building Code applicable to the area of practice.

Section 37. Section 471.019, Florida Statutes, is amended to read:

~~471.019 Reactivation; design of engineering works or systems; continuing education.—~~

(4) The board shall prescribe by rule continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license for a registered engineer may not exceed 12 classroom hours for each year the license was inactive.

~~(2)—All licensees actively participating in the design of engineering works or systems in connection with buildings, structures, or facilities and systems covered by the Florida Building Code shall take continuing education courses and submit proof to the board, at such times and in such manner as established by the board by rule, that the licensee has completed the core curriculum courses and any specialized or advanced courses on any portion of the Florida Building Code applicable to the licensee's area of practice or has passed the appropriate equivalency test of the Building Code Training Program established by s. 553.841. The board shall record reported continuing education courses on a system easily accessed by code enforcement jurisdictions for evaluation when determining license status for purposes of processing design documents. Local jurisdictions shall be responsible for notifying the board when design documents are submitted for building construction permits by persons who are not in compliance with this section. The board shall take appropriate action as provided by its rules when such noncompliance is determined to exist.~~

Section 38. Section 471.0195, Florida Statutes, is created to read:

471.0195 Florida Building Code training for engineers.—Effective January 1, 2000, all licensees actively participating in the design of engineering works or systems in connection with buildings, structures, or facilities and systems covered by the Florida Building Code shall take continuing education courses and submit proof to the board, at such times and in such manner as established by the board by rule, that the licensee has completed the core curriculum courses and any specialized or advanced courses on any portion of the Florida Building Code applicable to the licensee's area of practice or has passed the appropriate equivalency test of the Building Code Training Program established by s. 553.841. The board shall record reported continuing education courses on a system easily accessed by code enforcement jurisdictions for evaluation when determining license status for purposes of processing design documents. Local jurisdictions shall be responsible for notifying the board when design documents are submitted for building construction permits by persons who are not in compliance with this section. The board shall take appropriate action as provided by its rules when such noncompliance is determined to exist.

Section 39. Subsection (1) of section 471.023, Florida Statutes, is amended to read:

471.023 Certification of partnerships and corporations.—

(1) The practice of, or the offer to practice, engineering by registrants through a corporation or partnership offering engineering services to the public or by a corporation or partnership offering said services to the public through registrants under this chapter ss. 471.001-471.037 as agents, employees, officers, or partners is permitted only if the firm possesses a certification issued by the department pursuant to qualification by the board, subject to the provisions of this chapter ss. 471.001-471.037. One or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as engineers in this state shall be registered as provided by this chapter ss. 471.001-471.037. All final drawings, specifications, plans, reports, or documents involving practices registered under this chapter ss. 471.001-471.037 which are prepared or approved for the use of the corporation or partnership or for public record within the state shall be dated and shall bear the signature and seal of the registrant who prepared or approved them. Nothing in this section shall be construed to mean that a certificate of registration to practice engineering shall be held by a corporation. Nothing herein prohibits corporations and partnerships from joining together to offer engineering services to the public, provided each corporation or partnership otherwise meets the requirements of this section. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing engineering be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

Section 40. Subsection (1) of section 471.025, Florida Statutes, is amended to read:

## 471.025 Seals.—

(1) The board shall prescribe, by rule, a form of seal to be used by registrants holding valid certificates of registration. Each registrant shall obtain an impression-type metal seal in the form aforesaid and may, in addition, register his or her seal electronically in accordance with ss. 282.70-282.75. All final drawings, specifications, plans, reports, or documents prepared or issued by the registrant and being filed for public record and all final bid documents provided to the owner or the owner's representative shall be signed by the registrant, dated, and stamped with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Drawings, specifications, plans, reports, final bid documents, or documents prepared or issued by a registrant may be transmitted electronically and may be signed by the registrant, dated, and stamped electronically with said seal in accordance with ss. 282.70-282.75.

Section 41. Section 471.031, Florida Statutes, is amended to read:

## 471.031 Prohibitions; penalties.—

(1) A person may not knowingly:

(a) Practice engineering unless the person is registered under this chapter ss. 471.001-471.037;

(b) Use the name or title “registered engineer” or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active registration as an engineer when the person is not registered under this chapter ss. 471.001-471.037;

(c) Present as his or her own the registration of another;

(d) Give false or forged evidence to the board or a member thereof;

(e) Use or attempt to use a registration that has been suspended, revoked, or placed on inactive or delinquent status;

(f) Employ unlicensed persons to practice engineering; or

(g) Conceal information relative to violations of this chapter ss. 471.001-471.037.

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

Section 42. Section 471.037, Florida Statutes, is amended to read:

471.037 Effect of chapter ss. 471.001-471.037 locally.—

(1) Nothing contained in this chapter ss. 471.001-471.037 shall be construed to repeal, amend, limit, or otherwise affect any local building code or zoning law or ordinance, now or hereafter enacted, which is more restrictive with respect to the services of registered engineers than the provisions of this chapter ss. 471.001-471.037.

(2) In counties or municipalities that issue building permits, such permits may not be issued in any case in which it is apparent from the application for the building permit that the provisions of this chapter ss. 471.001-471.037 have been violated. However, this subsection does not authorize the withholding of building permits in cases involving the exceptions and exemptions set out in s. 471.003.

Section 43. Subsection (11) of section 474.202, Florida Statutes, is amended to read:

474.202 Definitions.—As used in this chapter:

(11) “Veterinarian” means a health care practitioner person who is licensed to engage in the practice of veterinary medicine in Florida under the authority of this chapter.

Section 44. Section 474.203, Florida Statutes, is amended to read:

474.203 Exemptions.—This chapter shall not apply to:

(1) Any faculty member practicing only in conjunction with teaching duties at a school or college of veterinary medicine. ~~Such school or college shall be located in this state and be accredited by the American Veterinary Medical Association Council on Education. However, this exemption shall only apply to such a faculty member who does not hold a valid license issued under this chapter, but who is a graduate of a school or college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education or a school or college recognized by the American Veterinary Medical Association Commission for Foreign Veterinary Graduates.~~ The faculty member exemption shall automatically expire when such school or college terminates the faculty member from such teaching duties. On December 31 of each year, such school or college shall provide the board with a written list of all faculty who are exempt from this chapter. Such school or college shall also notify the board in writing of any additions or deletions to such list.

(2) A person practicing as an intern or resident veterinarian who does not hold a valid license issued under this chapter and who is a graduate in training at a school or college of veterinary medicine located in this state and accredited by the American Veterinary Medical Association Council on Education or a school or college recognized by the American Veterinary Medical Association Commission for Foreign Veterinary Graduates. Such intern or resident must be a graduate of a school or college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education. This exemption expires when such intern or resident completes or is terminated from such training. Each school or college at which such intern or resident is in training shall, on July 1 of each year, provide the board with a written list of all such interns or residents designated for this exemption, and the school or college shall also notify the board of any additions or deletions to the list.

(3)(2) A student in a school or college of veterinary medicine while in the performance of duties assigned by her or his instructor or when working as

a preceptor under the immediate supervision of a licensee, provided that such preceptorship is required for graduation from an accredited school or college of veterinary medicine. The licensed veterinarian shall be responsible for all acts performed by a preceptor under her or his supervision.

~~(4)~~(3) Any doctor of veterinary medicine in the employ of a state agency or the United States Government while actually engaged in the performance of her or his official duties; however, this exemption shall not apply to such person when the person is not engaged in carrying out her or his official duties or is not working at the installations for which her or his services were engaged.

~~(5)~~(4) Any person, or the person's regular employee, administering to the ill or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals, unless title has been transferred or employment provided for the purpose of circumventing this law. This exemption shall not apply to out-of-state veterinarians practicing temporarily in the state. However, only a veterinarian may immunize or treat an animal for diseases which are communicable to humans and which are of public health significance.

~~(6)~~(5) State agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof, which or who conduct experiments and scientific research on animals in the development of pharmaceuticals, biologicals, serums, or methods of treatment, or techniques for the diagnosis or treatment of human ailments, or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems of the practice of veterinary medicine.

~~(7)~~(6) Any veterinary aide, nurse, laboratory technician, preceptor, or other employee of a licensed veterinarian who administers medication or who renders auxiliary or supporting assistance under the responsible supervision of a such licensed veterinarian practitioner, including those tasks identified by rule of the board requiring immediate supervision. However, the licensed veterinarian shall be responsible for all such acts performed under this subsection by persons under her or his supervision.

(8) A veterinarian, licensed by and actively practicing veterinary medicine in another state, who is board certified in a specialty recognized by the board and who responds to a request of a veterinarian licensed in this state to assist with the treatment on a specific case of a specific animal or with the treatment on a specific case of the animals of a single owner, as long as the veterinarian licensed in this state requests the other veterinarian's presence. A veterinarian who practices under this subsection is not eligible to apply for a premises permit under s. 474.215.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Section 45. Subsection (3) of section 474.211, Florida Statutes, is amended to read:

474.211 Renewal of license.—

(3) The board may by rule prescribe continuing education, not to exceed 30 hours biennially, as a condition for renewal of a license or certificate. The criteria for such programs, providers, and ~~or~~ courses shall be approved by the board.

Section 46. Paragraph (c) of subsection (2) of section 474.214, Florida Statutes, is amended to read:

474.214 Disciplinary proceedings.—

(2) When the board finds any applicant or veterinarian guilty of any of the grounds set forth in subsection (1), regardless of whether the violation occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(c) Imposition of an administrative fine not to exceed \$5,000 ~~\$1,000~~ for each count or separate offense.

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

Section 47. For the purpose of incorporating the amendment to section 474.214, Florida Statutes, in references thereto, subsection (2) of section 474.207, Florida Statutes, is reenacted to read:

474.207 Licensure by examination.—

(2) The department shall license each applicant who the board certifies has:

(a) Completed the application form and remitted an examination fee set by the board.

(b)1. Graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education; or

2. Graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from the Education Commission for Foreign Veterinary Graduates.

(c) Successfully completed the examination provided by the department for this purpose, or an examination determined by the board to be equivalent.

(d) Demonstrated knowledge of the laws and rules governing the practice of veterinary medicine in Florida in a manner designated by rules of the board.

The department shall not issue a license to any applicant who is under investigation in any state or territory of the United States or in the District of Columbia for an act which would constitute a violation of this chapter until the investigation is complete and disciplinary proceedings have been terminated, at which time the provisions of s. 474.214 shall apply.

Section 48. For the purpose of incorporating the amendment to section 474.214, Florida Statutes, in references thereto, subsection (2) of section 474.217, Florida Statutes, is reenacted to read:

474.217 Licensure by endorsement.—

(2) The department shall not issue a license by endorsement to any applicant who is under investigation in any state, territory, or the District of Columbia for an act which would constitute a violation of this chapter until the investigation is complete and disciplinary proceedings have been terminated, at which time the provisions of s. 474.214 shall apply.

Section 49. Subsection (7) of section 474.215, Florida Statutes, is amended, and subsections (8) and (9) are added to that section, to read:

474.215 Premises permits.—

(7) The board by rule shall establish minimum standards for the operation of limited service veterinary medical practices. Such rules shall not restrict limited service veterinary medical practices and shall be consistent with the type of limited veterinary medical service provided.

(a) Any person that offers or provides limited service veterinary medical practice shall obtain a biennial permit from the board the cost of which shall not exceed \$250. The limited service permittee shall register each location where a limited service clinic is held and shall pay a fee set by rule not to exceed \$25 to register each such location.

(b) All permits issued under this subsection are subject to the provisions of ss. 474.213 and 474.214.

(c) Notwithstanding any provision of this subsection to the contrary, any temporary rabies vaccination effort operated by a county health department in response to a public health threat, as declared by the State Health Officer in consultation with the State Veterinarian, is not subject to any preregistration, time limitation, or fee requirements, but must adhere to all other requirements for limited service veterinary medical practice as prescribed by rule. The fee charged to the public for a rabies vaccination administered during such temporary rabies vaccination effort may not exceed the actual cost of administering the rabies vaccine. Such rabies vaccination efforts may not be used for any purpose other than to address the public health consequences of the rabies outbreak. The board shall be immediately notified in

writing of any temporary rabies vaccination effort operated under this paragraph.

(8) Any person who is not a veterinarian licensed under this chapter but who desires to own and operate a veterinary medical establishment or limited service clinic shall apply to the board for a premises permit. If the board certifies that the applicant complies with the applicable laws and rules of the board, the department shall issue a premises permit. No permit shall be issued unless a licensed veterinarian is designated to undertake the professional supervision of the veterinary medical practice and the minimum standards set by rule of the board for premises where veterinary medicine is practiced. Upon application, the department shall submit the permittee's name for a statewide criminal records correspondence check through the Department of Law Enforcement. The permittee shall notify the board within 10 days after any designation of a new licensed veterinarian responsible for such duties. A permittee under this subsection is subject to the provisions of subsection (9) and s. 474.214.

(9)(a) The department or the board may deny, revoke, or suspend the permit of any permittee under this section and may fine, place on probation, or otherwise discipline any such permittee who has:

1. Obtained a permit by misrepresentation or fraud or through an error of the department or board;

2. Attempted to procure, or has procured, a permit for any other person by making, or causing to be made, any false representation;

3. Violated any of the requirements of this chapter or any rule of the board; or

4. Been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a felony in any court of this state, of any other state, or of the United States.

(b) If the permit is revoked or suspended, the owner, manager, or proprietor shall cease to operate the premises as a veterinary medical practice as of the effective date of the suspension or revocation. In the event of such revocation or suspension, the owner, manager, or proprietor shall remove from the premises all signs and symbols identifying the premises as a veterinary medical practice. The period of any such suspension shall be prescribed by rule of the board, but may not exceed 1 year. If the permit is revoked, the person owning or operating the establishment may not apply for a permit to operate a premises for a period of 1 year after the effective date of such revocation. Upon the effective date of such revocation, the permittee must advise the board of the disposition of all medicinal drugs and must provide for ensuring the security, confidentiality, and availability to clients of all patient medical records.

Section 50. Section 474.2165, Florida Statutes, is amended to read:

474.2165 Ownership and control of veterinary medical patient records; report or copies of records to be furnished.—

(1) As used in this section, the term “records owner” means any veterinarian who generates a medical record after making a physical examination of, or administering treatment or dispensing legend drugs to, any patient; any veterinarian to whom records are transferred by a previous records owner; or any veterinarian’s employer, provided the employment contract or agreement between the employer and the veterinarian designates the employer as the records owner.

(2) Each person who provides veterinary medical services shall maintain medical records, as established by rule.

(3) Any records owner licensed under this chapter who makes an examination of, or administers treatment or dispenses legend drugs to, any patient shall, upon request of the client or the client’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. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.

(4) Except as otherwise provided in this section, such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the client or the client’s legal representative or other veterinarians involved in the care or treatment of the patient, except upon written authorization of the client. 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 client’s consent.

(b) 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 client or the client’s legal representative by the party seeking such records.

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

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

(6) The department may obtain patient records pursuant to a subpoena without written authorization from the client if the department and the probable cause panel of the board find reasonable cause to believe that a veterinarian has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this chapter or that a

veterinarian has practiced his or her profession below that level of care, skill, and treatment required as defined by this chapter.

(7) Notwithstanding the provisions of s. 455.242, records owners shall place an advertisement in the local newspaper or notify clients, in writing, when they are terminating practice, retiring, or relocating and are no longer available to patients and shall offer clients the opportunity to obtain a copy of their medical records.

(8) Notwithstanding the provisions of s. 455.242, records owners shall notify the board office when they are terminating practice, retiring, or relocating and are no longer available to patients, specifying who the new records owner is and where the medical records can be found.

(9) 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 client or the client's legal representative.

(10) Veterinarians in violation of the provisions of this section shall be disciplined by the board.

(11) A records owner furnishing copies of reports or records 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 board.

(12) Nothing in this section shall be construed to limit veterinarian consultations, as necessary.

Section 51. Notwithstanding the transfer of the Division of Medical Quality Assurance to the Department of Health or any other provision of law to the contrary, veterinarians licensed under chapter 474, Florida Statutes, shall be governed by the treatment of impaired practitioner provisions of section 455.707, Florida Statutes, as if they were under the jurisdiction of the Division of Medical Quality Assurance, except that for veterinarians the Department of Business and Professional Regulation shall, at its option, exercise any of the powers granted to the Department of Health by that section, and "board" shall mean board as defined in chapter 474, Florida Statutes.

Section 52. Section 475.045, Florida Statutes, is amended to read:

~~475.045 Florida Real Estate Commission Education and Research Foundation; Foundation Advisory Committee.—~~

(1)(a) There is established a Florida Real Estate Commission Education and Research Foundation, hereinafter referred to as the "foundation," which shall be administered by the ~~commission~~ Foundation Advisory Committee.

(b) The purposes, objectives, and duties of the foundation are as follows:

1. To create and promote educational projects to expand the knowledge of the public and real estate licensees in matters pertaining to Florida real estate.

2. To augment the existing real estate programs by increasing the number of teaching personnel and real estate courses in the state in degree-granting programs in universities and colleges in this state.

3. To conduct studies in all areas that relate directly or indirectly to real estate or urban or rural economics and to publish and disseminate the findings and results of the studies.

4. To assist the teaching program in real estate offered by the universities, colleges, and real estate schools registered pursuant to this chapter in the state, when requested to do so.

5. To develop and from time to time revise and update materials for use in the courses in real estate offered by the universities, colleges, and real estate schools registered pursuant to this chapter in the state, when requested to do so.

6. To make studies of, and recommend changes in, state statutes and municipal ordinances; provided, however, that such studies are requested by the Governor or the presiding officers of the Legislature. The foundation shall maintain political nonadvocacy.

7. To periodically review the progress of persons conducting such research and studies. The results of any research project or study shall not be published or disseminated until it has been reviewed and approved in writing by the commission advisory committee or its designated representative.

8. To prepare information of consumer interest concerning Florida real estate and to make the information available to the public and appropriate state agencies.

(c) The foundation may make a charge for its publications and may receive gifts and grants from foundations, individuals, and other sources for the benefit of the foundation.

(d) A report of the activities and accomplishments of the foundation shall be published annually.

(e) On or before January 1 of each year, the commission advisory committee shall file with the Governor, the presiding officer of each house of the Legislature, and the secretary of the department a complete and detailed written report accounting for all funds received and disbursed by the foundation during the preceding year.

~~(2)(a) There is created the Foundation Advisory Committee which is composed of nine persons appointed by the Governor without regard to race, creed, sex, religion, or national origin of the appointee, with the following representation:~~

~~1. Six active real estate licensees, one of whom may be a real estate salesperson. All licensees shall have been active real estate licensees for at least the past 5 years.~~

~~2. Three members shall be representatives of the general public, and those appointed after October 1, 1988, shall possess qualifications in the fields of education, research, or consumer affairs which relate to the committee's education and research activities. Members representative of the general public shall not be licensed real estate brokers or salespersons and shall not have a financial interest, other than as consumers, in the practice of a licensed real estate broker or salesperson.~~

~~(b)1. No current member of the Florida Real Estate Commission shall be eligible for appointment to the Foundation Advisory Committee.~~

~~2. The chair of the Florida Real Estate Commission or a member of the commission designated by the chair shall serve as an ex officio nonvoting member of the advisory committee.~~

~~(c)1. Except for the initial appointees, members of the advisory committee shall hold office for staggered terms of 4 years, with the terms of three members expiring on January 31 of each odd-numbered year. The current members may complete their present terms unless removed for cause.~~

~~2. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until the member's successor is qualified.~~

~~3. Each member of the advisory committee is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the advisory committee.~~

~~(3) It is grounds for removal from the advisory committee, if:~~

~~(a) A broker or salesperson member of the committee ceases to be an active licensee; or~~

~~(b) A public member of the committee acquires a real estate license or a financial interest in the practice of a licensed real estate broker or salesperson.~~

~~(4)(a) The committee shall elect a chair annually from among its membership.~~

~~(b) The committee shall meet not less than semiannually and, in addition, on call of its chair or on petition of any six of its members.~~

~~(c) The advisory committee is subject to the sunshine law pursuant to s. 286.011.~~

~~(2)(5)(a) The commission advisory committee shall solicit advice and information from real estate licensees, the commission, universities, colleges, real estate schools registered pursuant to this chapter and the general public for the purpose of submitting proposals for carrying out the purposes, objectives, and duties of the foundation.~~

~~(b) The commission advisory committee shall select the proposals that shall be funded and shall give priority to projects with the greatest potential for direct or indirect benefit to the public.~~

(c) The commission advisory committee shall select the university or college within the state or qualified full-time faculty member of a university or college within the state with the consent of the institution to perform the education study, research study, or other project in accordance with the purposes, objectives, and duties of the foundation. In those instances where no university or college within the state, or qualified full-time faculty member of a university or college within the state with the consent of the institution, submits an acceptable proposal, a qualified person or persons may be selected in accordance with law to perform the education study, research study, or other project in accordance with the purposes, objectives, and duties of the foundation.

~~(3)~~(6)(a) The director of the Division of Real Estate of the department, hereinafter referred to as the “director,” or her or his designated representative shall submit to the commission advisory committee, in advance of each fiscal year, a budget for expenditures of all funds provided for the foundation in a form that is related to the proposed schedule of activities for the review and approval of the commission advisory committee.

(b) The director shall submit to the commission advisory committee all proposals received for its review and approval in developing an educational and research agenda at the beginning of each fiscal year and shall continuously inform the commission advisory committee of changes in its substance and scheduling.

~~(4)~~(7) The commission advisory committee shall have the power and authority to adopt all rules necessary to administer this section.

~~(5)~~(8) Neither The foundation may not nor the committee shall be permitted to fund or offer educational courses designed to qualify persons for licensure or the renewal of licenses pursuant to this chapter.

~~(6)~~(9) Neither The foundation may not nor the committee shall expend any funds for the purpose of employing staff.

~~(7)~~(10) The Treasurer shall invest \$3 million from the portion of the Professional Regulation Trust Fund credited to the real estate profession, under the same limitations as applied to investments of other state funds, and the income earned thereon shall be available to the foundation to fund the activities and projects authorized under this section. However, any balance of such interest in excess of \$1 million shall revert to the portion of the Professional Regulation Trust Fund credited to the real estate profession. In the event the foundation is abolished, the funds in the trust fund shall revert to such portion of the Professional Regulation Trust Fund.

Section 53. Paragraph (d) is added to subsection (1) of section 477.0132, Florida Statutes, to read:

477.0132 Hair braiding, hair wrapping, and body wrapping registration.—

(1)

(d) Only the board may review, evaluate, and approve a course required of an applicant for registration under this subsection in the occupation or practice of hair braiding, hair wrapping, or body wrapping. A provider of such a course is not required to hold a license under chapter 246.

Section 54. Subsection (2) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(2) An applicant shall be eligible for licensure by examination to practice cosmetology if the applicant:

(a) Is at least 16 years of age or has received a high school diploma;

(b) Pays the required application fee, which is not refundable, and the required examination fee, which is refundable if the applicant is determined to not be eligible for licensure for any reason other than failure to successfully complete the licensure examination; and

(c)1. Is authorized ~~Holds an active valid license~~ to practice cosmetology in another state or country, ~~has been so authorized held the license~~ for at least 1 year, and does not qualify for licensure by endorsement as provided for in subsection (6); or

2. Has received a minimum of 1,200 hours of training as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of cosmetology at one of the following:

a. A school of cosmetology licensed pursuant to chapter 246.

b. A cosmetology program within the public school system.

c. The Cosmetology Division of the Florida School for the Deaf and the Blind, provided the division meets the standards of this chapter.

d. A government-operated cosmetology program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person then passes the examination, he or she shall have satisfied this requirement; but if the person fails the examination, he or she shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 55. Section 492.101, Florida Statutes, is amended to read:

492.101 Purpose.—It is hereby declared to be the public policy of the state that, in order to safeguard the life, health, property, and public well-being of its citizens, any person practicing or offering to practice geology in this state shall meet the requirements of this chapter ~~the Department of~~

~~Business and Professional Regulation and shall be licensed as provided in ss. 492.101-492.1165.~~

Section 56. Section 492.102, Florida Statutes, is amended to read:

492.102 Definitions.—For the purposes of this chapter ~~ss. 492.101-492.1165~~, unless the context clearly requires otherwise:

- (1) “Board” means the Board of Professional Geologists.
- (2) “Department” means the Department of Business and Professional Regulation.
- (3) “Geology” means the science which includes the treatment of the earth and its origin and history, in general; the investigation of the earth’s crust and interior and the solids and fluids, including all surface and underground waters, and gases which compose the earth; the study of the natural agents, forces, and processes which cause changes in the earth; and the utilization of this knowledge of the earth and its solids, fluids, and gases, and their collective properties and processes, for the benefit of humankind.
- (4) “Geologist” means an individual who, by reason of her or his knowledge of geology, soils, mathematics, and the physical and life sciences, acquired by education and practical experience, is capable of practicing the science of geology.
- (5) “Qualified geologist” means an individual who possesses all the qualifications for licensure under the provisions of this chapter ~~ss. 492.101-492.1165~~, except that such person is not licensed.
- (6) “Professional geologist” means an individual who is licensed as a geologist under the provisions of this chapter ~~ss. 492.101-492.1165~~.
- (7) “Practice of professional geology” means the performance of, or offer to perform, geological services, including, but not limited to, consultation, investigation, evaluation, planning, and geologic mapping, but not including mapping as prescribed in chapter 472, relating to geological work, except as specifically exempted by this chapter ~~ss. 492.101-492.1165~~. Any person who practices any specialty branch of the profession of geology, or who by verbal claim, sign, advertisement, letterhead, card, or any other means represents herself or himself to be a professional geologist, or who through the use of some title implies that she or he is a professional geologist or that she or he is licensed under this chapter ~~ss. 492.101-492.1165~~, or who holds herself or himself out as able to perform or does perform any geological services or work recognized as professional geology, shall be construed to be engaged in the practice of professional geology.

Section 57. Section 492.104, Florida Statutes, is amended to read:

492.104 Authority to make rules.—The Board of Professional Geologists has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter ~~ss. 492.101-492.1165~~. Every licensee shall be governed and controlled by this chapter ~~ss. 492.101-492.1165~~ and the rules adopted

by the board. The board is authorized to set, by rule, fees for application, examination, certificate of authorization, late renewal, initial licensure, and license renewal. These fees should not exceed the cost of implementing the application, examination, initial licensure, and license renewal or other administrative process and shall be established as follows:-

- (1) The application fee shall not exceed \$150 and shall be nonrefundable.
- (2) The examination fee shall not exceed \$250 and shall be refundable if the applicant is found to be ineligible to take the licensure examination.
- (3) The initial license fee shall not exceed \$100.
- (4) The biennial renewal fee shall not exceed \$150.
- (5) The fee for a certificate of authorization shall not exceed \$350 and the fee for renewal of the certificate shall not exceed \$350.
- (6) The fee for reactivation of an inactive license shall not exceed \$50.
- (7) The fee for a provisional license shall not exceed \$400.
- (8) The fee for application, examination, and licensure for a license by endorsement shall be as provided in this section for licenses in general.

Section 58. Paragraph (c) of subsection (1) and subsection (3) of section 492.105, Florida Statutes, are amended to read:

492.105 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a professional geologist shall apply to the department to take the licensure examination. The written licensure examination shall be designed to test an applicant's qualifications to practice professional geology, and shall include such subjects as will tend to ascertain the applicant's knowledge of the theory and the practice of professional geology and may include such subjects as are taught in curricula of accredited colleges and universities. The department shall examine each applicant who the board certifies:

(c) Has not committed any act or offense in any jurisdiction which would constitute the basis for disciplining a professional geologist licensed pursuant to this chapter ~~ss. 492.101-492.1165~~.

(3) The department shall not issue a license to any applicant who is under investigation in any jurisdiction for an offense which would constitute a violation of this chapter ~~ss. 492.101-492.1165~~. Upon completion of the investigation, the disciplinary provisions of s. 492.113 shall apply.

Section 59. Section 492.107, Florida Statutes, is amended to read:

492.107 Seals.—

(1) The board shall prescribe, by rule, a form of seal, including its electronic form, to be used by persons holding valid licenses. All geological

papers, reports, and documents prepared or issued by the licensee shall be signed by the licensee, dated, and sealed by the licensee who performed or is responsible for the supervision, direction, or control of the work contained in the papers, reports, or documents stamped with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Geological papers, reports, and documents prepared or issued by the licensee may be transmitted electronically provided they have been signed by the licensee, dated, and electronically sealed. It is unlawful for any person to ~~sign stamp~~ or seal any document as a professional geologist unless that person holds a current, active license as a professional geologist which has not with a seal after that person's license has expired or been revoked or suspended, unless reinstated or reissued.

(2) No licensee ~~registrant~~ shall affix or permit to be affixed ~~her or his the registrant's~~ seal or name to any geologic reports, papers, or other documents which depict work which the ~~licensee registrant~~ is not licensed to perform or which was not performed by or under the responsible supervision, direction, or control of the licensee is beyond the registrant's profession or specialty therein.

Section 60. Subsection (2) of section 492.108, Florida Statutes, is amended to read:

492.108 Licensure by endorsement; requirements; fees.—

(2) The department shall issue a license to practice professional geology to any applicant who successfully complies with the requirements of this section. The department shall not issue a license to any applicant who is under investigation in any jurisdiction for an offense which would constitute a violation of this chapter ss. 492.101-492.1165. Upon completion of the investigation, the disciplinary provisions of s. 492.113 shall apply.

Section 61. Section 492.111, Florida Statutes, is amended to read:

492.111 Practice of professional geology by a firm, corporation, or partnership; certificate of authorization.—The practice of, or offer to practice, professional geology by individual professional geologists licensed under the provisions of this chapter ss. 492.101-492.1165 through a firm, corporation, or partnership offering geological services to the public through individually licensed professional geologists as agents, employees, officers, or partners thereof is permitted subject to the provisions of this chapter ss. 492.101-492.1165, provided that:

(1) At all times that it offers geological services to the public, the firm, corporation, or partnership has on file with the department the name and license number of one or more individuals who hold a current, active license as a professional geologist in the state and are serving as a geologist of record for the firm, corporation, or partnership. A geologist of record may be any principal officer or employee of such firm or corporation, or any partner or employee of such partnership, who holds a current, active license as a professional geologist in this state, or any other Florida-licensed professional geologist with whom the firm, corporation, or partnership has entered into a long-term, ongoing relationship, as defined by rule of the board, to

serve as one of its geologists of record. It shall be the responsibility of the firm, corporation, or partnership and the geologist of record to notify the department of any changes in the relationship or identity of that geologist of record within 30 days after such change. One or more of the principal officers, employees, or agents of such firm or corporation, or partners, employees, or agents of such partnership, who act in its behalf as professional geologists in this state are licensed as provided in ss. 492.101-492.1165.

(2) The firm, corporation, or partnership has been issued a certificate of authorization by the department as provided in this chapter ss. 492.101-492.1165. For purposes of this section, a certificate of authorization shall be required of any firm, corporation, partnership, association, or person practicing under a fictitious name and offering geological services to the public; except that, when an individual is practicing geology in his or her own name, he or she shall not be required to obtain a certificate of authorization under this section. Such certificate of authorization shall be renewed every 2 years.

(3) All final geological papers or documents involving the practice of the profession of geology which have been prepared or approved for the use of such firm, corporation, or partnership, for delivery to any person for public record with the state, shall be dated and bear the signature and seal of the professional geologist or professional geologists who prepared or approved them.

(4) The fact that a licensed geologist practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Partnership and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a corporation shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the corporation. The personal liability of a shareholder of a corporation, in his or her capacity as shareholder, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The corporation shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on behalf of the corporation in the rendering of professional services.

(5) The firm, corporation, or partnership desiring a certificate of authorization shall file with the department an application therefor, upon a form to be prescribed by the department, accompanied by the required application fee.

(6) The department may refuse to issue a certificate of authorization if any facts exist which would entitle the department to suspend or revoke an existing certificate of authorization or if the department, after giving persons involved a full and fair hearing, determines that any of the officers or directors of said firm or corporation, or partners of said partnership, have violated the provisions of s. 492.113.

Section 62. Paragraphs (a), (b), and (g) of subsection (1) of section 492.112, Florida Statutes, are amended to read:

492.112 Prohibitions; penalties.—

(1) A person may not knowingly:

(a) Practice geology unless the person is licensed under this chapter ss. 492.101-492.1165.

(b) Use the name or title “Professional Geologist” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the person holds an active license as a geologist when the person is not licensed under this chapter ss. 492.101-492.1165.

(g) Conceal information relative to violations of this chapter ss. 492.101-492.1165.

Section 63. Paragraph (a) 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:

(a) Violation of any provision of s. 492.112 or any other provision of this chapter ss. 492.101-492.1165.

Section 64. Section 492.116, Florida Statutes, is amended to read:

492.116 Exemptions.—The following persons are specifically exempted from this chapter ss. 492.101-492.1165, provided, however, that all final geological papers or documents which have been prepared by a person exempt under subsection (1), subsection (2), subsection (3), or subsection (4) for delivery to any person for public record with the state shall be dated and bear the signature and seal of the professional geologist or professional geologists who prepared or approved them:

(1) Persons engaged solely in teaching the science of geology.

(2) Persons engaged in geological research which does not affect the health, safety, or well-being of the public.

(3) Officers and employees of the United States Government, the State of Florida, water management districts, or other local or regional governmental entities practicing solely as such officers or employees.

(4) Regular full-time employees of a corporation not engaged in the practice of professional geology as such, who are directly supervised by a person licensed as a professional geologist under this chapter ss. 492.101-492.1165.

(5) A person employed on a full-time basis as a geologist by an employer engaged in the business of developing, mining, or treating ores, other minerals, and petroleum resources if that person engages in geological practice

exclusively for and as an employee of such employer and does not hold herself or himself out and is not held out as available to perform any geological services for persons other than her or his employer.

Section 65. Section 492.1165, Florida Statutes, is amended to read:

492.1165 Construction of ~~chapter ch. 87-403.~~—Nothing in this chapter ~~ss. 492.101-492.1165 as enacted by chapter 87-403, Laws of Florida,~~ shall be construed to prevent or prohibit the practice of any profession or trade for which a license is required under any other law of this state, or the practice by registered professional engineers.

Section 66. Paragraph (d) of subsection (3) of section 310.0015, Florida Statutes, is amended to read:

310.0015 Piloting regulation; general provisions.—

(3) The rate-setting process, the issuance of licenses only in numbers deemed necessary or prudent by the board, and other aspects of the economic regulation of piloting established in this chapter are intended to protect the public from the adverse effects of unrestricted competition which would result from an unlimited number of licensed pilots being allowed to market their services on the basis of lower prices rather than safety concerns. This system of regulation benefits and protects the public interest by maximizing safety, avoiding uneconomic duplication of capital expenses and facilities, and enhancing state regulatory oversight. The system seeks to provide pilots with reasonable revenues, taking into consideration the normal uncertainties of vessel traffic and port usage, sufficient to maintain reliable, stable piloting operations. Pilots have certain restrictions and obligations under this system, including, but not limited to, the following:

(d)~~1.~~ The pilot or pilots in a port shall train and compensate all member deputy pilots in that port. Failure to train or compensate such deputy pilots shall constitute a ground for disciplinary action under s. 310.101. Nothing in this subsection shall be deemed to create an agency or employment relationship between a pilot or deputy pilot and the pilot or pilots in a port.

2. The pilot or pilots in a port shall establish a competency-based mentor program by which minority persons, as defined in s. 288.703(3), may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. The department shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons, as defined in s. 288.703(3), who have participated in each mentor program, who are licensed state pilots or certificated deputy pilots, and who have applied for state pilot licensure or deputy pilot certification.

Section 67. The sum of \$500,000 is appropriated from the Professional Regulation Trust Fund to the Department of Business and Professional Regulation for the purpose of disbursing funds to any private corporation or business entity to offset startup costs incurred in the implementation of

section 455.32, Florida Statutes, the Management Privatization Act, pursuant to a contract executed by the department.

Section 68. Subsection (12) of section 477.013, Florida Statutes, is amended to read:

477.013 Definitions.—As used in this chapter:

(12) “Body wrapping” means a treatment program that uses herbal wraps for the purposes of ~~weight loss and of~~ cleansing and beautifying the skin of the body, but does not include:

(a) The application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps; or

(b) Manipulation of the body’s superficial tissue, other than that arising from compression emanating from the wrap materials.

Section 69. Paragraph (o) is added to subsection (1) of section 468.456, Florida Statutes, and subsection (3) of that section is amended to read:

468.456 Prohibited acts.—

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

(o) Being employed to illegally recruit or solicit student athletes by being utilized by or otherwise collaborating with a person known to have been convicted or found guilty of, or to have entered a plea of nolo contendere to, a violation of s. 468.45615, regardless of adjudication.

(3) When the department finds any person guilty of any of the prohibited acts set forth in subsection (1), the department may enter an order imposing one or more of the penalties provided for in s. 455.227. In addition to any other penalties or disciplinary actions provided for in this part, the department shall suspend or revoke the license of any athlete agent licensed under this part who violates paragraph (f) or paragraph (o) or s. 468.45615.

Section 70. Section 468.45615, Florida Statutes, is created to read:

468.45615 Provision of illegal inducements to athletes prohibited; penalties; license suspension.—

(1) Any person who violates s. 468.456(1)(f) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, s. 775.089, or s. 775.091.

(2)(a) Regardless of whether adjudication is withheld, any person convicted or found guilty of, or entering a plea of nolo contendere to, the violation described in subsection (1) shall not employ, utilize, or otherwise collaborate with a licensed or unlicensed athlete agent in Florida to illegally recruit or solicit student athletes. Any person who violates the provisions of this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, s. 775.089, or s. 775.091.

(b) Regardless of whether adjudication is withheld, any person who knowingly actively assists in the illegal recruitment or solicitation of student athletes for a person who has been convicted or found guilty of, or entered a plea of nolo contendere to, a violation of this section is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, s. 775.089, or s. 775.091.

(3) In addition to any other penalties provided in this section, the court may suspend the license of the person pending the outcome of any administrative action against the person by the department.

Section 71. Subsections (1) and (3) of section 468.4562, Florida Statutes, are amended to read:

468.4562 Civil action by institution.—

(1) A college or university may sue for damages, as provided by this section, any person who violates this part. A college or university may seek equitable relief to prevent or minimize harm arising from acts or omissions which are or would be a violation of this part.

(3) An institution that prevails in a suit brought under this section may recover:

(a) Actual damages;

(b) Punitive damages;

(c) Treble damages;

(d)(e) Court costs; and

(e)(d) Reasonable attorney's fees.

Section 72. This act shall take effect July 1, 2000.

Approved by the Governor June 23, 2000.

Filed in Office Secretary of State June 23, 2000.