Journal of the Senate

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CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

PRAYER

The following prayer was offered by Senator Bankhead:

God, we thank you for the blessings you give each of us. We praise you for the knowledge and talent that our members bring to this Senate.

We thank you for the opportunity to work together as we serve the people of Florida.

We ask you today to fill us with your wisdom and compassion. Guide our efforts throughout this last week of session. We pray that the people of Florida will be blessed and that our work will be pleasing to you. Amen.

PLEDGE

Senate Pages, Kyra Jennings and Ashley Martin of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

At the request of Senator Latvala—

By Senator Latvala—

SR 534—A resolution honoring Demos Megaloudis for a lifetime of contributions to the City of Tarpon Springs and the State of Florida.

WHEREAS, longtime businessman and civic leader, Demos Megaloudis, died suddenly on September 11, 1996, at the age of 64, and

WHEREAS, described by those who knew him as "a great, quiet man" and "a great and good man," Demos Megaloudis lived a life of care and concern for others, commitment to education, and support of community projects which earned him the love and respect of an entire community, and

WHEREAS, born in Tarpon Springs and a lifelong resident of that city, Demos Megaloudis was affectionately known as "Mr. Tarpon Springs," and

WHEREAS, Demos Megaloudis was a former board member and director of Springs State Bank, a former member of the Tarpon Springs Housing Authority, an advisory board member of GTE and Florida Power Corporation, a director and officer of the Tarpon Springs Hospital Foundation, a member of the advisory board of the Anclote Manor Psychiatric Center, and a board member and chairperson for Tarpon Springs Community School, and

WHEREAS, Demos Megaloudis was also a charter member of the Pinellas County Education Foundation, a member of the education and research foundation advisory committee for the Florida Real Estate Commission, and a board member and officer of the Tarpon Springs Chamber of Commerce and the Clearwater Association of Realtors, and

WHEREAS, Demos Megaloudis served for five years as aide to U.S. Representative Michael Bilirakis, was appointed by Governor Lawton Chiles to the St. Petersburg Junior College District Board of Trustees in 1992, and was elected as vice chairman of the board of trustees in 1996, and

WHEREAS, Demos Megaloudis has been the recipient of the Ninth Congressional District Distinguished Service Award, the Tarpon Springs Jaycees Distinguished Service Award and Man of the Year Award, has been named Tarpon Springs Citizen of the Year by the Tarpon Springs Elks Lodge, and on three occasions has been awarded the Key to the City of Tarpon Springs, and

WHEREAS, it has been said that nearly every aspect of life in Tarpon Springs bears the mark of Demos Megaloudis, and

WHEREAS, it is with great sadness that the City of Tarpon Springs and the State of Florida mark the loss of one of their finest and most involved citizens, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Senate of the State of Florida hereby honors Demos Megaloudis for his lifetime of selfless devotion and service to the citizens of Tarpon Springs.

BE IT FURTHER RESOLVED that copies of this resolution be presented to his wife, Stella Megaloudis, his daughter, Chris Rondeau, his son, Gary Megaloudis, and his sisters, Helen Campbell and Angie Huddleston, as a tangible token of the sentiments expressed herein.

—**SR 534** was introduced, read and adopted by publication.

At the request of Senator Jones—

By Senator Jones—

SR 1328—A resolution declaring 1997 as the International Year of the Reef.

WHEREAS, in order to draw attention to the deterioration of the world's reefs, governments and environmental groups around the world have declared 1997 as the International Year of the Reef, and

WHEREAS, the coastal communities of the State of Florida and particularly the Florida Keys are the home of some of the world's most precious coral reefs, and

WHEREAS, the importance of coral reefs has been exemplified by the creation of the Florida Keys National Marine Sanctuary, and

WHEREAS, coral reefs are an important part of the marine ecosystem upon which this state is so dependent, and

WHEREAS, coral reefs off the coast of Key West are presently being threatened by the presence of white pox, which demonstrates the fragile nature of the coral ecosystem, and

WHEREAS, the International Year of the Reef will serve not only to emphasize the importance of reefs to this state, but also to educate the public on the dangers which are confronting our natural reefs, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate recognizes 1997 as the International Year of the Reef.

—**SR 1328** was introduced, read and adopted by publication.

At the request of Senator Latvala—

By Senator Latvala—

SR 2344—A resolution honoring Dr. Allen Leepa for his contributions to the art world and for bringing the Leepa Rattner Museum of Fine Arts to the Tarpon Springs Center of the St. Petersburg Junior College.

WHEREAS, the State of Florida is enriched by the intellectual capital of its people, and

WHEREAS, art provides the stimulus for humanity to see itself in new, exciting, and challenging ways, and

WHEREAS, it is in the public interest to recognize and promote the development and demonstration of great art in Florida and to honor those whose lives have been marked by artistic success and personal philanthropy, and

WHEREAS, Dr. Allen Leepa has been honored by his peers in state, national, and international circles and has recently donated approximately $2.5 million and hundreds of selections of outstanding art for the establishment of the Leepa Rattner Museum at Tarpon Springs in cooperation with the St. Petersburg Junior College Development Foundation, and

WHEREAS, Dr. Leepa has served American higher education with distinction as Professor of Art at Michigan State University from 1945 until 1983, and as Professor Emeritus from 1983 to the present, and

WHEREAS, Dr. Leepa was regarded as a leader among faculty at the university, having previously studied as a scholarship winner at The New Bauhaus, in Chicago and with Hans Hofmann in Provincetown; having also taught at Chicago's Hull House and the Metropolitan Museum of Art; having earned his Bachelor of Science in Fine Arts, his Master of Fine Arts, and his Doctorate in Education from Columbia University; and having received both the Fulbright Award for work in France and the Ford Foundation Grant for work in South America, and

WHEREAS, he is recognized as an outstanding, pioneering American artist who established an expansive career in Abstract Expressionist and Minimalist works and who has been given countless honors and purchase awards, such as the Childe Hassam Prize (1969) and the Michigan Competition Mural Prize (1982), and

WHEREAS, he was selected for membership in the prestigious American Academy of Arts and Letters (1970), and

WHEREAS, his works have been exhibited in museums of international acclaim such as the Prado in Madrid, Spain, the Museum of Modern Art in New York City, the Musee de l'Art Visuel in Paris, France, and the VII Biennalle in Sao Paulo, Brazil, and

WHEREAS, he is widely known for his lucid and persuasive writing about the meaning of art in texts such as The Challenge of Modern Art, which is in its fifth printing, and his revealing biography of the life and works of Abraham Rattner, and

WHEREAS, he became the steward of the art collection of the world-renowned artist Abraham Rattner who was the self-effacing peer of Pablo Picasso, Salvador Dali, Henry Moore, Willem de Kooning, Georges Rouault, Henry Miller, and others, and

WHEREAS, he has demonstrated unusual generosity to the Tampa Bay area, St. Petersburg Junior College, and the Pinellas County Community by bestowing to the college this magnificent collection of the works of Rattner and Rattner's contemporaries, of Leepa's own works, as well as those of Esther Gentle, his mother and the widowed Rattner's second wife, and

WHEREAS, he has contributed the resources for an endowment for the Leepa Rattner Museum of Fine Arts so that the public will not have to bear operating costs of the Museum, and

WHEREAS, his example of selflessness and benevolence speaks of the highest and best in the human spirit, and

WHEREAS, his vision includes sharing the unique experience of art-and-viewer as well as art-and-artist with all peoples of all nations, and

WHEREAS, students of every age, vocation, and interest will benefit in perpetuity from his work and his gifts, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That Dr. Allen Leepa is commended for his outstanding accomplishments and for bringing the Leepa Rattner Museum of Fine Arts to the Tarpon Springs Center of St. Petersburg Junior College.

BE IT FURTHER RESOLVED that a copy of this resolution with the Seal of Senate affixed, be presented to Dr. Allen Leepa as a tangible token of the sentiments of the Florida Senate.

—**SR 2344** was introduced, read and adopted by publication.

At the request of Senator Kirkpatrick—

By Senators Kirkpatrick, Thomas, Jenne, Clary, Dantzler, McKay, Childers, Casas, Crist, Diaz-Balart, Myers, Campbell, Dyer, Ostalkiewicz, Forman, Scott, Bronson, Sullivan, Burt, Harris, Silver, Turner, Jones, Meadows, Klein, Horne, Williams, Brown-Waite, Gutman, Hargrett, Lee, Latvala, Grant, Kurth, Rossin, Cowin, Dudley and Bankhead—

SR 2392—A resolution designating June 1997 as Prostate Cancer Awareness Month.

WHEREAS, prostate cancer is the most common type of cancer among men in the United States and in Florida, and the second leading cause of cancer death among men, and

WHEREAS, an estimated 334,500 men in the United States will be diagnosed with prostate cancer during 1997, and 25,400 of them will be residents of Florida, and

WHEREAS, an estimated 41,800 men in the United States will die from prostate cancer in 1997, and 3,200 of them will be residents of Florida, and

WHEREAS, nonwhite men in Florida have a 50 percent higher risk of being diagnosed with prostate cancer than white men, and

WHEREAS, nonwhite men in Florida who have prostate cancer are more than twice as likely to die of the disease than white men, and

WHEREAS, June 10-17 has been designated by the United States Congress as National Men's Health Week, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate recognizes June 1997 as Prostate Cancer Awareness Month in Florida and urges all men, and particularly members of high-risk populations, to become aware of the risks and symptoms associated with prostate cancer and to be informed about screening tests, methods for early detection, and treatment.

—**SR 2392** was introduced, read and adopted by publication.

At the request of Senator Thomas—

By Senator Thomas—

SR 2528—A resolution celebrating July 4, 1997, as Governor Stone Day.

WHEREAS, the Governor Stone was built in 1877, and

WHEREAS, the Governor Stone engaged in near-water shipping activities along the Gulf Coast of Florida from 1877 to 1938 and has a distinguished record of service during the Second World War as a Merchant Marine training vessel, and

WHEREAS, the Governor Stone currently serves as the oldest near-shore shipping vessel in operation on the Gulf Coast, and

WHEREAS, the Governor Stone serves as an inspiration to boat builders, historians, and tourists in Apalachicola, and

WHEREAS, the Governor Stone is owned and operated by the volunteers of the Apalachicola Maritime Museum, and

WHEREAS, the Governor Stone has been recognized as a National Historic Landmark by the United States Department of Interior, and

WHEREAS, the Governor Stone encourages and fosters a respect for the country's maritime traditions of sail training and boat building through the involvement of the children and adults and visitors to and residents of Franklin County and the City of Apalachicola, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That Friday, July 4, 1997, is celebrated as Governor Stone Day and visitors to and residents of this state are urged to recognize and support the Governor Stone as the Gulf Coast's premier tall ship.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the Apalachicola Maritime Museum as a tangible token of the sentiments of The Florida Senate.

—**SR 2528** was introduced, read and adopted by publication.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Bankhead, by two-thirds vote **CS for SB 20** was withdrawn from the Committee on Community Affairs; **CS for SB 200** was withdrawn from the Committee on Judiciary; **SB 1172** was withdrawn from the Committee on Criminal Justice; **CS for SB 2444** and **SB 1634** were withdrawn from the Committee on Governmental Reform and Oversight; **SB 1450** was withdrawn from the Committee on Commerce and Economic Opportunities; and **SB 1502** was withdrawn from the Committee on Ways and Means.

On motion by Senator Lee, by two-thirds vote **SB 1264** was withdrawn from the committees of reference and further consideration.

On motion by Senator Sullivan, by two-thirds vote **SB 1102**, **CS for SB 1218** and **CS for SB 1594** were withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan, by two-thirds vote **CS for SB's 910, 302 and 2300**, **CS for SB 946**, **SB 1050**, **CS for SB 1064**, **SB 1450**, **SB 1750**, **SB 1810**, **SB 1932**, **SB 2182**, **SB 2328**, **CS for HB 69** and **CS for SB 1760** were withdrawn from the Committee on Ways and Means.

On motion by Senator Bankhead, by two-thirds vote **CS for SB 904** was withdrawn from the Committee on Governmental Reform and Oversight; and **SB 1810** and **SB 1812** were withdrawn from the Committee on Commerce and Economic Opportunities.

On motion by Senator Hargrett, by two-thirds vote **SB 712**, **SB 1000**, **SB 1966** and **SB 2292** were withdrawn from the committees of reference and further consideration.

On motion by Senator Holzendorf, by two-thirds vote **SB 408** was withdrawn from further consideration.

On motion by Senator Grant, by two-thirds vote **SB 1674** was withdrawn from the committee of reference and further consideration.

On motion by Senator Klein, by two-thirds vote **SB 1036** and **SB 1024** were withdrawn from the committees of reference and further consideration.

On motion by Senator Harris, by two-thirds vote **SB 1752**, **SB 1762**, **SB 1764** and **SB 1508** were withdrawn from the committees of reference and further consideration.

On motion by Senator Bankhead, by two-thirds vote **HB 2021**, **HB 637**, **HB 927**, **SB 2342** and **HB 1315** were withdrawn from the Committee on Community Affairs; **HB 1473** was withdrawn from the Committee on Criminal Justice; and **CS for SB 946** was withdrawn from the Committee on Executive Business, Ethics and Elections.

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Bankhead, the rules were waived and the Special Order Calendar Subcommittee of the Committee on Rules and Calendar was granted permission to meet at 1:45 p.m. in lieu of 12:15 p.m. as scheduled this day.

MOTIONS

On motion by Senator Bankhead, the House was requested to return **CS for SB 1376**.

On motion by Senator Bankhead, a deadline of 7:30 a.m. Wednesday, April 30, was set for filing amendments to Bills on Third Reading to be considered that day.

CONSIDERATION OF BILLS ON THIRD READING

CS for CS for SB 2060—A bill to be entitled An act relating to transportation administration; directing the Department of Transportation to perform a pilot project; amending s. 20.23, F.S.; providing for the relocation of the turnpike district; providing responsibilities for the Fort Myers Urban Office; authorizing the department to continue to use the model developed for the career service broadbanding compensation and classification system; amending s. 206.46, F.S.; authorizing the department to use State Transportation Trust Fund moneys to pay for the operation and maintenance of existing or future department-owned toll facilities and reimburse the trust fund from turnpike revenues; amending s. 311.07, F.S.; providing funding eligibility for certain seaport intermodal projects; amending s. 316.215, F.S.; exempting front-end-loading vehicles from certain requirements applicable to motor vehicles; amending s. 316.2397, F.S.; allowing petroleum tankers to display amber warning lights; amending s. 316.302, F.S., relating to commercial motor vehicle safety regulations; updating reference to federal regulations; providing exception to specified provisions for public utility and authorized emergency vehicles; revising provisions with respect to requirements for intrastate transporting of hazardous materials; providing for applicability of alcohol and drug testing programs to certain volunteer drivers; providing an exemption to certain federal commercial motor vehicle requirements for certain vehicles operating intrastate; amending s. 316.515, F.S.; providing exception to length limitations for certain utility vehicles under specified conditions; providing an exception to load extension limitation; deleting an axle restriction for straight trucks; amending s. 320.20, F.S.; providing additional funding for the Florida Seaport Transportation and Economic Development Program; providing how such funds may be spent; amending s. 322.53, F.S.; deleting an exemp-

tion to the requirement of having a commercial driver's license; amending s. 334.27, F.S.; revising provisions with respect to governmental transportation entities; creating s. 334.351, F.S., relating to youth work experience program within the Department of Transportation; providing for the awarding of program contracts; amending s. 335.0415; providing responsibility for operation and maintenance within the right-of-way of public roads; amending s. 337.25, F.S.; authorizing the department to use projected maintenance costs over a period of time to offset the market value of certain property to establish a value for the disposal of the property; creating s. 338.161, F.S.; authorizing the Department of Transportation to advertise and promote electronic toll collection; amending s. 338.165, F.S.; providing that no tolls may be collected on certain interstate highways; amending s. 338.221, F.S.; providing that interchanges that are added to the existing turnpike system are exempt from the economic feasibility test; providing additional requirements that must be met before turnpike revenue bonds are issued; amending s. 338.223, F.S.; authorizing the department to acquire right-of-way before the determination of economic feasibility is completed; authorizing the department, with legislative approval, to pay or lend all or a portion of the operating maintenance costs of any turnpike project; amending s. 338.2275, F.S.; deleting certain turnpike projects; increasing the bond cap on turnpike projects; providing for legislative approval to issue bonds; amending s. 338.2276, F.S.; providing a description of the Western Beltway turnpike project; amending s. 338.231, F.S.; providing for public hearings before increases in turnpike toll rates take effect; authorizing the adoption of rules relating to toll rates for new toll projects; providing ratio on return of tolls collected in Dade County, Broward County, and Palm Beach County; amending s. 339.12, F.S.; revising provisions with respect to aid and contributions by governmental entities for department projects; amending ss. 339.135, 339.175, F.S.; providing for metropolitan planning organizations to annually submit lists of project priorities to the Department of Transportation; reconciling state and metropolitan planning organization transportation plans; amending s. 784.07, F.S.; providing enhanced penalties for assault or battery of public transit employees or agents; amending s. 812.015, F.S.; prohibiting transit fare evasion; providing penalties; specifying deadlines and content; revising the membership of certain metropolitan planning organizations; amending s. 348.0003, F.S.; revising the membership of certain expressway authorities; amending s. 348.0004, F.S.; revising provisions with respect to the type of facilities under the jurisdiction of certain expressway authorities; creating s. 348.565, F.S.; authorizing financing and refinancing of Tampa-Hillsborough County Expressway System projects; amending s. 348.754, F.S.; providing for additional powers of the Orlando-Orange County Expressway Authority in certain counties; providing for the creation of a working group; providing responsibilities for the working group related to requisition of transportation disadvantaged services; amending s. 479.261, F.S.; revising provisions with respect to the logo-sign program; revising requirements for the placement of such signs; repealing s. 339.121, F.S., relating to aid and contribution by local governmental entities for public transportation projects; repealing s. 334.35, F.S., relating to the Florida Youth Conservation Corps; providing an effective date.

—as amended April 28 was read the third time by title.

Senator Dudley moved the following amendment which was adopted by two-thirds vote:

Amendment 1—On page 29, line 22, after the period (.) insert: *For operating and maintenance loans, the maximum net loan amount in any fiscal year shall not exceed 0.5 percent of state transportation tax revenues for that fiscal year.*

On motion by Senator Hargrett, **CS for CS for SB 2060** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Madam President	Clary	Grant	Kirkpatrick
Bankhead	Cowin	Gutman	Klein
Bronson	Crist	Hargrett	Kurth
Brown-Waite	Dantzler	Harris	Latvala
Burt	Diaz-Balart	Holzendorf	Lee
Campbell	Dudley	Horne	McKay
Casas	Dyer	Jenne	Meadows
Childers	Forman	Jones	Myers
Ostalkiewicz	Silver	Thomas	Williams
Rossin	Sullivan	Turner	

Nays—None

Vote after roll call:

Yea—Scott

Consideration of **CS for HB 1413** was deferred.

CS for SB 1144—A bill to be entitled An act relating to state planning and budgeting; amending s. 216.011, F.S.; defining the terms "disincentive" and "incentive" for purposes of budgeting and state fiscal affairs; amending s. 216.0166, F.S.; revising guidelines and requirements for state agencies to submit performance-based budget requests; providing for inclusion of incentives and disincentives in budget documentation; amending s. 216.0172, F.S.; revising the schedule for submission of performance-based program budget legislative budget requests; amending s. 216.0235, F.S.; requiring additional information to be included in program budget instructions; amending s. 216.031, F.S.; revising information to be contained in legislative budget requests; amending s. 216.163, F.S.; prescribing additional incentives and disincentives that may be included in the Governor's recommended budget; amending s. 216.292, F.S.; repealing a limitation on transfer of moneys to or from performance-based programs; amending s. 186.022, F.S.; amending s. 186.021, F.S.; revising requirements for state agency strategic plans; amending s. 121.051, F.S.; conforming a cross-reference to changes made by the act; amending s. 20.04, F.S.; exempting the department from certain structural requirements imposed on executive agencies; amending s. 20.22, F.S.; revising the organizational structure of the department; directing the Division of Statutory Revision of the Joint Legislative Management Committee to prepare a reviser's bill; providing for the preservation of the administrative rules of the department until specifically changed as provided by law; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Williams, **CS for SB 1144** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

Vote after roll call:

Yea—Scott

Consideration of **CS for SB 940** was deferred.

CS for SB 1860—A bill to be entitled An act relating to the Consultants' Competitive Negotiation Act; amending s. 287.055, F.S.; providing that municipalities, political subdivisions, school districts, and school boards, as an alternative to awarding design-build contracts using a competitive proposal selection process as described in said section, may award such contracts using a qualifications-based selection process pursuant to standards for competitive selection and competitive negotiation for entering into a contract for a guaranteed maximum price and completion date; providing an effective date.

—was read the third time by title.

On motion by Senator Lee, **CS for SB 1860** was passed and certified to the House. The vote on passage was:

Yeas—32

Madam President	Cowin	Harris	McKay
Bankhead	Crist	Jenne	Meadows
Bronson	Diaz-Balart	Jones	Myers
Brown-Waite	Dudley	Kirkpatrick	Rossin
Burt	Dyer	Klein	Silver
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams

Nays—5

Clary	Hargrett	Holzendorf	Ostalkiewicz
Dantzler			

Vote after roll call:

Yea—Horne, Scott, Sullivan

SB 1158—A bill to be entitled An act relating to taxation administration; amending ss. 20.04, 20.21, F.S., relating to the internal structure of the Department of Revenue; amending ss. 189.412, 195.087, 195.096, 195.097, 200.068, 200.0684, 213.015, 213.053, 213.2201, 409.2599, F.S., relating to powers and duties of the department; repealing s. 213.0451, F.S., relating to duties of division directors in the department; restoring those sections to the language and form in which they existed before their amendment by ss. 15-27, ch. 95-272, Laws of Florida; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; providing for retroactive effect; amending s. 199.103, F.S.; including middle tier stock holding companies in provisions which provide for valuation of stocks or shares of certain savings associations for intangible personal property tax purposes; correcting a reference; providing effective dates.

—as amended April 28 was read the third time by title.

On motion by Senator Williams, further consideration of **SB 1158** as amended was deferred.

CS for CS for SB 1824—A bill to be entitled An act relating to retirement; amending s. 121.011, F.S.; providing for purchase of retirement credit following reinstatement after suspension or dismissal under certain circumstances; amending s. 121.021, F.S.; defining the term "phased retirement program"; amending s. 121.052, F.S.; authorizing certain elected officers to elect membership in the Senior Management Service Class under specified conditions; clarifying provisions relating to purchase of retirement credit for upgraded service by certain elected officers and former elected officers; amending s. 121.053, F.S.; allowing Senior Management Service Class renewed membership service to be used by members with renewed membership in the Elected State And County Officers' Class; amending s. 121.055, F.S.; allowing certain elected officers to participate in the Senior Management Service Optional Annuity Program under certain conditions; authorizing local agency employers to reassess designation of positions for inclusion in the Senior Management Service Class; providing for removal of certain positions; providing that a Senior Management Service Optional Annuity Program benefit be paid only as a lifetime annuity; providing for State Board of Administration review of investment products; providing for payment of certain creditable service; amending s. 121.021, F.S.; redefining the term "termination" for Deferred Retirement Option Program participants; defining the term "DROP participants"; amending s. 121.091, F.S.; specifying that benefits may be payable to a participant's Deferred Retirement Option Program; providing for forfeiture of benefits for a beneficiary found guilty of killing or causing the death of the member; clarifying the effective date for a change of joint annuitant; providing certain reemployment exceptions for year 2000 computer problems; specifying that the option selection for payment of benefits shall be final at the time a benefit payment is assigned to the Deferred Retirement Option Program; specifying death benefits applicable to Deferred Retirement Option Program participants; specifying employment after retirement limitations applicable to Deferred Retirement Option Program participants; providing overview of the Deferred Retirement Option Program; providing eligibility criteria; providing for procedures for election of participation; providing for benefits payable; providing for death benefits; providing for a cost-of-living adjustment; specifying that health insurance subsidy payments are not payable; specifying that Deferred Retirement Option Program participation does not qualify as renewed membership; providing limitations on employment after participation; specifying contribution rates; specifying that Deferred Retirement Option Program participation does not exempt such participants from the forfeiture of benefits under the provisions of ss. 112.3173 and 121.091(5), F.S; providing for administration of the program; providing an appropriation; providing an effective date dependent upon the Division of Retirement's receipt of a favorable written determination letter and a favorable private letter ruling from the Internal Revenue Service; providing an appropriation; amending s. 121.1115, F.S.; authorizing the purchase of retirement credit under the Florida Retirement System for certain out-of-state and federal service; creating s. 121.1122, F.S.; allowing the purchase of certain in-state service; amending s. 121.121, F.S.; providing for authorized leave of absence credit after 1 month on an employer's payroll; amending s. 121.122, F.S.; allowing renewed membership in the Senior Management Service Class; amending s. 121.23; providing for reasonable attorney's fees for a disability retirement order issued by the State Retirement Commission which sustains the application of a member; amending s. 121.30, F.S.; providing for inclusion of cost-of-living adjustments in the calculation of the federal maximum benefit limit; amending s. 121.35, F.S.; providing for membership in the Florida Retirement System under certain circumstances; providing that contributions accumulated in the Florida Retirement System Trust Fund for certain participants be applied toward retroactive system membership; limiting the employee contribution to the Optional Retirement Program to the federal limitations and providing that program benefits be paid only as a lifetime annuity except in certain circumstances; providing for State Board of Administration review of investment products; amending s. 121.051, F.S.; providing for optional participation in plans other than the Florida Retirement System under certain circumstances; amending s. 238.181, F.S.; providing for participation in a phased retirement system for certain employees of a community college; repealing ss. 25.101, 25.112, 25.122, 25.131, 25.141, 25.161, 38.14, 38.15, 38.16, 38.17, 38.19, F.S., relating to retirement for justices and judges; repealing ch. 123, F.S.; the Supreme Court Justices, District Courts of Appeal Judges, and Circuit Judges Retirement System; providing an appropriation for certain attorney's fees approved by the State Retirement Commission; providing rulemaking authority; providing a finding of important state interest; providing future periodic open enrollment periods for state retirees who want to obtain health coverage; providing conditions; providing eligibility; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Thomas, **CS for CS for SB 1824** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

Vote after roll call:

Yea—Scott

CS for HB 147—A bill to be entitled An act relating to marriage; providing that same-sex marriages entered into in any jurisdiction, whether within, or outside the State of Florida, the United States, or any other jurisdiction, either domestic or foreign, or any other place or location are not recognized in this state; prohibiting the state and its agencies and subdivisions from giving effect to specified public acts, records, or proceedings respecting such relationships or claims arising from such relationships; providing an effective date.

—was read the third time by title.

On motion by Senator Grant, **CS for HB 147** was passed and certified to the House. The vote on passage was:

Yeas—33

Madam President	Crist	Horne	Myers
Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Diaz-Balart	Jones	Scott
Brown-Waite	Dudley	Kirkpatrick	Sullivan
Burt	Dyer	Klein	Thomas
Casas	Grant	Kurth	Williams
Childers	Hargrett	Latvala	
Clary	Harris	Lee	
Cowin	Holzendorf	McKay	

Nays—5

Campbell	Meadows	Silver	Turner
Forman			

CS for HB 1413—A bill to be entitled An act relating to state financial matters; amending s. 215.322, F.S.; providing for the acceptance of charge cards and debit cards by state agencies, units of local government, and the judicial branch; providing a time period for certain actions; authorizing a convenience fee; providing for the application of the act on certain contracts; amending s. 282.20, F.S.; revising language with respect to the Technology Resource Center; defining the term "customer"; eliminating a data processing policy board; creating s. 282.21, F.S.; authorizing the Department of Management Services to collect fees for the use of its electronic access services; creating s. 282.22, F.S.; providing for the production and dissemination of materials and products by the Department of Management Services; providing legislative intent with respect to the use of card-based technology; providing standards for state agencies; providing for the submission of certain acquisition documentation to the Florida Fiscal Accounting Management Information System Coordinating Council; providing applicability; repealing s. 282.313, F.S.; relating to data processing policy boards; providing an effective date.

—as amended by **Senate Amendment 1** April 28 was read the third time by title.

Senator Dudley moved the following amendment to **Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1A—On page 8, lines 2-4, delete those lines and insert: *jurisdictions. A Florida international notary is not authorized to issue authentication instruments for use in a non-United States jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et seq.*

On motion by Senator Kirkpatrick, **CS for HB 1413** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Dantzler	Jenne	Ostalkiewicz
Bankhead	Diaz-Balart	Jones	Rossin
Bronson	Dudley	Kirkpatrick	Scott
Brown-Waite	Dyer	Klein	Silver
Campbell	Forman	Kurth	Sullivan
Casas	Grant	Latvala	Thomas
Childers	Gutman	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

CS for SB 940—A bill to be entitled An act relating to information resources management; amending s. 11.39, F.S.; revising the duties of the Legislative Information Technology Resource Committee; amending s. 120.52, F.S.; providing an additional exclusion to the definition of "rule"; amending ss. 186.021 and 186.022, F.S.; revising provisions relating to information resources management in state agency strategic plans and review thereof; creating s. 216.0446, F.S.; authorizing a mechanism for the review of portions of agency strategic plans and legislative budget requests that pertain to information resource management needs; naming this mechanism the Technology Review Workgroup; amending s. 216.181, F.S.; requiring review and approval of amendments to approved budgets which involve specified information resource management initiatives or projects; amending s. 282.003, F.S.; revising the short title of ch. 282, F.S.; creating s. 282.005, F.S.; providing legislative findings and intent with respect to information resources management; amending s. 282.303, F.S.; revising definitions; creating s. 282.3031, F.S.; providing for assignment of information resources management responsibilities; creating s. 282.3032, F.S.; providing guiding principles for development and implementation of information systems; creating s. 282.3041, F.S.; providing for information resources management responsibilities within state agencies; creating s. 282.3055, F.S.; creating the position of Chief Information Officer; providing duties; creating s. 282.3063, F.S.; requiring an Agency Annual Information Resources Management Report; creating s. 282.3091, F.S.; creating the State Technology Council; providing legislative intent; providing membership, powers, and duties; creating s. 282.3093, F.S.; creating the State Technology Office; providing legislative intent; providing powers and duties; creating s. 282.310, F.S.; requiring a State Annual Report on Information Resources Management; creating s. 282.315, F.S.; creating the Chief Information Officers Council; providing legislative intent; providing purposes, membership, and duties; amending s. 282.102, F.S.; authorizing the Division of Communications of the Department of Management Services to publish electronically a portfolio of its services; specifying the information to be included in the portfolio; requiring that the information also be provided in hard copy; repealing s. 282.1021, F.S., which requires the Division of Communications to develop a biennial plan for communication services; amending s. 282.20, F.S., relating to the Technology Resource Center; removing references to the Information Resource Commission; amending s. 282.313, F.S.; revising membership and duties of the data processing policy boards; amending s. 282.318, F.S.; revising security requirements for data and information technology resources; amending s. 282.322, F.S., relating to special monitoring for designated information resources management projects; providing for the assumption of specified responsibilities by the Technology Review Workgroup; amending s. 282.404, F.S., relating to the Geographic Information Board; requiring the board to develop an annual strategic plan; removing references to the Information Resource Commission; revising the membership of the Geographic Information Advisory Council; repealing s. 282.004, F.S., relating to legislative intent with respect to information resources management and paperwork reduction; repealing s. 282.304, F.S., which provides for the creation of the Information Resource Commission; repealing s. 282.307, F.S., which requires each department to submit a strategic plan for information resources management; repealing s. 282.308, F.S., which requires each state university to prepare a strategic plan for information resources management; repealing s. 282.312, F.S., which requires the submission of annual performance reports to the Information Resource Commission; repealing s. 287.0735, F.S., which requires the review of contracts relating to the acquisition of information technology resources by the Information Resource Commission; repealing s. 287.073(5), (6), (7), and (8), F.S., which creates the Information Technology Resource Procurement Advisory Council within the Department of Management Services; repealing s. 216.0445, F.S., relating to budget evaluation by the Information Resource Commission; repealing s. 282.309, F.S., which requires the preparation of strategic plans for information resources management by the judicial branch; repealing s. 282.311, F.S., which provides for information resource managers; repealing s. 282.305, F.S., which provides powers and duties of the Information Resource Commission and the Board of Regents with respect to information resources management; repealing s. 282.3061, F.S., which provides for a State Strategic Plan for Information Resources Management; repealing s. 282.3062, F.S., which requires an annual report on information resources management by the Information Resource Commission; repealing s. 282.314, F.S., which creates the Information Resources Management Advisory Council; amending s. 215.90, F.S.; renaming the "Florida Fiscal Accounting Management Information System Act" the "Florida Financial Management Information System Act"; amending s. 215.91, F.S.; providing legislative intent; amending s. 215.92, F.S.; revising definitions; amending s. 215.93, F.S.; providing requirements with respect to the Florida Financial Management Information System and its subsystems; amending s.

215.94, F.S.; revising provisions with respect to the designation, duties, and responsibilities of the functional owners; amending s. 215.95, F.S.; renaming the Fiscal Accounting Information Board as the Financial Management Information Board and revising its duties; requiring the board to develop an annual strategic plan; amending s. 215.96, F.S.; revising provisions with respect to the coordinating council and its membership and duties; providing for design and coordination staff; amending s. 216.141, F.S.; revising provisions with respect to budget system procedures and planning and programming by state agencies; creating a Health Information Systems Council to facilitate coordination and sharing of health-related data; requiring the council to develop and approve an annual strategic plan; amending ss. 20.19, 20.316, and 20.41, F.S., to conform and correct cross-references; amending s. 112.3145, F.S.; removing voting members of the Information Technology Resource Procurement Advisory Council from the definition of "specified state employee"; amending s. 216.031, F.S.; correcting a cross-reference; amending ss. 216.235 and 216.236, F.S., to conform; amending s. 287.042, F.S., relating to the powers, duties, and functions of the Division of Purchasing of the Department of Management Services, to conform; amending s. 287.073, F.S.; conforming the definition of "information technology resources"; amending s. 943.08, F.S.; requiring the Criminal and Juvenile Justice Information Systems Council to develop and approve an annual strategic plan; requiring that the current staff of the Information Resource Commission be given priority consideration for vacant or new positions; providing for storage of records and requiring that the records of the Information Resource Commission be transferred to the State Technology Office; providing for the repeal of the administrative rules of the Information Resource Commission on June 30, 1998; providing for the transfer of specified unexpended appropriations to the Technology Review Workgroup; providing for a reviser's bill; providing a definition; specifying the types of information to be included in the collaborative systems; specifying participants in the collaborative systems; requiring a steering committee to govern each collaborative system; requiring a system security plan; authorizing collaborative system members to share client information; imposing restrictions to protect confidential client information; encouraging participation in the collaborative systems; providing effective dates.

—as amended April 28 was read the third time by title.

On motion by Senator Kirkpatrick, **CS for SB 940** as amended was passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Dantzler	Holzendorf	McKay
Bankhead	Diaz-Balart	Horne	Meadows
Bronson	Dudley	Jenne	Myers
Brown-Waite	Dyer	Jones	Ostalkiewicz
Campbell	Forman	Kirkpatrick	Rossin
Casas	Grant	Klein	Silver
Childers	Gutman	Kurth	Sullivan
Clary	Hargrett	Latvala	Thomas
Crist	Harris	Lee	Turner

Nays—None

Vote after roll call:

Yea—Cowin

HB 395—A bill to be entitled An act relating to preservation of covenants or restrictions; amending s. 712.01, F.S.; revising and adding definitions; amending ss. 712.03, 712.05, and 712.06, F.S.; protecting certain covenants or restrictions from extinguishment; providing for preservation of certain covenants or restrictions under certain circumstances; authorizing certain homeowners' associations to file for preservation of covenants or restrictions on behalf of certain parcel owners; providing a limitation; revising certain notice provisions to conform; providing an exception; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Myers, **HB 395** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

CS for HB 113—A bill to be entitled An act relating to homeowners' associations; amending s. 617.303, F.S.; providing that statutory provisions applicable to association board meetings apply to meetings of committees when a final decision will be made regarding the expenditure of association funds; amending s. 617.305, F.S.; increasing the limit on fines that an association may impose on members, tenants, guests, or invitees; providing an exemption from the prohibition against an association suspending the voting rights of a member; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Dyer, **CS for HB 113** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Holzendorf	Ostalkiewicz
Bankhead	Dantzler	Horne	Rossin
Bronson	Diaz-Balart	Jones	Scott
Brown-Waite	Dudley	Kirkpatrick	Silver
Burt	Dyer	Kurth	Sullivan
Campbell	Forman	Latvala	Turner
Casas	Grant	Lee	Williams
Childers	Gutman	McKay	
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	

Nays—1

Klein

Consideration of **CS for HB 889** and **CS for SB 750** was deferred.

SPECIAL ORDER CALENDAR

SENATOR BRONSON PRESIDING

On motion by Senator Diaz-Balart—

CS for SB 1464—A bill to be entitled An act relating to workers' compensation; amending s. 440.45, F.S.; revising term of office, qualifications and method of nomination for the Chief Judge of the Office of the Judges of Compensation Claims; providing for expiration of term of office for members of the statewide nominating commission for judges of compensation claims; providing for new appointments to the nominating commission and staggered terms; revising the procedures for nominating commission regarding performance of sitting judges and regarding nominations of applicants; providing for expiration of the term of office and reappointment of the Chief Judge of Compensation Claims; amending s. 440.49, F.S.; revising procedures and requirements for reimbursement from the Special Disability Trust Fund; providing for barring the filing of a claim for reimbursement under certain circumstances; providing a maximum fund assessment rate; requiring certain fees; requiring the Department of Labor and Employment Security to prepare an annual report; providing a schedule for reimbursements from the fund under certain circumstances; amending s. 624.468, F.S.; requiring self-insurance funds to maintain a positive surplus to policyholder; amending s. 624.470, F.S.; establishing standards for the use of future investment income as an asset for self-insurance funds; amending s.

624.488, F.S.; applying certain portions of the insurance code to self-insurance funds; amending s. 628.6014, F.S.; establishing standards for the use of future investment income as an asset for assessable mutual insurers; amending s. 625.091, F.S.; requiring the Department of Insurance to adopt rules for accounting for anticipated recoveries under the Special Disability Trust Fund; amending s. 631.021, F.S.; requiring the Department of Insurance to notify the Florida Self-Insurance Fund Guaranty Association of all hearings pertaining to insolvency of a self-insurance fund; amending s. 631.915; providing for retroactive coverage of pre-1994 claims of the Florida Self-Insurance Fund Guaranty Association; amending s. 631.93, F.S.; revising the membership of the board of the association; amending s. 631.935, F.S.; revising the powers of the association; providing standing to the association to appear before a court under certain circumstances; removing the prohibition against allocating state funds to the association; amending s. 631.94, F.S.; authorizing the association to assess insurers under certain conditions; providing limitations on such assessments; amending s. 215.22, F.S.; exempting certain fees to the Special Disability Trust Fund from the surcharge to the General Revenue Fund; providing an appropriation from the Insurance Commissioner's Regulatory Trust Fund and the Workers' Compensation Administration Trust Fund to the Florida Group Self-Insurance Fund Account; providing a limitation on the appropriation to the Division of Safety of the Department of Labor and Employment Security; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for SB 1464** to **HB 1933**.

Pending further consideration of **CS for SB 1464** as amended, on motion by Senator Diaz-Balart, by two-thirds vote **HB 1933** was withdrawn from the Committees on Banking and Insurance; and Ways and Means.

On motions by Senator Diaz-Balart, by two-thirds vote—

HB 1933—A bill to be entitled An act relating to workers' compensation; amending s. 440.49, F.S.; revising procedures and requirements for reimbursement from the fund; providing for barring the filing of a claim for reimbursement under certain circumstances; providing a maximum fund assessment rate; requiring certain fees; requiring the Department of Labor and Employment Security to prepare an annual report; providing a schedule for reimbursements from the fund under certain circumstances; amending s. 625.091, F.S.; providing for accounting for anticipated recoveries under the Special Disability Trust Fund; requiring insurers to identify anticipated recoveries from the fund; providing an appropriation; amending s. 624.4621, F.S.; requiring self-insurance funds to maintain a positive surplus to policyholders; amending s. 624.468, F.S.; requiring self-insurance funds to maintain a positive surplus to policyholders; amending s. 624.470, F.S.; establishing standards for the use of future investment income as an asset for self-insurance funds; amending s. 624.476, F.S.; providing that the Department of Insurance may be appointed receiver for a self-insurance fund under certain circumstances; authorizing the administrative supervision of a self-insurance fund under certain conditions; creating s. 624.477, F.S.; requiring the Department of Insurance to supervise, as receiver, the liquidation, rehabilitation, reorganization, conservation, or dissolution of self-insurance funds; amending s. 624.488, F.S.; applying provisions of the Florida Insurance Code relating to rehabilitation and liquidation of an insurer to self-insurance funds; applying provisions relating to insurer assets, liabilities, and deposits to self-insurance funds; applying a provision relating to assessable mutual insurer annual reports to self-insurance funds; amending s. 628.6014, F.S.; establishing standards for the use of future investment income as an asset for assessable mutual insurers; amending s. 631.021, F.S.; providing for delinquency proceedings, venue, remedies, and appeals; amending s. 631.182, F.S.; providing for claims reports and procedures; amending s. 631.331, F.S.; providing for notice, payment, and collection procedure; amending s. 631.391, F.S.; providing for revocation of insurance-related licenses under certain conditions; amending s. 631.397, F.S.; specifying applicability of provision relating to use of marshaled assets; amending s. 631.52, F.S.; providing scope of direct insurance; amending s. 631.54, F.S.; providing definitions; amending s. 631.55, F.S.; providing for creation of the association; amending s. 631.57, F.S.; providing for powers and duties of the association; creating ss. 631.901, 631.902, 631.903, 631.904, 631.911, 631.912, 631.913, 631.914, 631.916, 631.917, 631.918, 631.919, 631.921, 631.922, 631.923, 631.924, 631.926, and 631.927, F.S.; creating the "Florida Workers' Compensation Insurance Guaranty Association Act"; providing purposes; providing construction; providing definitions; creating the Florida Workers' Compensation Insurance Guaranty Association, Incorporated, by merging the Florida Self-Insurance Fund Guaranty Association and the workers' compensation insurance account; providing for effect of the merger; providing requirements; providing for a board of directors; providing powers and duties of the corporation; authorizing the board to levy assessments for certain purposes; providing procedures; providing requirements and limitations; authorizing an additional assessment for certain purposes; providing procedures; providing requirements and limitations; requiring the board to prepare a plan of operation; providing requirements; providing powers of the board to prevent insolvencies and impairments; providing for examination of certain insurers by the department for certain purposes; providing immunity from liability; specifying prohibited advertisement of solicitation; providing powers of the Department of Insurance; providing for liability of members of impaired self-insurance funds; providing for effect of paid claims; providing requirements; providing procedures; providing for staying certain proceedings; providing for setting aside certain judgments, orders, decisions, verdicts, or findings under certain circumstances; providing for nonapplication of certain attorney's fees provisions under certain circumstances; providing for assumption of liability by the corporation of certain payments; amending s. 631.996, F.S.; creating the Florida Workers' Compensation Insurance Guaranty Fund Account; amending s. 631.915, F. S.; revising definitions; amending s. 631.935, F.S.; providing for powers and duties of the association; creating s. 631.929, F.S.; providing for election of remedies by injured workers; providing procedures; providing requirements; amending s. 631.997, F.S.; providing for reports and recommendations of the board; amending s. 631.998, F.S.; providing for application of provisions relating to negotiations with an insurer to the corporation; directing that certain provisions not be published in the Florida Statutes; provides for a report; providing an appropriation from the Insurance Commissioner's Regulatory Trust Fund to the Florida Self-Insurance Fund Guaranty Association; providing for disbursement of appropriated funds; repealing ss. 631.90, 631.905, 631.91, 631.915, 631.92, 631.925, 631.93, 631.935, 631.94, 631.945, 631.95, 631.955, 631.96, 631.965, 631.97, 631.975, 631.98, 631.985, 631.99, and 631.995, F.S., relating to the Florida Self-Insurance Fund Guaranty Association; providing an effective date.

—a companion measure, was substituted for **CS for SB 1464** as amended and by two-thirds vote read the second time by title.

THE PRESIDENT PRESIDING

Pursuant to Rule 4.19, **HB 1933** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dudley, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

CS for HB 889—A bill to be entitled An act relating to liens; amending s. 255.05, F.S.; including unpaid finance charges due under a claimant's contract among charges which may be assessed against certain contractors' bonds; revising language with respect to the timeframe for notice of intent to look to such a bond for recovery; providing for the time period for notice of nonpayment; providing forms for waiver of rights to claim against the bond for progress payments and final payments; amending s. 713.06, F.S.; providing for service of notice of commencement rather than mailing with respect to liens of persons not in privity; amending s. 713.132, F.S.; providing that a notice of termination is effective under certain circumstances; amending s. 713.135, F.S.; providing that certain applicants for a building permit must file certain information with respect to the notice of commencement; amending s. 713.20, F.S.; allowing an owner to withhold certain amounts from payments to contractors in certain situations; providing an effective date.

—was read the third time by title.

On motion by Senator Dudley, **CS for HB 889** was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Bronson	Campbell	Childers
Bankhead	Brown-Waite	Casas	Clary

Cowin	Gutman	Kurth	Scott
Crist	Harris	Latvala	Silver
Dantzler	Holzendorf	Lee	Sullivan
Diaz-Balart	Horne	McKay	Thomas
Dudley	Jenne	Meadows	Turner
Dyer	Jones	Myers	Williams
Forman	Kirkpatrick	Ostalkiewicz	
Grant	Klein	Rossin	

Nays—None

Vote after roll call:

Yea—Burt

CS for SB 750—A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.021, F.S.; providing for reasonable costs and attorney's fees when the obligation of good faith and fair dealing is breeched; amending s. 723.037, F.S.; revising provisions with respect to lot rental increases; amending s. 723.0381, F.S.; revising arbitration procedures; amending s. 723.071, F.S.; revising provisions with respect to the sale of mobile home parks; providing an effective date.

—as amended April 28 was read the third time by title.

On motion by Senator Latvala, **CS for SB 750** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Jenne	Ostalkiewicz
Bankhead	Dantzler	Jones	Rossin
Bronson	Dudley	Kirkpatrick	Scott
Brown-Waite	Dyer	Klein	Silver
Burt	Forman	Kurth	Thomas
Campbell	Grant	Latvala	Turner
Casas	Gutman	Lee	Williams
Childers	Hargrett	McKay	
Clary	Harris	Meadows	
Cowin	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Diaz-Balart, Holzendorf, Sullivan

SPECIAL ORDER CALENDAR, continued

On motion by Senator Lee—

CS for SB 1958—A bill to be entitled An act relating to the municipal public service tax; providing legislative intent; amending s. 166.231, F.S.; providing that specified governmental bodies are exempt from the tax; exempting certain religious institutions from the tax on telecommunication services; revising provisions relating to determination of the situs of telecommunication services; providing requirements for returns and remittance of the tax on telecommunication services; requiring certain purchasers claiming exemptions to certify that they are qualified therefor; requiring governmental bodies that sell taxable services to nonexempt users to collect and remit the tax; creating s. 166.233, F.S.; providing requirements for levy of the tax; specifying effective dates; providing duties of the Department of Revenue; requiring municipalities to furnish certain information relating to the tax to the Department of Revenue and to other persons; providing for fees; providing limitations on the responsibilities of sellers if information is not furnished as required; providing procedures that apply when more than one municipality claims an address or when information does not conform to the seller's address records; creating s. 166.234, F.S.; providing procedures for audits of sellers by municipalities; prohibiting contingent fee audits; prescribing record retention requirements for sellers; providing time limitations on assessments of taxes and on applications for refunds or credits; providing for offsets of overpayments against underpayments and for refunds and credits; authorizing municipalities to assess interest and penalties; providing requirements with respect to a determination by a municipality of amounts of tax; providing protest procedures and judicial remedies; providing for settlement or compromise of a seller's liability for taxes; providing for interest on refunds if a law is enacted requiring interest on sales or gross receipts tax refunds; providing rights and duties of municipalities and sellers; providing for communications between municipalities with respect to specified matters relating to audits and the identities of sellers; prescribing the circumstances for assessment of audit expenses against a seller; providing a schedule for application of the requirements of the act; providing an appropriation; providing for severability; providing an effective date.

—was read the second time by title.

Senator Lee moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 6, line 15, before the period (.) insert: *; however the universities in the State University System shall not be deemed a seller of any item otherwise taxable hereunder when such item is provided to university residencies incidental to the provision of educational services*

And the title is amended as follows:

On page 1, line 16, after the semicolon (;) insert: providing that certain universities are not sellers;

SENATOR HARRIS PRESIDING

Amendment 2 (with title amendment)—On page 29, between lines 9 and 10, insert:

Section 8. Subsection (10) is added to section 203.01, Florida Statutes, 1996 Supplement, to read:

203.01 Tax on gross receipts for utility services.—

(10) Notwithstanding the provisions of subsection (5) and s. 212.07(2), sums that were charged or billed as taxes under this section and chapter 212 and that were remitted to the state in full as taxes shall not be subject to refund by the state or by the utility that remitted the sums, where the amount remitted was not in excess of the amount of tax imposed by chapter 212 and this chapter.

Section 9. Subsection (4) is added to section 203.63, Florida Statutes, to read:

203.63 Tax on interstate and international telecommunication services.—

(4) Notwithstanding the provisions of subsection (1) and s. 212.07(2), sums that were charged or billed as taxes under this section and chapter 212 and that were remitted to the state in full as taxes shall not be subject to refund by the state or by the utility that remitted the sums, where the amount remitted was not in excess of the amount of tax imposed by chapter 212 and this chapter.

Section 10. *It is the intent of the Legislature that the amendments by this act to sections 203.01 and 203.63, Florida Statutes, are remedial and are intended to clarify existing law.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 24, after the semicolon (;) insert: amending ss. 203.01, 203.63, F.S., relating to taxes on gross receipts for utility services and taxes on certain telecommunication services; providing that certain sums billed or charged as taxes remitted to the state shall not be subject to refund; providing legislative intent;

Amendment 3—In title, on page 1, line 2, delete "the municipal public service tax" and insert: taxation

Pursuant to Rule 4.19, **CS for SB 1958** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Rossin—

SB 2252—A bill to be entitled An act relating to the tourist development tax; amending s. 125.0104, F.S.; providing for a county to levy an additional tax for the purpose of paying the operating deficit of a conven-

tion center located in a community redevelopment area; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Rossin and failed:

Amendment 1 (with title amendment)—On page 1, line 15 through page 3, line 13, delete those lines and insert:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(n) In addition to any other tax that is imposed under this section, a county that has imposed the tax under paragraph (l) may impose an additional tax that is no greater than 1 percent on the exercise of the privilege described in paragraph (a) by a majority plus one vote of the membership of the board of county commissioners in order to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162 *or to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, and pay the utilities for one or more publicly owned and operated convention centers within the boundaries of the county in which the tax is levied*. A county that imposes the tax authorized in this paragraph may not expend any ad valorem tax revenues for the construction, reconstruction, or renovation of that facility. The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section shall not apply to the additional tax authorized by this paragraph in counties which levy convention development taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph is the first day of the second month following approval of the ordinance by the board of county commissioners or the first day of any subsequent month specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of the ordinance.

And the title is amended as follows:

On page 1, lines 5-7, delete those lines and insert: purpose of paying for a convention center in the county or subcounty special district that levies the tax; providing an effective

Amendment 2 (with title amendment)—On page 3, between lines 13 and 14, insert:

Section 2. Paragraph (o) of subsection (7) of section 212.08, Florida Statutes, is amended, and paragraph (nn) is added to that subsection, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by this part transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1986, as amended, which owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature, and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1986, as amended, which provides regular religious services to Florida state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community on a weekly basis.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer staff to organizations designated as charitable institutions under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph. Notwithstanding any other requirement of this section, any blood bank that relies solely upon volunteer donations of blood and tissue, that is licensed under chapter 483, and that

qualifies as tax exempt under s. 501(c)(3) of the Internal Revenue Code constitutes a charitable institution and is exempt from the tax imposed by this part.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association. Nonprofit libraries, art galleries, *performing arts centers that provide educational programs to school children, which programs involve performances or other educational activities at the performing arts center and serve a minimum of 50,000 school children a year,* and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members. The term "educational institutions" also includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer certificate of exemption and which are either an educational institution as defined in this sub-subparagraph, or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: amending s. 212.08, F.S.; providing for a tax exemption for specified performing arts centers;

The Committee on Community Affairs recommended the following amendments which were moved by Senator Rossin and failed:

Amendment 3 (with title amendment)—On page 3, between lines 13 and 14, insert:

Section 2. Paragraph (b) of subsection (2) of section 212.054, Florida Statutes, 1996 Supplement, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)

(b) However:

1. The tax on any sales amount above $5,000 on any item of tangible personal property and on long-distance telephone service shall not be subject to the surtax. For purposes of administering the $5,000 limitation on an item of tangible personal property, if two or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the $5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental. The limitation provided in this subparagraph does not apply to the sale of any other service.

2. In the case of utility, telecommunication, or television system program services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or television system program services shall be subject to the surtax. In the case of utility, telecommunication, or television system program services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Transactions that are subject to the tourist development tax levied and imposed under s. 125.0104(3) are not subject to the discretionary surtax levied under s. 212.055 by the governing body of a high tourism impact county if:

a. The aggregate rate of the tourist development tax levied and imposed on such transactions within the county equals or exceeds 5 percent; and

b. The discretionary surtax that is initially levied by the governing body of the county has an effective date of January 1, 1998, or later.

If the tourist development tax is levied and imposed only in a subcounty special district and not in the entire county, the exemption provided under this subparagraph applies only in the subcounty special district. If the aggregate rate of the tourist development tax levied and imposed within the county or subcounty special district is reduced to less than 5 percent, the exemption provided under this subparagraph no longer applies within the county or subcounty special district.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: amending s. 212.054, F.S.; exempting from newly enacted discretionary sales surtaxes transactions that are subject to specified tourist development taxes in an aggregate rate that exceeds a specified maximum;

Amendment 4—On page 2, lines 3 and 4, delete those lines and insert: *in s. 163.340.*

Senator Rossin moved the following amendment which was adopted:

Amendment 5 (with title amendment)—On page 1, line 15 through page 3, line 13, delete those lines and insert:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(n) In addition to any other tax that is imposed under this section, a county that has imposed the tax under paragraph (l) may impose an additional tax that is no greater than 1 percent on the exercise of the privilege described in paragraph (a) by a majority plus one vote of the membership of the board of county commissioners in order to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162 *or to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, and pay the utilities for one or more publicly owned and operated convention centers within the boundaries of the county or subcounty special taxing district in which the tax is levied*. A county that imposes the tax authorized in this paragraph may not expend any ad valorem tax revenues for the construction, reconstruction, or renovation of that facility. The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section shall not apply to the additional tax authorized by this paragraph in counties which levy convention development taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph is the first day of the second month following approval of the ordinance by the board of county commissioners or the first day of any subsequent month specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of the ordinance.

And the title is amended as follows:

On page 1, lines 5-7, delete those lines and insert: purpose of paying for a convention center in the county or subcounty special district that levies the tax; providing an effective

Pursuant to Rule 4.19, **SB 2252** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Bronson—

CS for CS for SB 64—A bill to be entitled An act relating to the local option tourist development tax; amending s. 125.0104, F.S.; providing that certain high tourism impact counties may use certain tax revenues to acquire a convention center, pay the cost of constructing or renovating a convention center, or pay the debt service on bonds issued for such purposes; providing for the use of any remaining revenues; providing an effective date.

—was read the second time by title.

Senator Bronson moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraphs (l) and (n) of subsection (3) of section 125.0104, Florida Statutes, 1996 Supplement, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(l) In addition to any other tax which is imposed pursuant to this section, a county may impose up to an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by majority vote of the governing board of the county in order to:

1. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional sports franchise facility, either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds.

2. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a convention center, and to pay the planning and design costs incurred prior to the issuance of such bonds. *As used in this section, the term "convention center" does not include any facility having a hotel, motel, or other transient living accommodations as described in s.509.013(4)(a) which are licensed under part I of chapter 509.*

~~3.~~ Only counties that have elected to levy the tax initially for the purposes authorized in subparagraph 1. may use the tax for the purposes enumerated in subparagraph 2. *A high tourism impact county that imposes the tax authorized by paragraph (m) and qualifies as a high tourism impact county under paragraph (m) because it had sales subject to the tax levied pursuant to this section which were at least 18 percent of the county's total taxable sales under chapter 212, and the sales subject to the tax levied pursuant to this section were a minimum of $200 million, but that is not authorized to levy the tax under s. 125.0108, may use the tax revenues received pursuant to this paragraph to acquire a convention center, or to pay the cost of planning, designing, constructing, reconstructing, or renovating a convention center, and to pay the debt service on bonds issued for such purposes, whether or not the tax is levied initially to finance the construction, reconstruction, or renovation of a professional sports franchise facility. In such event, any remaining tax revenue shall be used to promote and advertise the convention center or tourism in general.* The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section, and the provisions of paragraphs (4)(a) through (d), shall not apply to the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(n) In addition to any other tax that is imposed under this section, a county that has imposed the tax under paragraph (l) may impose an additional tax that is no greater than 1 percent on the exercise of the privilege described in paragraph (a) by a majority plus one vote of the membership of the board of county commissioners in order to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162 *or to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, and pay the utilities for one or more publicly owned and operated convention centers within the boundaries of the county or subcounty special taxing district in which the tax is levied. Each county may establish one subcounty special district for the purpose of levying the tax authorized by this paragraph*. A county that imposes the tax authorized in this paragraph may not expend any ad valorem tax revenues for the construction, reconstruction, or renovation of that facility. The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section shall not apply to the additional tax authorized by this paragraph in counties which levy convention development taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph is the first day of the second month following approval of the ordinance by the board of county commissioners or the first day of any subsequent month specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of the ordinance.

Section 2. Paragraph (b) of subsection (2) of section 212.054, Florida Statutes, 1996 Supplement, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)

(b) However:

1. The tax on any sales amount above $5,000 on any item of tangible personal property and on long-distance telephone service shall not be subject to the surtax. For purposes of administering the $5,000 limitation on an item of tangible personal property, if two or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the $5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental. The limitation provided in this subparagraph does not apply to the sale of any other service.

2. In the case of utility, telecommunication, or television system program services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or television system program services shall be subject to the surtax. In the case of utility, telecommunication, or television system program services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Transactions that are subject to the tourist development tax levied and imposed under s. 125.0104(3) are not subject to the discretionary surtax levied under s. 212.055 by the governing body of a high tourism impact county if:

a. The aggregate rate of the tourist development tax levied and imposed on such transactions within the county equals or exceeds 5 percent; and

b. The discretionary surtax that is initially levied by the governing body of the county has an effective date of January 1, 1998, or later.

If the tourist development tax is levied and imposed only in a subcounty special district and not in the entire county, the exemption provided under this subparagraph applies only in the subcounty special district. If the aggregate rate of the tourist development tax levied and imposed within the county or subcounty special district is reduced to less than 5 percent, the exemption provided under this subparagraph no longer applies within the county or subcounty special district.

Section 3. Effective July 1, 1997, paragraph (d) of subsection (2) of section 212.055, Florida Statutes, 1996 Supplement, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 50,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. *Charter counties and* counties~~,~~ as defined in s. 125.011(1)~~,~~ may, in addition, use the proceeds *and any interest accrued thereon* to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes *and, for bonds subsequently issued, to refund such bonds.*

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

Section 4. *Any use of the proceeds of the surtax authorized by subsection (2) of section 212.055, Florida Statutes, or of any interest accrued on such proceeds, for purposes of retiring or servicing indebtedness incurred before July 1, 1997, for refunding bonds issued after July 1, 1987, is ratified.*

Section 5. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, delete everything before the enacting clause and insert: A bill to be entitled An act relating to local option taxes; amending s. 125.0104, F.S.; revising provisions which authorize the levy of an additional local option tourist development tax to pay debt service on bonds for a professional sports franchise facility or convention center; revising the uses, and the conditions for use, of the revenues of said tax by certain high tourism impact counties; providing a definition of "convention center"; providing additional uses for the additional tax authorized to be levied by counties which levy said tax; amending s. 212.054, F.S.; exempting from newly enacted discretionary sales surtaxes levied by a high tourism impact county transactions that are subject to specified tourist development taxes in an aggregate rate that exceeds a specified maximum; amending s. 212.055, F.S.; authorizing charter counties and counties as defined in s. 125.011, F.S., to use the proceeds of local government infrastructure surtax revenues and interest thereon to retire or service indebtedness incurred for certain bonds and to refund bonds issued after a specified date; ratifying any use of such proceeds or interest for purposes of retiring or servicing indebtedness incurred before July 1, 1997, for refunding certain bonds; providing effective dates.

Senator Ostalkiewicz moved the following amendment to **Amendment 1** which failed:

Amendment 1A (with title amendment)—On page 2, line 31, after "*facility*" insert: *, if the majority of registered electors in the county who vote in a referendum approve such use or uses*

And the title is amended as follows:

On page 9, line 27, after "tax" insert: , if the voters approve those purposes by referendum

The question recurred on **Amendment 1** which was adopted.

Pursuant to Rule 4.19, **CS for CS for SB 64** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for HB 703** was deferred.

CS for SB 1956—A bill to be entitled An act relating to education; amending s. 232.245, F.S.; revising provisions relating to a district's comprehensive program for pupil progression; requiring remedial instruction and retention of students who have not met district-required and state-required levels of proficiency; providing reporting requirements; authorizing exemption from retention requirements; amending s. 232.2454, F.S.; revising provisions relating to student performance standards, instruments, and assessment procedures; providing an effective date.

—was read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 4, lines 17 and 20, delete "*Commissioner of Education*" and insert: *local school board*

And the title is amended as follows:

On page 1, line 7, delete "and state-regulated"

On motion by Senator Lee, by two-thirds vote **CS for SB 1956** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Klein	Scott
Campbell	Forman	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Lee	Thomas
Cowin	Hargrett	McKay	Turner
Crist	Holzendorf	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Clary, Madam President, Kirkpatrick

On motion by Senator Turner—

CS for SB 544 and CS for SB 1904—A bill to be entitled An act relating to student discipline and school safety; amending s. 232.09, F.S.; revising provisions relating to student attendance responsibility and policy; creating s. 232.0205, F.S.; requiring certain disclosure at school registration and providing penalties for willful nondisclosure; amending s. 232.01, F.S.; revising compulsory school attendance requirements to require children over age 16 to file a formal declaration of intent to terminate school enrollment in order to be exempt from compulsory school attendance requirements; amending s. 39.01, F.S.; revising provisions regarding habitual truancy; amending s. 228.041, F.S.; revising the definitions of the terms "habitual truant" and "dropout"; amending s. 232.2462, F.S.; conforming provisions; amending s. 414.125, F.S.; providing Learnfare program requirements; amending s. 232.17, F.S.; revising procedures relating to enforcement of school attendance; amending s. 232.19, F.S.; revising penalties and court procedures relating to habitual truancy; requiring each public school principal to notify the district school board of students who accumulate a specified number of unexcused absences; authorizing the governing body of a private school to provide such information to the Department of Education; requiring that the Department of Highway Safety and Motor Vehicles withhold issuance of or suspend the driver's license or learner's driver's license of a student who fails to satisfy school attendance requirements; requiring the Department of Juvenile Justice, the Department of Children and Family Services, and the school districts to develop cooperative agreements for working with habitual truants and their families; providing for court-ordered parent training classes and providing penalties for termination of an employee required to attend such classes, under certain circumstances; authorizing the court to impose civil penalties on, or require participation in community service or counseling by, the child; amending s. 232.195, F.S., relating to truancy activities upon transfer of student, to conform; creating s. 232.197, F.S.; requiring notification to a school of court action directly involving the school; amending s. 232.2452, F.S.; revising requirements relating to student report cards; amending s. 232.25, F.S., relating to pupils subject to control of school; providing for a school child's daily conduct pledge; amending s. 322.05, F.S., relating to the issuance of driver's licenses; conforming provisions to changes made by the act; amending s. 322.09, F.S.; prohibiting the Department of Highway Safety and Motor Vehicles from issuing a driver's license or restricted license to a person under a specified age who does not meet requirements for school attendance and is not otherwise exempt from such requirements; creating s. 322.091, F.S.; providing that a minor is not eligible for driving privileges unless the minor is enrolled in school or a home education program, has received a high school diploma or certificate, is enrolled in certain other educational activities, or obtains a certificate of exemption or hardship waiver; requiring the Department of Highway Safety and Motor Vehicles to notify a minor before the department suspends the minor's driving privileges because of noncompliance with school attendance requirements; providing for a hardship waiver; providing for a hearing before the public school principal or the designee of the governing body of a private school; providing for the department to reinstate a minor's driving privileges following compliance with school attendance requirements for a specified period; requiring the department to report to school districts on students whose driving privileges are suspended; amending s. 39.015, F.S., relating to rulemaking regarding habitual truants, to conform to the act; amending s. 230.2316, F.S., relating to dropout prevention; providing that second chance schools may include residential academies; providing criteria for establishment, operation, and funding of residential academies; providing criteria for participation; requiring parents and legal guardians of students assigned to programs funded by the dropout prevention program to comply with the requirements of the assignment and providing penalties; amending s. 39.085, F.S.; revising provisions relating to the Alternative Education Institute, to convert its mission and procedures and clarify its membership and duties; creating s. 230.235, F.S.; requiring school districts to adopt a policy of zero tolerance for crime, including criminal substance abuse violations; amending s. 232.277, F.S.; requiring reporting and notification of student substance abuse; amending s. 790.115, F.S.; expanding offenses that are punishable as possessing or discharging weapons or firearms on school property and providing a qualifier to an exception from such offense; amending s. 230.23015, F.S.; clarifying provisions relating to students who commit assault or battery on school personnel; providing effective dates.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Turner and adopted:

Amendment 1—On page 13, line 18, delete "322.0601" and insert: *322.091* ~~322.0601~~

Amendment 2—On page 20, line 10, before the period (.) insert: , *pursuant to the provisions of section 322.091*

Amendment 3—On page 29, line 27 and on page 31, lines 10 and 21, delete "*restricted*" and insert: *learner's driver's*

Amendment 4 (with title amendment)—On page 34, line 4 through page 42, line 14, delete those lines

And the title is amended as follows:

On page 3, lines 26 through page 4, line 12, delete those lines and insert: conform to the act;

Amendment 5 (with title amendment)—On page 42, line 15 through page 44, line 9, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 4, lines 9-14, delete those lines and insert: membership and duties;

Amendment 6 (with title amendment)—On page 47, between lines 15 and 16, insert:

Section 23. Section 232.433, Florida Statutes, is created to read:

232.433 Safety standards for cheerleaders.—The State Board of Education shall adopt statewide uniform safety standards for student cheerleaders and spirit groups that participate in any school activity or extracurricular student activity. The State Board of Education shall adopt the "Official High School Spirit Rules," published by the National Federation of State High School Associations, as the statewide uniform safety standards.

(Renumber subsequent section.)

And the title is amended as follows:

On page 4, line 22, after the semicolon (;) insert: creating s. 232.433, F.S., requiring that the State Board of Education adopt statewide uniform safety standards for student cheerleaders;

Amendment 7 (with title amendment)—On page 47, between lines 15 and 16, insert:

Section 24. Section 322.0601, Florida Statutes, is repealed.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 4, line 22, after the semicolon (;) insert: repealing s. 322.0601, F.S., relating to driver's licenses for minors;

Senator Rossin moved the following amendment which was adopted:

Amendment 8 (with title amendment)—On page 5, line 10, insert:

Section 1. Section 790.174, Florida Statutes, is amended to read:

790.174 Safe storage of firearms required.—

(1) A person who stores or leaves, on a premise under his control, a loaded firearm, as defined in s. 790.001, and who knows or reasonably should know that a minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location *that* ~~which~~ a reasonable person would believe to be secure or shall secure it with a trigger lock *or a firearm-mounted push-button combination lock*, except when he is carrying the firearm on his body or within such close proximity thereto that he can retrieve and use it as easily and quickly as if he carried it on his body.

(2) It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if a person violates subsection (1) by failing to store or leave a firearm in the required manner and as a result thereof a minor gains access to the firearm, without the lawful permission of the minor's parent or the person having charge of the minor, and possesses or exhibits it, without the supervision required by law:

(a) In a public place; or

(b) In a rude, careless, angry, or threatening manner in violation of s. 790.10.

This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person.

(3) As used in this act, the term "minor" means any person under the age of 16.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to educational firearm safety; amending s. 790.174, F.S.; revising requirements for the safe storage of firearms; amending s. 232.09, F.S.;

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 9 (with title amendment)—On page 5, line 10, insert:

Section 1. Section 230.235, Florida Statutes, is created to read:

230.235 Policy of zero tolerance for crime and substance abuse.—

(1) Each school district shall adopt a policy of zero tolerance for crime and substance abuse pursuant to this section. Such policy must require delinquent acts and crimes to be reported to a law enforcement officer if any such delinquent acts or crimes occur when students are under the jurisdiction of the school district.

(2) Each school district shall enter into an agreement with the sheriff of the county which specifies guidelines for ensuring that any felony or violent misdemeanor committed by a student or an adult and any delinquent act that would be a felony or violent misdemeanor if committed by an adult is reported to a law enforcement officer. Such agreement must include the role of the school resource officer, if applicable, in handling reported incidents, special circumstances under which school officials may handle an incident without filing a report with a law enforcement officer, and procedures for ensuring that school personnel properly report delinquent acts and crimes. The school principal shall ensure that all school personnel are properly informed as to their responsibilities regarding the reporting of delinquent acts and crimes, that appropriate delinquent acts and crimes are properly reported, and that the action taken in cases with special circumstances is proper and fully documented.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 3, after the first semicolon (;) insert: creating s. 230.235, F.S.; requiring each school district to adopt a policy of zero tolerance for crime and substance abuse; requiring each school district to enter into an agreement with the sheriff which specifies guidelines for reporting delinquent acts and crimes; requiring that the school principal ensure that delinquent acts and crimes are properly reported and other appropriate action taken;

Senator Gutman moved the following amendment which failed:

Amendment 10 (with title amendment)—On page 45, lines 14-17, delete those lines and insert:

3. In a vehicle pursuant to s. 790.25(5).

And the title is amended as follows:

On page 4, lines 18 and 19, delete those lines and insert: property; amending s.

Pursuant to Rule 4.19, **CS for SB 544 and CS for SB 1904** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

On motion by Senator Rossin—

SB 1648—A bill to be entitled An act relating to public television and radio; prohibiting a public television or radio station funded by the state from merging with or allowing the use of its facilities by a private nonprofit institution of higher learning; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1648** was placed on the calendar of Bills on Third Reading.

On motion by Senator Horne, by two-thirds vote **HB 153** was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator Horne, the rules were waived and—

HB 153—A bill to be entitled An act relating to excise tax on documents; amending s. 201.02, F.S.; providing that the tax on instruments relating to real property does not apply to certain conveyances between spouses or former spouses pursuant to an action for dissolution of marriage; providing an effective date.

—a companion measure, was substituted for **CS for SB 62** and read the second time by title.

Senator Horne moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 1, between lines 11 and 12, insert:

Section 1. Paragraph (k) is added to subsection (1) of section 199.185, Florida Statutes, 1996 Supplement, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter:

(k) Real estate mortgage investment conduits (REMIC) that are directly or indirectly secured by or payable from notes and obligations that are in turn secured by a mortgage, deed of trust, or other lien upon real property situated in or outside of the state, including but not limited to mortgage pools, participations, and derivatives and are held as investments by banks or savings associations in compliance with regulatory agency guidelines.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to taxation; amending s. 199.185, F.S.; exempting certain investments secured by liens on real property from taxation under ch. 199, F.S.;

Amendment 2—On page 3, line 22 through page 4, line 3, delete those lines and insert:

(7) Taxes imposed by this section do not apply to a deed, transfer, or conveyance between spouses or former spouses pursuant to an action for dissolution of their marriage wherein the real property is or was their marital home or an interest therein. Taxes paid pursuant to this section shall be refunded in those cases in which a deed, transfer, or conveyance occurred 1 year before a dissolution of marriage. This subsection applies in spite of any consideration as defined in subsection (1). This subsection does not apply to a deed, transfer, or conveyance executed before July 1, 1997.

Amendment 3 (with title amendment)—On page 4, between lines 3 and 4, insert:

Section 2. *In the event of a merger, consolidation, conversion, or acquisition by a financial institution as defined by section 655.05(1)(h), Florida Statutes, the tax imposed by section 201.02, Florida Statutes, shall not apply to any deed, instrument, writing, or other document transferring property between the financial institution and any subsidiary, provided that:*

(1) The merger, consolidation, conversion, or acquisition occurred within the 3 years preceding the effective date of this act;

(2) The operations performed on the transferred property employ in excess of 1,000 persons;

(3) The transfer occurs within 1 year after the effective date of this act; and

(4) The subsidiary of the financial institution is 100-percent owned by the financial institution.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: providing a documentary stamp tax exemption for certain merged entities;

Pursuant to Rule 4.19, **HB 153** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB's 552, 1960 and 822** was deferred.

On motion by Senator Dudley, by two-thirds vote **HB 1753** was withdrawn from the Committees on Judiciary; and Ways and Means.

On motions by Senator Dudley, by two-thirds vote—

HB 1753—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 892** and by two-thirds vote read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 1753** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

RECESS

On motion by Senator Bankhead, the Senate recessed at 11:59 a.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:12 p.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

SPECIAL ORDER CALENDAR, continued

On motion by Senator Brown-Waite, by two-thirds vote **HB 1357** was withdrawn from the Committees on Health Care; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Brown-Waite—

HB 1357—A bill to be entitled An act relating to the Department of Health; amending s. 20.43, F.S.; renaming certain divisions within the department; creating a Division of Local Health Planning, Education, and Workforce Development; authorizing certain use of state or federal funds to protect and improve public health; transferring powers and duties relating to rural health networks, local health councils, and the Statewide Health Council from the Agency for Health Care Administration to the department; authorizing certain budget flexibility; amending s. 154.04, F.S.; authorizing county health departments to establish peer review committees for certain purposes; amending s. 154.06, F.S.; removing requirement that county health department fees cover costs;

amending ss. 110.131, 216.341, 232.465, 240.4075, 381.0065, 381.0302, 381.0405, 381.0055, 395.401, 401.107, 401.111, 401.117, 401.23, 401.245, 401.265, 403.703, 404.031, 404.051, 404.0614, 404.131, 404.20, 414.23, 414.38, 458.316, 468.301, 468.314, and 514.011, F.S.; revising and conforming language and references relating to the public health functions of the department; deleting obsolete language; amending s. 240.4076, F.S.; revising operation of the nursing scholarship loan program; amending s. 381.0101, F.S.; revising requirements relating to professional standards, continuing education, and certification of environmental health professionals; revising certification fees; providing for denial, suspension, or revocation of a certificate; providing for fines; amending s. 381.0203, F.S.; providing for a contraceptive distribution program; specifying eligibility requirements; providing for fees; providing for rules; amending ss. 381.0406 and 381.04065, F.S.; conforming transfer of rural health programs to the department; amending s. 381.0407, F.S.; clarifying reimbursement to county health departments by Medicaid providers; amending s. 383.3362, F.S., relating to Sudden Infant Death Syndrome; deleting requirement for visits by county public health nurses or social workers; deleting an advisory council; revising duties of the department; amending s. 385.202, F.S.; revising requirements relating to reporting and analysis of reports to the statewide cancer registry; amending s. 385.203, F.S.; clarifying relationship of the Diabetes Advisory Council to the Board of Regents; deleting requirement for an annual diabetes state plan; amending s. 392.52, F.S.; revising definitions; creating s. 392.551, F.S.; providing that parental consent is not required to examine a minor for tuberculosis; amending s. 392.565, F.S.; revising conditions for imposing an involuntary hold on a person for tuberculosis; amending s. 392.62, F.S.; providing for forensic units in tuberculosis hospitals; amending s. 395.3025, F.S.; expanding the department's authority to examine records of licensed facilities; increasing a penalty for unauthorized disclosure of information; amending s. 401.252, F.S.; providing requirements for interfacility transport of certain infants; providing for rules for interfacility transport; amending s. 401.27, F.S.; providing for inactive status of emergency medical technician and paramedic certificates; providing for reactivation and renewal; providing a fee; amending and renumbering s. 402.105, F.S., relating to biomedical and social research; amending and renumbering s. 402.32, F.S., relating to the school health services program; amending and renumbering s. 402.321, F.S., relating to funding for school health services; amending s. 402.41, F.S., relating to educational materials and training in human immunodeficiency virus infection and acquired immune deficiency syndrome; amending and renumbering s. 402.475, F.S., relating to the osteoporosis prevention and education program; amending and renumbering s. 402.60, F.S., relating to insect sting emergency treatment; amending and renumbering s. 402.61, F.S, relating to regulation of tanning facilities; amending s. 404.056, F.S.; providing penalties for certain fraud, deception, or misrepresentation in performing radon measurements or mitigation; amending s. 404.22, F.S.; reducing the frequency of inspections required for certain radiation machines; amending s. 408.033, F.S.; providing for the transfer of funds to support the local health councils; amending s. 408.701, F.S.; expanding the definition of "health care provider" for purposes of community health purchasing; amending s. 409.905, F.S.; specifying family planning services provided under the Medicaid program; amending s. 409.908, F.S.; deleting obsolete repeal provision; amending s. 414.026, F.S.; adding the Secretary of Health to the State Board of Directors of the WAGES Program; amending s. 468.3101, F.S.; providing additional grounds for disciplinary action against a radiologic technologist; providing penalties; amending s. 489.553, F.S.; revising requirements for registration of septic tank contractors; amending s. 514.028, F.S.; providing for reimbursement for travel expenses for members of the advisory review board on swimming and bathing facilities; amending s. 627.4236, F.S.; transferring rulemaking authority relating to bone marrow transplant procedures to the Agency for Health Care Administration; amending s. 766.101, F.S.; including certain committees of a county health department, healthy start coalition, or certified rural health network within the definition of "medical review committee"; amending s. 766.314, F.S.; exempting public health physicians from assessments that finance the Florida Birth-Related Neurological Injury Compensation Plan; amending s. 945.602, F.S.; providing for assignment of the Correctional Medical Authority to the department for administrative purposes; transferring to the department powers and duties of the Correctional Medical Authority; amending ss. 28.101, 28.222, 63.062, 382.003, 382.004, 382.007, 382.011, 382.0135, 382.021, 382.022, 382.023, 382.356, 383.2161, 402.40, 460.414, 742.10, and 742.16, F.S.; revising and conforming language and references relating to the department's responsibility for vital records and statistics; amending s. 63.165, F.S.; consolidating provisions relating to the state registry of adoption information; amending s. 68.07, F.S.; revising procedures relating to change of name; amending s. 382.002, F.S.; revising definitions; amending s. 382.005, F.S.; revising duties of local registrars; amending s. 382.006, F.S.; revising duties of funeral directors with respect to burial-transit permits; restricting issuance thereof if death occurred from a communicable disease; providing authority of certifications of death certificates issued in other states or countries; eliminating provisions relating to permits for disinterment and reinterment; amending s. 382.008, F.S., relating to death and fetal death certificates; providing for entry of aliases; requiring certain persons to provide medical information regarding a fetal death within a specified period; providing for extensions of time for certification of cause of death; providing for temporary death certificates; requiring certificates to contain information required for legal, social, and health research purposes; amending s. 382.012, F.S.; providing requirements for a petitioner seeking a presumptive death certificate; amending s. 382.013, F.S.; revising provisions and requirements relating to registration of a live birth, paternity, and the name of the child; amending s. 382.015, F.S.; revising provisions relating to new certificates of live birth; revising procedures for annulment of adoptions and determination of paternity; providing for filing of a new birth certificate upon receipt of an order of affirmation of parental status; providing for the form of original, new, and amended birth certificates; providing for rules; amending s. 382.016, F.S.; revising provisions relating to amendment of birth and death records; amending s. 382.017, F.S.; revising procedures relating to registration of birth certificates for adopted children of foreign birth; amending and renumbering s. 382.018, F.S.; revising procedures and requirements relating to issuance of delayed birth certificates; amending s. 382.019, F.S.; revising procedures and requirements relating to the delayed registration of a death or birth certificate; amending s. 382.025, F.S.; revising procedures and requirements relating to issuance of certified copies of birth and death records; providing requirements and restrictions for sharing vital records with a research entity; providing for rules; creating s. 382.0255, F.S.; providing for fees for searching and processing vital records; revising and consolidating provisions relating thereto; amending s. 382.026, F.S.; revising and expanding penalties; providing for rules; amending s. 741.041, F.S.; conforming provisions relating to the period of validity of marriage licenses; repealing s. 110.1125, F.S., relating to a requirement to provide information on human immunodeficiency virus infection and acquired immune deficiency syndrome to state employees; repealing s. 381.698, F.S., relating to "The Florida Blood Transfusion Act"; repealing s. 381.81, F.S., relating to the "Minority Health Improvement Act"; repealing s. 382.014, F.S., relating to contents, form, and disclosure of birth certificates; repealing s. 382.024, F.S., relating to departmental accounting of dissolution of marriage fees and charges; repealing s. 382.027, F.S., relating to voluntary registration of adoption information; repealing ss. 387.01, 387.02, 387.03, 387.04, 387.05, 387.06, 387.07, 387.08, 387.09, and 387.10, F.S., relating to permits for draining surface water or sewage into underground waters of the state, penalties for polluting water supplies or surface or underground waters, septic tank construction requirements, and injunction proceedings; repealing s. 402.37, F.S., relating to the medical manpower clearinghouse grant program; repealing s. 403.7045(1)(e), F.S., relating to activities regulated under the "Florida Hazardous Substances Law" exempted from environmental regulation; repealing ss. 501.061, 501.065, 501.071, 501.075, 501.081, 501.085, 501.091, 501.095, 501.101, 501.105, 501.111, 501.115, and 501.121, F.S., relating to the "Florida Hazardous Substances Law"; repealing s. 501.124, F.S., relating to art or craft material containing toxic substances and labeling requirements therefor; repealing s. 766.1115(12), F.S., as created by section 1 of ch. 92-278, Laws of Florida, relating to the scheduled repeal of the "Access to Health Care Act"; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB's 552, 1960 and 822** and read the second time by title.

Senator Brown-Waite moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 154.067, Florida Statutes, is amended to read:

154.067 Child abuse and neglect cases; duties.—The Department of Health ~~and Rehabilitative Services~~ shall *adopt*~~, by March 1, 1985, promulgate~~ a rule requiring every county ~~public~~ health *department* ~~unit~~, as described in s. 154.01, to adopt a protocol that, at a minimum, requires the county ~~public~~ health *department* ~~unit~~ to:

(1) Incorporate in its health *department* ~~unit~~ policy a policy that every staff member has an affirmative duty to report, pursuant to chapter 415, any actual or suspected case of child abuse or neglect; and

(2) In any case involving suspected child abuse or neglect, designate, at the request of the department, a staff physician to act as a liaison between the *county* ~~public~~ health *department* ~~unit~~ and the Department *of Children and Family Services* office *that* ~~which~~ is investigating the suspected abuse or neglect, and the child protection team, as defined in s. 415.503, when the case is referred to such a team.

Section 2. Section 395.1023, Florida Statutes, is amended to read:

395.1023 Child abuse and neglect cases; duties.—Each licensed facility shall adopt a protocol that, at a minimum, requires the facility to:

(1) Incorporate a facility policy that every staff member has an affirmative duty to report, pursuant to chapter 415, any actual or suspected case of child abuse or neglect; and

(2) In any case involving suspected child abuse or neglect, designate, at the request of the department, a staff physician to act as a liaison between the hospital and the Department *of Children and Family Services* office which is investigating the suspected abuse or neglect, and the child protection team, as defined in s. 415.503, when the case is referred to such a team.

Each general hospital and appropriate specialty hospital shall comply with the provisions of this section and shall notify the agency and the department of its compliance by sending a copy of its policy to the agency and the department as required by rule. The failure by a general hospital or appropriate specialty hospital to comply shall be punished by a fine not exceeding $1,000, to be fixed, imposed, and collected by the agency. Each day in violation is considered a separate offense.

Section 3. Subsection (2) of section 415.501, Florida Statutes, is amended to read:

415.501 Prevention of abuse and neglect of children; state plan.—

(2) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall develop a state plan for the prevention of abuse and neglect of children and shall submit the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than January 1, 1983. The Department of Education *and the Division of Children's Medical Services of the Department of Health* shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the district human rights advocacy committees; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies, and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall establish an interprogram task force comprised of the ~~Deputy~~ Assistant Secretary *for Children and Family Services*, ~~for Health~~ or *a* ~~his~~ designee, *a representative* ~~and representatives~~ from the Children~~, Youth,~~ and Families Program Office, *a representative from* ~~the Children's Medical Services Program Office,~~ the Alcohol, Drug Abuse, and Mental Health Program Office, *a representative from* the Developmental Services Program Office, *a representative from* ~~and~~ the Office of *Standards and* Evaluation, *and a representative from the Division of Children's Medical Services of the Department of Health*. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The Department of Education, ~~and~~ the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, *and the Department of Health* shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse and neglect and in the proper action that should be taken in a suspected case of child abuse or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The Department of Law Enforcement, ~~and~~ the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, *and the Department of Health* shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse and neglect and in the proper action that should be taken in a suspected case of child abuse or neglect.

4. Within existing appropriations, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse and neglect and in the proper action that should be taken in a suspected case of child abuse or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The Department of Education, ~~and~~ the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, *and the Department of Health* shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse and child neglect.

6. Each district of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram task force for utilization in preparing the state plan.

The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a) as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse and neglect. The district administrator shall appoint the members of the task force in accordance with the membership requirements of this section. In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child neglect in its geographical area.

b. A description of programs currently serving abused and neglected children and their families and a description of programs for the prevention of child abuse and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse and neglect.

g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

~~The district local plan of action shall be submitted to the interprogram task force by November 1, 1982.~~

Section 4. Section 415.5055, Florida Statutes, 1996 Supplement, is amended to read:

415.5055 Child protection teams; services; eligible cases.—The department shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the department. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. *The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the Director of the Division of Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.*

(1) The department shall utilize and convene the teams to supplement the assessment and protective supervision activities of the children, youth, and families program of the department. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to s. 415.504 all suspected or actual cases of child abuse or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

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

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

(c) Medical evaluation related to abuse or neglect, as defined by department policy or rule.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or his parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child abuse or neglect case, as the team may determine to be needed.

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if the administrator deems it appropriate.

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

(g) Case staffings to develop, implement, and monitor treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who has not been referred to the team, but who is alleged or is shown to be abused, which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child or his parent or parents, guardian or guardians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a children, youth, and families program representative shall attend and participate.

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

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse and neglect cases.

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

(2) The child abuse and neglect cases that are appropriate for referral by the children, youth, and families program to child protection teams for support services as set forth in subsection (1) include, but are not limited to, cases involving:

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

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

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

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

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

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

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been

injured and later died, as a result of suspected abuse or neglect, when any sibling or other child remains in the home.

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

(3) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.

In all instances in which a child protection team is providing certain services to abused or neglected children, other offices and units of the department shall avoid duplicating the provision of those services.

Section 5. *The sum of $814,833 from the General Revenue Fund is transferred from the Department of Children and Family Services to the Department of Health to fund the medical director portion of the child protection team and sexual abuse treatment functions specified in this act.*

Section 6. Paragraph (b) of subsection (4) of section 20.19, Florida Statutes, 1996 Supplement, is amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(4) PROGRAM OFFICES.—

(b) The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging is for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

1. Economic Self-Sufficiency Program Office.—The responsibilities of this office encompass income support programs within the department, such as temporary assistance to families with dependent children, food stamps, welfare reform, and state supplementation of the supplemental security income (SSI) program.

2. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

3. Children and Families Program Office.—The responsibilities of this program office encompass early intervention services for children and families at risk; intake services for protective investigation of abandoned, abused, and neglected children; interstate compact on the placement of children programs; adoption; child care; out-of-home care programs and other specialized services to families; and child protection and sexual abuse treatment teams created under chapter 415, *excluding medical direction functions.*

4. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department.

Section 7. Present paragraphs (h)-(l) of subsection (1) of section 20.43, Florida Statutes, 1996 Supplement, are redesignated as paragraphs (i)-(m), respectively, and a new paragraph (h) is added to that subsection; paragraph (d) of subsection (3) of that section is amended, present paragraph (f) of that subsection is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection; and subsection (6) is added to that section, to read:

20.43 Department of Health.—There is created a Department of Health.

(1) The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(h) Provide medical direction for child protection team and sexual abuse treatment functions created under chapter 415.

(3) The following divisions of the Department of Health are established:

(d) Division of Family *Health* Services.

(f) Division of Local Health Planning, Education, and Workforce Development.

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

(a) Provide incentives, including food coupons or payment for travel expenses, for encouraging disease prevention and patient compliance with medical treatment, such as tuberculosis therapy.

(b) Plan and conduct health education campaigns for the purpose of protecting or improving public health. The department may purchase promotional items and advertising, such as space on billboards or in publications or radio or television time, for health information and promotional messages that recognize that the following behaviors, among others, are detrimental to public health: unprotected sexual intercourse, other than with one's spouse; cigarette smoking; alcohol consumption or other substance abuse during pregnancy; alcohol abuse or other substance abuse; lack of exercise and poor diet and nutrition habits; and failure to recognize and address a genetic tendency to suffer from sickle-cell anemia, diabetes, high blood pressure, cardiovascular disease, or cancer. For purposes of activities under this paragraph, the Department of Health may establish requirements for local matching funds or in-kind contributions to create and distribute advertisements, in either print or electronic format, which are concerned with each of the targeted behaviors, establish an independent evaluation and feedback system for the public health communication campaign, and monitor and evaluate the efforts to determine which of the techniques and methodologies are most effective.

(c) Plan and conduct promotional campaigns to recruit health professionals to be employed by the department or to recruit participants in departmental programs for health practitioners, such as scholarship, loan repayment, or volunteer programs. To this effect the department may purchase promotional items and advertising.

Section 8. Paragraph (c) of subsection (6) of section 110.131, Florida Statutes, 1996 Supplement, is amended to read:

110.131 Other-personal-services temporary employment.—

(6)

(c) Notwithstanding the provisions of this section, the secretary of the Department of Health ~~and Rehabilitative Services~~ or the secretary's delegate may extend the other-personal-services employment of a health care practitioner licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, chapter 464, chapter 466, chapter 468, chapter 483, chapter 486, or chapter 490 beyond 2,080 hours and may employ such practitioner on an hourly or other basis.

Section 9. Paragraph (c) of subsection (1) of section 154.04, Florida Statutes, 1996 Supplement, is amended to read:

154.04 Personnel of county health departments; duties; compensation.—

(1)

(c)1. A registered nurse or certified physician assistant working in a county health department is authorized to assess a patient and order medications, provided that:

a. No licensed physician is on the premises;

b. The patient is assessed and medication ordered in accordance with rules promulgated by the department and pursuant to a protocol approved by a physician who supervises the patient care activities of the registered nurse or certified physician assistant;

c. The patient is being assessed by the registered nurse or certified physician assistant as a part of a program approved by the department; and

d. The medication ordered appears on a formulary approved by the department and is prepackaged and prelabeled with dosage instructions and distributed from a source authorized under chapter 499 to repackage and distribute drugs, which source is under the supervision of a consultant pharmacist employed by the department.

2. Each county health department shall adopt written protocols which provide for supervision of the registered nurse or certified physician assistant by a physician licensed pursuant to chapter 458 or chapter 459 and for the procedures by which patients may be assessed, and medications ordered and delivered, by the registered nurse or certified physician assistant. Such protocols shall be signed by the supervising physician, the director of the county health department, and the registered nurse or certified physician assistant.

3. Each county health department shall maintain and have available for inspection by representatives of the Department of Health all medical records and patient care protocols, including records of medications delivered to patients, in accordance with rules of the department.

4. The Department of Health shall adopt rules which establish the conditions under which a registered nurse or certified physician assistant may assess patients and order and deliver medications, based upon written protocols of supervision by a physician licensed pursuant to chapter 458 or chapter 459, and which establish the formulary from which medications may be ordered.

5. The department shall require that a consultant pharmacist conduct a periodic inspection of each county health department in meeting the requirements of this paragraph.

6. A county health department may establish or contract with peer review committees or organizations to review the quality of communicable disease control and primary care services provided by the county health department.

Section 10. Section 154.06, Florida Statutes, is amended to read:

154.06 Fees and services rendered; authority.—

(1) The Department of Health ~~and Rehabilitative Services~~ is authorized to establish by rule~~, pursuant to chapter 120,~~ fee schedules for public health services rendered through the *county health departments* ~~public health units~~. In addition, the department shall adopt by rule a uniform statewide fee schedule for all regulatory activities performed through the environmental health program. ~~By July 1, 1985, the fees charged for these regulatory activities shall, at a minimum, be sufficient to cover all costs for providing such activities.~~ Each county may establish, and each *county health department* ~~public health unit~~ may collect, fees for primary care services, provided that a schedule of such fees is established by resolution of the board of county commissioners or by rule of the department, respectively. Fees for primary care services and communicable disease control services may not be less than Medicaid reimbursement rates unless otherwise required by federal or state law or regulation.

(2) All funds collected under this section shall be expended solely for the purpose of providing health services and facilities within the county served by the *county health department* ~~public health unit~~. Fees collected by *county health departments* ~~public health units~~ pursuant to department rules shall be deposited with the Treasurer and credited to the *County Health Department* ~~Public Health Unit~~ Trust Fund. Fees collected by the *county health department* ~~public health unit~~ for public health services or personal health services shall be allocated to the state and the county based upon the pro rata share of funding for each such service. The board of county commissioners, if it has so contracted, shall provide for the transmittal of funds collected for its pro rata share of personal health services or primary care services rendered under the provisions of this section to the State Treasury for credit to the *County Health Department* ~~Public Health Unit~~ Trust Fund, but in any event the proceeds from such fees may only be used to fund *county health department* ~~public health unit~~ services.

(3) The foregoing provisions notwithstanding, any county which charges fees for any services delivered through *county health departments* ~~public health units~~ prior to July 1, 1983, and which has pledged or committed the fees yet to be collected toward the retirement of outstanding obligations relating to *county health department* ~~public health unit~~ facilities may be exempted from the provisions of subsection (1) until such commitment or obligation has been satisfied or discharged.

Section 11. Subsection (6) of section 216.0172, Florida Statutes, 1996 Supplement, is amended to read:

216.0172 Schedule for submission of performance-based program budgets.—In order to implement the provisions of chapter 94-249, Laws of Florida, state agencies shall submit performance-based program budgets for programs approved pursuant to s. 216.0166 to the Executive Office of the Governor and the Legislature based on the following schedule:

(6) By September 1, 1999, for the 2000-2001 fiscal year, by the following:

(a) Division of Administrative Hearings.

(b) Department of Business and Professional Regulation.

(c) Parole and Probation Commission.

(d) Public Service Commission.

(e) Department of Health.

Section 12. Section 216.341, Florida Statutes, is amended to read:

216.341 Disbursement of county health *department* ~~unit~~ trust funds.—County health *department* ~~unit~~ trust funds may be expended by the Department of Health ~~and Rehabilitative Services~~ for the respective county health departments in accordance with budgets and plans agreed upon by the county authorities of each county and the Department of Health ~~and Rehabilitative Services~~. The limitations on appropriations provided in s. 216.262(1) shall not apply to county health *department* ~~unit~~ trust funds.

Section 13. Section 232.032, Florida Statutes, is amended to read:

232.032 Immunization against communicable diseases; school attendance requirements; exemptions.—

(1) The Department of Health ~~and Rehabilitative Services~~, after consultation with the Department of Education, shall promulgate rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health ~~and Rehabilitative Services~~. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health ~~and Rehabilitative Services~~ shall supervise and secure the enforcement of the required immunization. Immunizations required by this act shall be available at no cost from the ~~local~~ county health *departments* ~~units~~.

~~(2) The Department of Health and Rehabilitative Services, in conjunction with the Department of Education, the Florida Parent-Teacher Association, and the American Lung Association of Florida, shall investigate the incidence of tuberculosis among school-age children in the state. As part of this investigation, the department shall determine if there is a need to establish a threshold incidence rate of tuberculosis in schools at which time specific action should be taken to address these concerns, and an indication of what specific action is necessary. A report on these activities is due to the Legislature by December 15, 1994. Nothing in this paragraph shall be construed to limit the existing authority of the Department of Health and Rehabilitative Services to control the transmission of communicable diseases.~~

(2)~~(3)~~ The school board of each district and the governing authority of each nonpublic school shall establish and enforce as policy that, prior to admittance to or attendance in a public or nonpublic school, grades preschool through 12, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health ~~and Rehabilitative Services~~ and further shall provide for appropriate screening of its pupils for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health ~~and Rehabilitative Services~~ and shall become a part of each

student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. ~~Effective July 1, 1994,~~ The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(3)~~(4)~~ The provisions of this section shall not apply if:

(a) The parent or guardian of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 or chapter 459 certifies in writing, on a form approved and provided by the Department of Health ~~and Rehabilitative Services~~, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;

(c) A physician licensed under the provisions of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health ~~and Rehabilitative Services~~, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;

(d) The Department of Health ~~and Rehabilitative Services~~ determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a child who transfers into a new county to attend class until his or her records can be obtained. The public school health nurse or authorized nonpublic school official is responsible for followup of each such child until proper documentation or immunizations are obtained.

(4)~~(5)~~(a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a school board, or any of its employees, or member of a governing board of a nonpublic school, or any of its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for a failure to diagnose scoliosis pursuant to the provisions of this section.

(5)~~(6)~~ The parents or guardians of any child admitted to or in attendance at a Florida public or nonpublic school, grades preschool through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

(6)~~(7)~~ Each public school, kindergarten, or preschool, and each nonpublic school, kindergarten, or preschool shall be required to provide to the county ~~public~~ health *department* ~~unit~~ director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health ~~and Rehabilitative Services~~ for each preschool, kindergarten, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health ~~and Rehabilitative Services~~ shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

(7)~~(8)~~ The presence of any of the communicable diseases for which immunization is required by the Department of Health ~~and Rehabilitative Services~~ in a Florida public or nonpublic school shall permit the county ~~public~~ health *department* ~~unit~~ director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all children in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the nonpublic school; and the school health and immunization records of such children shall be made available to the county ~~public~~ health *department* ~~unit~~ director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority, until such time as is specified by the county ~~public~~ health *department* ~~unit~~ director or administrator.

(8)~~(9)~~ The school board of each district and the governing authority of each private school shall:

(a) Refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or nonpublic school, who is not in compliance with the provisions of subsection (2).

(b) ~~Effective August 1, 1982,~~ Temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (2).

(9)~~(10)~~ The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.

Section 14. Subsection (4) of section 232.465, Florida Statutes, 1996 Supplement, is amended to read:

232.465 Provision of medical services; restrictions.—

(4) Each district school board shall establish emergency procedures in accordance with *s. 381.0056(5)* ~~s. 402.32(5)~~ for life-threatening emergencies.

Section 15. Subsections (4) through (10) of section 240.4075, Florida Statutes, are amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(4) Receipt of funds pursuant to this program shall be contingent upon continued proof of employment in the designated facilities in this state. Loan principal payments shall be made by the Department of Health ~~and Rehabilitative Services~~ directly to the federal or state programs or commercial lending institutions holding the loan as follows:

(a) Twenty-five percent of the loan principal and accrued interest shall be retired after the first year of nursing;

(b) Fifty percent of the loan principal and accrued interest shall be retired after the second year of nursing;

(c) Seventy-five percent of the loan principal and accrued interest shall be retired after the third year of nursing; and

(d) The remaining loan principal and accrued interest shall be retired after the fourth year of nursing.

In no case may payment for any nurse exceed $4,000 in any 12-month period.

(5) There is created the Nursing Student Loan Forgiveness Trust Fund to be administered by the Department of Health ~~and Rehabilitative Services~~ pursuant to this section and s. 240.4076 and *department* rules ~~of the Department of Health and Rehabilitative Services~~. The Comptroller shall authorize expenditures from the trust fund upon receipt of vouchers approved by the Department of Health ~~and Rehabilitative Services~~. All moneys collected from the private health care industry and other private sources for the purposes of this section shall be deposited into the Nursing Student Loan Forgiveness Trust Fund. Any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section and s. 240.4076.

(6) In addition to *licensing fees imposed under* ~~the licensing fee as determined by~~ chapter 464, there is hereby levied and imposed *an additional* ~~a license~~ fee of $5 ~~for the practice of nursing~~, which fee shall be paid ~~to the Department of Business and Professional Regulation~~ upon licensure or renewal of nursing licensure. Revenues collected from the fee imposed in this *subsection* ~~section~~ shall be deposited in the Nursing Student Loan Forgiveness Trust Fund of the Department of Health ~~and Rehabilitative Services~~ and will be used solely for the purpose of carrying out the provisions of this section and s. 240.4076. Up to 50 percent

of the revenues appropriated to implement this subsection may be used for the nursing scholarship ~~loan~~ program *established* pursuant to s. 240.4076.

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions, except that this provision shall not apply to state-operated medical and health care facilities, county *health departments* ~~public health units~~, federally sponsored community health centers, or teaching hospitals as defined in s. 408.07.

(b) All Nursing Student Loan Forgiveness Trust Fund moneys shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness and scholarships. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.

(8) The Department of Health ~~and Rehabilitative Services~~ may solicit technical assistance relating to the conduct of this program from the Department of Education.

(9) The Department of Health ~~and Rehabilitative Services~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the Nursing Student Loan Forgiveness Program.

(10) The Department of Health ~~and Rehabilitative Services~~ may adopt rules necessary to administer this program.

Section 16. Section 240.4076, Florida Statutes, is amended to read:

240.4076 Nursing scholarship ~~loan~~ program.—

(1) There is established within the Department of Health ~~and Rehabilitative Services~~ a scholarship ~~loan~~ program for the purpose of attracting capable and promising students to the nursing profession.

(2) A scholarship ~~loan~~ applicant shall be enrolled as a full-time *or part-time* student in the upper division of an approved nursing program leading to the award of a baccalaureate or any advanced registered nurse practitioner degree or be enrolled as a full-time *or part-time* student in an approved program leading to the award of an associate degree in nursing or a diploma in nursing.

(3) A scholarship ~~loan~~ may be awarded for no more than 2 years, in an amount not to exceed $8,000 per year. However, registered nurses pursuing an advanced registered nurse practitioner degree may receive up to $12,000 per year. *Beginning July 1, 1998, these amounts shall be adjusted by the amount of increase or decrease in the consumer price index for urban consumers published by the United States Department of Commerce.*

(4) Credit for repayment of a scholarship ~~loan~~ shall be ~~on a year-for-year basis~~ as follows:

(a) For each *full* year of scholarship ~~loan~~ assistance, the recipient agrees to work for 12 months at a health care facility in a medically underserved area as approved by the Department of Health ~~and Rehabilitative Services~~. *Scholarship recipients who attend school on a part-time basis shall have their employment service obligation prorated in proportion to the amount of scholarship payments received.*

(b) Eligible health care facilities include state-operated medical or health care facilities, county *health departments* ~~public health units~~, federally sponsored community health centers, or teaching hospitals as defined in s. 408.07~~(49)~~.

~~(b) When repaying scholarship loans,~~ The recipient shall be encouraged to complete the service obligation at a single employment site. If ~~and when such~~ continuous employment *at the same site* is not feasible, the recipient may apply to the department for a transfer to another approved health care facility.

(c) Any recipient who does not complete an appropriate program of studies or who does not become licensed shall repay to the Department of Health ~~and Rehabilitative Services~~, on a schedule to be determined by the department, the entire amount of the scholarship ~~loan~~ plus 18 percent interest *accruing* from the date of the scholarship ~~loan~~ payment. Moneys *repaid* shall be deposited into the Nursing Student Loan Forgiveness Trust Fund *established in s. 240.4075*. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(d) Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship ~~loan~~ assistance received shall repay to the Department of Health ~~and Rehabilitative Services~~ an amount equal to *two* ~~three~~ times the entire amount of the scholarship ~~loan~~ plus interest *accruing* from the date of the scholarship ~~loan~~ payment at the maximum allowable interest rate permitted by law. ~~Such~~ Repayment shall be made within 1 year of notice that the *recipient* ~~loan~~ is considered to be in default. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(5) ~~Payment of~~ Scholarship *payments* ~~loans~~ shall be transmitted to the recipient upon receipt of documentation that the recipient is enrolled ~~as a full-time student~~ in an approved nursing program. The Department of Health ~~and Rehabilitative Services~~ shall develop a formula to prorate payments to scholarship ~~loan~~ recipients so as not to exceed the maximum amount per academic year.

(6) The Department of Health ~~and Rehabilitative Services~~ shall adopt rules, including rules to address extraordinary circumstances that may cause a recipient to default on either the school enrollment or employment contractual agreement, to implement this section and may solicit technical assistance relating to the conduct of this program from the Department of Education.

(7) The Department of Health ~~and Rehabilitative Services~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the nursing scholarship ~~loan~~ program.

Section 17. Section 381.0021, Florida Statutes, is created to read:

381.0021 Client welfare accounts.—The Department of Health may establish one or more client welfare accounts in any bank, savings and loan association, or credit union. If one account is created, separate revenue and expense accounts shall be maintained in the department's accounting system for each client, program, facility, or institution. Funds to be deposited in the account shall consist of client funds, private donations, and revenue from any auxiliary, canteen, or similar endeavor in a department program, facility, or institution. The interest or increment accruing on such funds shall be the property of the client when such funds are deposited on behalf of a client. Nonclient funds shall be used for the benefit, education, and general welfare of clients. The general welfare of clients includes, but is not limited to, the establishment of, maintenance of, employment of personnel for, and the purchase of items for resale at canteens or through vending machines maintained by a department program, facility, or institution and for programs and activities that benefit clients such as canteens; hobby shops; recreational, entertainment, or activity centers; or similar programs.

Section 18. Section 381.0055, Florida Statutes, 1996 Supplement, is amended to read:

381.0055 Confidentiality and quality assurance activities.—

(1) All information which is confidential by operation of law and which is obtained by the Department *of Health*, a county *health department* ~~public health unit~~, healthy start coalition, or certified rural health network, or a panel or committee assembled by the department, a county *health department* ~~public health unit~~, healthy start coalition, or certified rural health network pursuant to this section, shall retain its confidential status and be exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) All information which is confidential by operation of law and which is obtained by a hospital or health care provider from the department, a county *health department* ~~public health unit~~, healthy start coalition, or certified rural health network, or a panel or committee assembled by the department, a county *health department* ~~public health unit~~, healthy start coalition, or certified rural health network pursuant to this

section, shall retain its confidential status and be exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) Portions of meetings, proceedings, reports, and records of the department, a county *health department* ~~public health unit~~, healthy start coalition, or certified rural health network, or a panel or committee assembled by the department, a county *health department* ~~public health unit~~, healthy start coalition, or certified rural health network pursuant to this section, which relate solely to patient care quality assurance and where specific persons or incidents are discussed are confidential and exempt from the provisions of s. 286.011, and s. 24(b), Art. I of the State Constitution and are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, respectively. ~~Patient care quality assurance includes medical peer review activities and fetal infant mortality reviews.~~

Section 19. Section 381.0062, Florida Statutes, 1996 Supplement, is amended to read:

381.0062 Supervision; private and certain public water systems.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to protect the public's health by ~~requiring permits or~~ establishing standards for *the construction, modification, and operation of* ~~limited use community and limited use commercial~~ public *and private* water systems~~, and private water systems in order~~ to assure consumers that the water provided by those systems *is potable* ~~meets satisfactory standards for human consumption~~.

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

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

(b) "Department" means the Department of Health ~~and Rehabilitative Services~~, including the county ~~public~~ health *departments* ~~units~~.

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

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

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

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

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

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

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

(j) "Private water system" means a water system that provides piped ~~potable~~ water for no more than four nonrental residences.

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

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

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

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

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

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

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

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

(d) Require a fee from the supplier of water in an amount sufficient to cover the costs of reviewing and acting upon any application for the construction, modification, or operation of a limited use community and limited use commercial public water system, of not less than *$10* ~~$40~~ or more than $90 annually.

(e) Require a fee from the supplier of water in an amount sufficient to cover the costs of reviewing and acting upon any application for the construction or change of ownership of a private water system serving more than one residence, of not less than *$10* ~~$40~~ or more than $90.

(f) Require a fee from the supplier of water in an amount sufficient to cover the costs of sample collection, review of analytical results, health-risk interpretations, and coordination with other agencies when such work is not included in paragraphs (b) and (c) and is requested by the supplier of water, of not less than *$10* ~~$40~~ or more than $90.

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

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

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

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

(5) ENFORCEMENT AND PENALTIES.—

(a) Any person who constructs, modifies, or operates a limited use community or limited use commercial public water system, or a private water system, without first complying with the requirements of this section, who operates a water system in violation of department order, or who maintains or operates a water system after revocation of the permit is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

(6) VARIANCES AND EXEMPTIONS.—

(a) The department may grant variances and exemptions from the rules promulgated under the provisions of this section through procedures set forth by the rule of the department.

(b) Any establishment with a limited-use commercial public water system which does not make tap water available for public consumption and meets the water quality standards established by the department shall be exempt from obtaining an annual operating permit from the department, *if* ~~provided~~ the supplier of water:

1. Registers with the department; *if the establishment changes ownership or business activity, it must register; and pay a $15 registration fee; and*

2. Performs an initial water quality clearance of the water supply *system*. ~~well; and~~

~~3. Conducts~~

A system exempt under this subsection may, in order to retain potable water status, conduct annual testing for bacteria in the form of one satisfactory microbiological sample per calendar year. ~~In the event that the establishment changes ownership or business activity, reregistration is required. A fee of $15 shall be assessed for registration.~~

Section 20. Subsections (3) and (4) of section 381.0065, Florida Statutes, 1996 Supplement, are amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH ~~AND REHABILITATIVE SERVICES~~.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, repaired, modified, abandoned, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination and surface water contamination and to preserve the public health. The *department* ~~State Health Office~~ is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the *Division Director* ~~Assistant Health Officer~~ for Environmental Health of the department ~~of Health and Rehabilitative Services~~, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions prescribed in this section and rules adopted under this section.

(e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.

(f) Issue annual operating permits under this section.

(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.

(i) Provide or conduct education and training of department personnel, service providers, and the public regarding onsite sewage treatment and disposal systems.

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical advisory panel or the research review and advisory committee.

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate septage-stabilization and disposal facilities not regulated by the Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department ~~of Health and Rehabilitative Services~~. The department may issue permits to carry out this section. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit is valid for 1 year from the date of issuance and must be renewed annually. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance

formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily domestic sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily domestic sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding the provisions of paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health and Rehabilitative Services, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed upon densities are reached. The department may consider assurances filed with the Department of Business and Professional Regulation under chapter 498 in determining the adequacy of the financial assurance required by this paragraph. In a subdivision regulated by this paragraph, the average daily domestic sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph. The department shall report to the Legislature by February 1 of each odd-numbered year concerning the success in meeting this intent.

(e) Onsite sewage treatment and disposal systems must not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Seventy-five feet from surface waters.

5. Fifty feet from any nonpotable well.

6. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

7. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual-lot stormwater-retention areas.

(f) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for domestic onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(g)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The board consists of the following:

a. The *Division Director* ~~Assistant Health Officer~~ for Environmental Health of the department ~~of Health and Rehabilitative Services~~ or his or her designee.

b. A representative from the county public health units.

c. A representative from the home building industry.

d. A representative from the septic tank industry.

e. A representative from the Department of Environmental Protection.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(h) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department shall not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(i) An onsite sewage treatment and disposal system for a single-family residence that is designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. The technical review and advisory panel shall assist the department in the development of performance criteria applicable to engineer-designed systems. Workshops on the development of the rules delineating such criteria shall commence not later than September 1, 1996, and the department shall advertise such rules for public hearing no later than October 1, 1997.

3. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the *county health department* ~~local public health unit~~. The *county health department* ~~local public health unit~~ may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the *county health department* ~~local public health unit~~ shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the *county health department* ~~local public health unit~~ either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to ~~the State Health Office of~~ the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The *department* ~~State Health Office~~ engineer's determination shall prevail over the action of the *county health department* ~~local public health unit~~. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

4. The owner of an engineer-designed performance-based system must obtain an annual system operating permit from the department. The department shall inspect the system at least annually and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the annual operating permit shall be collected beginning with the second year of system operation.

5. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with the provisions of this section.

(j) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(k) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and which considers water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The department shall require effluent from onsite sewage treatment and disposal systems to meet advanced waste treatment concentrations, as defined in s. 403.086.

(l) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(m) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(n) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of *the Division of* ~~a district~~ Environmental Health ~~Office~~ of the Department of Health ~~and Rehabilitative Services~~.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from the real estate profession.

8. A representative from the restaurant industry.

9. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(o) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(p) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(q) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

Section 21. Section 381.0101, Florida Statutes, is amended to read:

381.0101 Environmental health professionals.—

(1) LEGISLATIVE INTENT.—Persons ~~specifically~~ responsible for providing technical and scientific evaluations of environmental health and sanitary conditions in business establishments and communities throughout the state may create a danger to the public health if they are not skilled or competent to perform such evaluations. The public relies on the judgment of environmental health professionals employed by both government agencies and industries to assure them that environmental hazards are identified and removed before they endanger the health or safety of the public. The purpose of this section is to assure the public that persons specifically responsible for performing environmental health and sanitary evaluations have been certified by examination as competent to perform such work.

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

(a) "Board" means the Environmental Health Professionals *Advisory* ~~Certification~~ Board.

(b) "Department" means the Department of Health ~~and Rehabilitative Services~~.

(c) "Environmental health" means that segment of public health work which deals with the examination of those factors in the human environment which may impact adversely on the health status of an individual or the public.

(d) "Environmental health professional" means a person who is employed or assigned the responsibility for assessing the environmental health or sanitary conditions within a building, on an individual's property, or within the community at large, and who has the knowledge, skills, and abilities to carry out these tasks.

(e) "Certified" means a person who has displayed competency ~~by examination~~ to perform evaluations of environmental or sanitary conditions *through examination*.

(f) "Registered sanitarian" or "R.S." means a person who has been certified by either the National Environmental Health Association or the Florida Environmental Health Association as knowledgeable in the environmental health profession.

(g) "Primary environmental health program" means those programs determined by the department to be essential for providing basic environmental and sanitary protection to the public. At a minimum, these programs shall include food hygiene evaluations, and onsite *sewage treatment and* ~~wastewater~~ disposal system evaluations.

(3) CERTIFICATION REQUIRED.—No person shall perform environmental health or sanitary evaluations in any primary program area of environmental health without being certified by the department as competent to perform such evaluations. The requirements of this section shall not be mandatory for persons performing inspections of public food service establishments licensed under chapter 509.

(4) ENVIRONMENTAL HEALTH PROFESSIONALS ADVISORY BOARD.—The State Health Officer shall appoint an advisory board to assist the department in the promulgation of rules for certification, testing, establishing standards, and seeking enforcement actions against certified professionals.

(a) The board shall be comprised of the *Division Director* ~~Assistant Health Officer~~ for Environmental Health or his or her designee, one individual who will be certified under this section, one individual not employed in a governmental capacity who will or does employ a certified environmental health professional, one individual whose business is or will be evaluated by a certified environmental health professional, a citizen of the state who neither employs nor is routinely evaluated by a person certified under this section.

(b) The board shall advise the department as to the minimum standards of competency and proficiency necessary to obtain certification in a primary area of environmental health practice.

1. The board shall recommend primary areas of environmental health practice in which environmental health professionals should be required to obtain certification.

2. The board shall recommend minimum standards of practice which the department shall incorporate into rule.

3. The board shall evaluate and recommend to the department existing registrations and certifications which meet or exceed minimum department standards and should, therefore, exempt holders of such certificates or registrations from compliance with this section.

4. The board shall hear appeals of certificate denials, revocation, or suspension and shall advise the department as to the disposition of such an appeal.

5. The board shall meet as often as necessary, but no less than semiannually, handle appeals to the department, and conduct other duties of the board.

6. Members of the board shall receive no compensation but shall be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(5) STANDARDS FOR CERTIFICATION.—The department shall adopt rules that establish minimum standards of education, training, or experience for those persons subject to this section. The rules shall also address ethical standards of practice for the profession.

(a) Persons employed as environmental health professionals shall exhibit a knowledge of rules and principles of environmental and public health law in Florida through examination. No person shall conduct environmental health evaluations in a primary program area unless he or she is currently certified in that program area or works under the direct supervision of a certified environmental health professional.

1. All ~~such~~ persons who begin employment in a primary environmental health program *on or* after *September 21, 1994, must* ~~July 1, 1991, shall~~ be certified in that program within 6 months after employment.

2. Persons employed in a primary environmental health program prior to *September 21, 1994, shall be considered certified* ~~July 1, 1991, are exempt from certification requirements~~ while employed in that position *and shall be required to adhere to any professional standards established by the department pursuant to paragraph (b); complete any continuing education requirements imposed under paragraph (d); and pay the certificate renewal fee imposed under subsection (7).*

3. Persons employed in a primary environmental health program prior to September 21, 1994, who change positions or program areas and transfer into another primary environmental health program area on or after September 21, 1994, must be certified in that program within 6 months after such transfer, except that they will not be required to possess the college degree required under paragraph (e).

4. Registered sanitarians shall be considered certified and shall be required to adhere to any professional standards established by the department pursuant to paragraph (b).

(b) At a minimum, the department shall establish standards for professionals in the areas of food hygiene and onsite sewage treatment and disposal.

(c) Those persons conducting primary environmental health evaluations shall be certified by examination to be knowledgeable in any primary area of environmental health in which they are routinely assigned duties.

(d) Persons who are certified shall renew their certification biennially by completing not less than *24* ~~6~~ contact hours of continuing education for each program area in which they maintain certification.

(e) Applicants for certification shall have graduated from an accredited 4-year college or university with major coursework in environmental health, environmental science, or a physical or biological science.

(6) EXEMPTIONS.—A person who conducts primary environmental evaluation activities and maintains a current registration or certification from another state agency which examined the person's knowledge of the primary program area and requires comparable continuing education to maintain the certificate shall not be required to be certified by this section. Examples of persons not subject to certification are physicians, registered dietitians, certified laboratory personnel, and nurses. ~~Registered sanitarians are deemed to have met the certification requirements of this section.~~

(7) FEES.—The department shall charge fees in amounts necessary to meet the cost of providing certification. ~~Application~~ Fees for certification ~~in a program area~~ shall be no less than $25 nor more than *$300 and shall be set by rule* ~~$100~~. *Application,* examination, *and certification* costs shall be included in this fee. ~~Certification fees shall be no less than $25 nor more than $50 per biennium.~~ Fees for renewal of a certificate shall be no less than $25 nor more than *$150* ~~$50~~ per biennium.

(8) PENALTIES.—The department may deny, suspend, or revoke a certificate or impose an administrative fine of up to $500 for each violation of this section or a rule adopted under this section or may pursue any other enforcement action authorized by law. Any person who has had a certificate revoked may not conduct environmental health evaluations in a primary program area for a minimum of 5 years from the date of revocation.

Section 22. Paragraph (e) is added to subsection (2) of section 381.0203, Florida Statutes, to read:

381.0203 Pharmacy services.—

(2) The department may establish and maintain a pharmacy services program, including, but not limited to:

(e) A contraception distribution program which shall be implemented, to the extent resources permit, through the licensed pharmacies of county health departments. A woman who is eligible for participation in the contraceptive distribution program is deemed a patient of the county health department.

1. To be eligible for participation in the program a woman must:

a. Be a client of the department or the Department of Children and Family Services.

b. Be of childbearing age with undesired fertility.

c. Have an income between 150 and 200 percent of the federal poverty level.

d. Have no Medicaid benefits or applicable health insurance benefits.

e. Have had a medical examination by a licensed health care provider within the past 6 months.

f. Have a valid prescription for contraceptives that are available through the contraceptive distribution program.

g. Consent to the release of necessary medical information to the county health department.

2. Fees charged for the contraceptives under the program must cover the cost of purchasing and providing contraceptives to women participating in the program.

3. The department may adopt rules to administer this program.

Section 23. Subsections (3) and (12) of section 381.0302, Florida Statutes, are amended to read:

381.0302 Florida Health Services Corps.—

(3) The Florida Health Services Corps shall be developed by the *department* ~~State Health Office~~ in cooperation with the programs in the area Health Education Center network as defined in s. 381.0402 and the state's health care education and training institutions. The State Health Officer shall be the director of the Florida Health Services Corps.

(12) Funds appropriated under this section shall be deposited in the Florida Health Services Corps Trust Fund, which shall be administered by the *department* ~~State Health Office~~. The department may use funds appropriated for the Florida Health Services Corps as matching funds for federal service-obligation scholarship programs for health care practitioners, such as the Demonstration Grants to States for Community Scholarship Grants program. If funds appropriated under this section are used as matching funds, federal criteria shall be followed whenever there is a conflict between provisions in this section and federal requirements.

Section 24. Subsection (1) of section 381.0405, Florida Statutes, is amended to read:

381.0405 Office of Rural Health.—

(1) ESTABLISHMENT.—The Department *of Health* shall establish an Office of Rural Health ~~within the State Health Office~~. The Office of Rural Health shall coordinate its activities with the area health education center network established pursuant to s. 381.0402 and with any appropriate research and policy development centers within universities that have state-approved medical schools. The Office of Rural Health may enter into a formal relationship with any center that designates the office as an affiliate of the center.

Section 25. Subsections (13), (16), and (17), and paragraph (a) of subsection (15), of section 381.0406, Florida Statutes, are amended to read:

381.0406 Rural health networks.—

(13) TRAUMA SERVICES.—In those network areas which have an established trauma agency approved by the Department of Health ~~and Rehabilitative Services~~, that trauma agency must be a participant in the network. Trauma services provided within the network area must comply with s. 395.037.

(15) NETWORK IMPLEMENTATION.—As funds become available, networks shall be developed and implemented in two phases.

(a) Phase I shall consist of a network planning and development grant program ~~administered by the Agency for Health Care Administration in consultation with the State Health Officer~~. Planning grants shall be used to organize networks, incorporate network boards, and develop formal provider agreements as provided for in this section. The *Department of Health* ~~Agency for Health Care Administration~~ shall develop a request-for-proposal process to solicit grant applications.

(16) CERTIFICATION.—For the purpose of certifying networks that are eligible for Phase II funding, the *Department of Health* ~~Agency for Health Care Administration, in consultation with the State Health Office,~~ shall certify networks that meet the criteria delineated in this section and the rules governing rural health networks.

(17) RULES.—The *Department of Health* ~~Agency for Health Care Administration, in consultation with the State Health Office,~~ shall establish rules that govern the creation and certification of networks, including establishing outcome measures for networks.

Section 26. Section 381.04065, Florida Statutes, is amended to read:

381.04065 Rural health network cooperative agreements.—

(1) INTENT.—It is the Legislature's intent that, to the extent necessary to foster the development of rural health networks as provided for in s. 381.0406, competitive market forces shall be replaced with state regulation, as provided for in *this section* ~~subsections (2) and (3)~~. It is also the intent of the Legislature that consolidation of network hospital services or technologies undertaken pursuant to this section, and cooperative agreements between members of rural health networks, shall not violate the state's antitrust laws when such arrangements improve the quality of health care, moderate cost increases, and are made between members of rural health networks as defined in s. 381.0406. It is also the intent of the Legislature that such arrangements be protected from federal antitrust laws, subject to the approval and supervision of the *Department of Health* ~~Agency for Health Care Administration~~. Such intent is within the public policy of the state to facilitate the provision of quality, cost-efficient medical care to rural patients.

(2) *DEPARTMENT* ~~STATE ACTION~~ APPROVAL.—Providers who are members of certified rural health networks who seek to consolidate services or technologies or enter into cooperative agreements shall seek approval from the *Department of Health* ~~Agency for Health Care Administration~~, which may consult with the Department of Legal Affairs. The *department* ~~agency~~ shall determine that the likely benefits resulting from the agreement outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement and issue a letter of approval if, in its determination, the agreement reduces or moderates costs and meets any of the following criteria:

(a) Consolidates services or facilities in a market area used by rural health network patients to avoid duplication;

(b) Promotes cooperation between rural health network members in the market area;

(c) Encourages cost sharing among rural health network facilities;

(d) Enhances the quality of rural health care; or

(e) Improves utilization of rural health resources and equipment.

(3) STATE OVERSIGHT.—The *Department of Health* ~~agency~~ shall review each agreement approved under *this section* ~~subsection (2)~~ at least every 2 years. If the *department* ~~agency~~ determines that the likely benefits resulting from its state action approval no longer outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the *department* ~~agency~~ shall initiate proceedings to terminate its state action approval governing the agreement. Such termination proceeding shall be governed by chapter 120~~, the Florida Administrative Procedure Act~~.

(4) JUDICIAL REVIEW.—Any applicant aggrieved by a decision of the *Department of Health* ~~Agency for Health Care Administration~~ shall be entitled to both administrative and judicial review thereof in accordance with chapter 120. In such review, the decision of the *department* ~~agency~~ shall be affirmed unless it is arbitrary, capricious, or it is not in compliance with this section.

(5) RULEMAKING.—The *Department of Health* ~~Agency for Health Care Administration~~, in consultation with the ~~State Health Office and the~~ Office of the Attorney General, shall establish rules necessary to implement this section.

Section 27. Subsections (3) through (7) of section 381.0407, Florida Statutes, 1996 Supplement, are amended to read:

381.0407 Managed care and publicly funded primary care program coordination.—

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

(a) "Managed care plan" or "plan" means an entity that contracts with the Agency for Health Care Administration on a prepaid or fixed-sum basis for the provision of Medicaid services pursuant to s. 409.912.

(b) "Publicly funded primary care provider" or "public provider" means a county *health department* ~~public health unit~~ or a migrant health center funded under s. 329 of the Public Health Services Act or a community health center funded under s. 330 of the Public Health Services Act.

(4) REIMBURSEMENT REQUIRED.—Without prior authorization, managed care plans, and the MediPass program as administered by the Agency for Health Care Administration, shall pay claims initiated by any public provider, to the extent the managed care plan or MediPass program provides coverage, for:

(a) The diagnosis and treatment of sexually transmitted diseases and other communicable diseases such as tuberculosis and human immunodeficiency *virus infection* ~~syndrome~~.

(b) The provision of immunizations.

(c) Family planning services and related pharmaceuticals.

(d) School health services listed in paragraphs (a), (b), and (c) and ~~for~~ services rendered on an urgent basis. Services rendered on an urgent basis are ~~those~~ health care services needed to immediately relieve pain or distress for medical problems such as injuries, nausea, and fever, and ~~services needed~~ to treat infectious diseases and other similar conditions.

Public providers shall attempt to contact managed care plans before providing health care services to their subscribers. Public providers shall provide managed care plans with the results of the office visit, including test results, and shall be reimbursed by managed care plans at the rate negotiated between the managed care plan and the public provider or, if a rate has not been negotiated, at the lesser of either the rate charged by the public provider or the Medicaid fee-for-service reimbursement rate.

(5) EMERGENCY SHELTER *MEDICAL SCREENING* REIMBURSEMENT.—County *health departments* ~~public health units~~ shall be reimbursed by managed care plans, *and the MediPass program as administered by the Agency for Health Care Administration,* for *clients of the* Department of *Children and Family* ~~Health and Rehabilitative~~ Services *who receive* emergency shelter medical screenings.

(6) MATERNAL AND CHILD HEALTH SERVICES.—The Agency for Health Care Administration, in consultation with the *Department of Health* ~~State Health Office~~, shall encourage agreements between Medicaid-financed managed care plans and public providers for the authorization of and payment for the following services:

(a) Maternity case management.

(b) Well-child care.

(c) Prenatal care.

(7) VACCINE-PREVENTABLE DISEASE EMERGENCIES.—In the event that a vaccine-preventable disease emergency is declared by the State Health Officer or a county *health department* ~~public health unit~~ director or administrator, managed care plans, the MediPass program as administered by the Agency for Health Care Administration, and health maintenance organizations and prepaid health clinics licensed under chapter 641 shall reimburse county *health departments* ~~public health units~~ for the cost of the administration of vaccines to persons covered by these entities, provided such action is necessary to end the emergency. Reimbursement shall be at the rate negotiated between the entity and the county *health department* ~~public health unit~~ or, if a rate has not been negotiated, at the lesser of either the rate charged by the county *health department* ~~public health unit~~ or the Medicaid fee-for-service reimbursement rate. No charge shall be made by the county *health department* ~~public health unit~~ for the actual cost of the vaccine *or* ~~and~~ for services not covered under the policy or contract of the entity.

Section 28. Subsection (5) of section 383.14, Florida Statutes, 1996 Supplement, is amended to read:

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

(5) ADVISORY COUNCIL.—There is established a Genetics and Infant Screening Advisory Council made up of 12 members appointed by the Secretary ~~of~~ Health ~~and Rehabilitative Services~~. The council shall be composed of two consumer members, three practicing pediatricians,

at least one of whom must be a pediatric hematologist, one representative from each of the four medical schools in the state, the ~~Deputy~~ Secretary *of* ~~for~~ Health or his or her designee, one representative from the *Division of* Children's Medical Services ~~Program Office~~, and one representative from the Developmental Services Program Office *of the Department of Children and Family Services.* All appointments shall be for a term of 4 years. The chairperson of the council shall be elected from the membership of the council and shall serve for a period of 2 years. The council shall meet at least semiannually or upon the call of the chairperson. The council may establish ad hoc or temporary technical advisory groups to assist the council with specific topics which come before the council. Council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members are entitled to be reimbursed for per diem and travel expenses. It is the purpose of the council to advise the department about:

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

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

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

Section 29. Section 383.3362, Florida Statutes, is amended to read:

383.3362 Sudden Infant Death Syndrome.—

(1) FINDINGS AND INTENT.—The Legislature recognizes that ~~research has shown~~ Sudden Infant Death Syndrome, or SIDS, *is* ~~to be~~ a leading cause of death among children under the age of 1 year, both nationally and in this state. The Legislature further recognizes that first responders to emergency calls relating to such a death need access to special training to better enable them to distinguish SIDS from death caused by criminal acts and to appropriately interact with the deceased infant's parents or caretakers. At the same time, the Legislature, recognizing that the primary focus of first responders is to carry out their assigned duties, intends to increase the awareness of SIDS by first responders, but in no way expand or take away from their duties. Further, the Legislature recognizes the importance of a standard protocol for review of SIDS deaths by medical examiners and the importance of appropriate followup in cases of certified or suspected SIDS deaths. ~~Further, the Legislature recognizes the benefits of establishing a SIDS Advisory Council.~~ Finally, the Legislature finds that it is desirable to analyze existing data, and to conduct further research on, the possible causes of SIDS and how to lower the number of sudden infant deaths.

(2) DEFINITION.—As used in this section, the term "Sudden Infant Death Syndrome," or "SIDS," means the sudden unexpected death of an infant under 1 year of age which remains unexplained after a complete autopsy, death-scene investigation, and review of the case history. The term includes only those deaths for which, currently, there is no known cause or cure.

(3) TRAINING.—

(a) The Legislature finds that an emergency medical technician, a paramedic, a firefighter, or a law enforcement officer is likely to be the first responder to a request for assistance which is made immediately after the sudden unexpected death of an infant. The Legislature further finds that these first responders should be trained in appropriate responses to sudden infant death.

(b) After January 1, 1995, the basic training programs required for certification as an emergency medical technician, a paramedic, a firefighter, or a law enforcement officer as defined in s. 943.10, other than a correctional officer or a correctional probation officer, must include curriculum that contains instruction on Sudden Infant Death Syndrome.

(c) ~~On or before January 1, 1994,~~ The Department of Health ~~and Rehabilitative Services~~, in consultation with ~~the Sudden Infant Death Syndrome Advisory Council,~~ the Emergency Medical Services Advisory Council, the Firefighters Standards and Training Council, and the Criminal Justice Standards and Training Commission, shall develop and adopt, by rule, curriculum that, at a minimum, includes training in the nature of SIDS, standard procedures to be followed by law enforcement agencies in investigating cases involving sudden deaths of infants, and training in responding appropriately to the parents or caretakers who have requested assistance.

(4) AUTOPSIES.—

(a) The medical examiner must perform an autopsy upon any infant under the age of 1 year who is suspected to have died of Sudden Infant Death Syndrome. The autopsy must be performed within 24 hours after the death, or as soon thereafter as is feasible. When the medical examiner's findings are consistent with the definition of sudden infant death syndrome in subsection (2), the medical examiner must state on the death certificate that sudden infant death syndrome was the cause of death.

(b) ~~Before January 1, 1994,~~ The Medical Examiners Commission shall develop and implement a protocol for dealing with suspected sudden infant death syndrome. The protocol must be followed by all medical examiners when conducting the autopsies required under this subsection. The protocol may include requirements and standards for scene investigations, requirements for specific data, criteria for ascertaining cause of death based on the autopsy, criteria for any specific tissue sampling, and any other requirements that the commission considers necessary.

(c) A medical examiner is not liable for damages in a civil action for any act or omission done in compliance with this subsection.

(d) An autopsy must be performed under the authority of a medical examiner under s. 406.11.

~~(5) VISITATION BY COUNTY PUBLIC HEALTH NURSE OR SOCIAL WORKER.—~~

~~(a) After the death of an infant which is attributed to Sudden Infant Death Syndrome, a county public health unit nurse or professional social worker affiliated with the county public health unit must attempt to visit the parents or guardians of the deceased, in order to provide the parents or guardians with appropriate educational and support services.~~

~~(b) A nurse or social worker who conducts visits under paragraph (a) must receive training in providing appropriate educational and support services to the parents or guardians of an infant whose death is attributed to SIDS. The State Health Office shall by rule prescribe the requirements for the training, including content, protocol, and frequency.~~

~~(6) SUDDEN INFANT DEATH SYNDROME ADVISORY COUNCIL.—~~

~~(a) There is created the Sudden Infant Death Syndrome Advisory Council, consisting of nine members appointed by the secretary of the Department of Health and Rehabilitative Services in consultation with the Florida SIDS Alliance, of whom three are members of SIDS parents' groups, one is a medical examiner, one is a county public health nurse, one is a physician who has expertise in SIDS, one is a law enforcement officer, one is an emergency medical technician, and one is a paramedic. Either the emergency medical technician or the paramedic must also be a firefighter. Each member must be appointed for a term of 3 years, except that, of the initial appointees, who must be appointed before October 1, 1993, three must be appointed for terms of 1 year each, two must be appointed for terms of 2 years each, and three must be appointed for terms of 3 years each.~~

~~(b) The council shall meet at least annually, and hold additional meetings by teleconference as necessary, and shall annually choose a chair from among its membership.~~

~~(c) The State Health Office shall administer and provide support staff to the council.~~

~~(d) The duties of the council are:~~

~~1. To provide guidance to the department in the development of training, educational, and research programs regarding SIDS.~~

~~2. To provide ongoing guidance to the Governor and the Legislature regarding the need for specific programs regarding SIDS for specific targeted groups of persons.~~

~~3. To establish a link with the fetal and infant mortality reviews of the county Healthy Start Coalitions authorized under chapter 383, to the extent that those coalitions exist in the various counties.~~

~~4. In conjunction with the department or a person with whom the department contracts to provide SIDS education, to convene annually a statewide conference for examining the progress in discovering the cause of SIDS, exploring the progress of newly established programs and services relating to SIDS, identifying future needs for legislation and program development regarding SIDS, and making recommendations on the needs of programs regarding SIDS. Invited conference participants shall include professionals and service providers in the area of SIDS, family members of SIDS victims, members of the Legislature or their staffs, and appropriate state agency staff.~~

~~(c) The members of the advisory council shall serve at the pleasure of the secretary. The members of the advisory council shall serve without compensation, but may be reimbursed for necessary per diem and travel expenses incurred in the performance of the duties of the advisory council, as provided in s. 112.061.~~

(5)~~(7)~~ *DEPARTMENT* ~~STATE HEALTH OFFICE,~~ DUTIES RELATING TO SUDDEN INFANT DEATH SYNDROME (SIDS).—The *Department of* ~~State~~ Health ~~Office~~ shall:

(a) Collaborate with other agencies in the development and presentation of the Sudden Infant Death Syndrome (SIDS) training programs for first responders, including those for emergency medical technicians and paramedics, firefighters, and law enforcement officers.

(b) Maintain a database of statistics on reported SIDS deaths, and analyze the data as funds allow.

~~(c) Administer and provide staff support for the Sudden Infant Death Syndrome Advisory Council.~~

(c)~~(d)~~ Serve as liaison and closely coordinate activities with the Florida SIDS Alliance, including the services related to the SIDS hotline.

(d)~~(e)~~ Maintain a library reference list and materials about SIDS for public dissemination.

(e)~~(f)~~ Provide professional support to field staff.

(f) Coordinate the activities of and promote a link between the fetal and infant mortality review committees of the local healthy start coalitions, the local SIDS alliance, and other related support groups.

~~(g) Provide professional support services to people who are affected by SIDS.~~

~~(h) Prepare and submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an annual report, beginning January 1, 1995, which must include information on the training programs for first responders, the results of visitation by county public health unit personnel, a summary of the information presented at the annual conference, and statistical data and findings from research relating to SIDS.~~

~~(8) FISCAL CONSTRAINT.—This section may be implemented only to the extent that funding is provided by the Legislature.~~

Section 30. Section 385.202, Florida Statutes, 1996 Supplement, is amended to read:

385.202 Statewide cancer registry.—

(1) Each *facility* ~~hospital~~ licensed *under* ~~pursuant to~~ chapter 395 *and each freestanding radiation therapy center as defined in s. 408.07* shall report to the Department of Health ~~and Rehabilitative Services~~ such information, specified by the department, by rule, *which indicates* ~~as will indicate~~ diagnosis, stage of disease, medical history, laboratory data, tissue diagnosis, and radiation, surgical, or other methods of *diagnosis or* treatment *for* ~~on~~ each cancer *diagnosed or* ~~patient~~ treated by the *facility or center* ~~hospital~~. Failure to comply with this requirement may be cause for *registration or licensure* suspension or revocation ~~of the license of any such hospital~~.

(2) The department shall establish, or cause to have established, by contract with a recognized medical organization in this state and its affiliated institutions, a statewide cancer registry program to ensure that cancer reports *required under this section* ~~as required in subsection (1)~~ shall be maintained and ~~shall be~~ available for use in the course of any study for the purpose of reducing morbidity or mortality; and no liability of any kind or character for damages or other relief shall arise or be enforced against any hospital by reason of having provided such information or material to the department.

(3) The department or a contractual designee operating the statewide cancer registry program required by this *section* ~~act~~ shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released for general publication. Information which discloses or could lead to the disclosure of the identity of any person whose condition or treatment has been reported and studied shall be confidential and exempt from the provisions of s. 119.07(1), except that:

(a) Release may be made with the written consent of all persons to whom the information applies;

(b) The department or a contractual designee may contact individuals for the purpose of epidemiologic investigation and monitoring, provided information that is confidential under this section is not further disclosed; or

(c) The department may exchange personal data with any other governmental agency or a contractual designee for the purpose of medical or scientific research, provided such governmental agency or contractual designee shall not further disclose information that is confidential under this section.

(4) Funds appropriated for this *section* ~~act~~ shall be *used* ~~utilized~~ for ~~the purposes of~~ establishing, administering, compiling, processing, and providing ~~suitable~~ biometric and statistical analyses to the reporting *facilities* ~~hospitals and shall be utilized to help defray the expenses incurred by the reporting hospitals in providing information to the cancer registry~~. *Funds may also be used to ensure the quality and accuracy of the information reported and to provide management information to the reporting facilities.* Such reporting hospitals shall be reimbursed for reasonable costs.

(5) *The department may, by rule, classify facilities for purposes of reports made to the cancer registry and specify the content and frequency of the reports. In classifying facilities, the department shall exempt certain facilities from reporting cancer information that was previously reported to the department or retrieved from existing state reports made to the department or the Agency for Health Care Administration.* The provisions of this *section* ~~act~~ shall not apply to any *facility* ~~hospital~~ whose primary function is to provide psychiatric care to its patients.

Section 31. Section 385.203, Florida Statutes, is amended to read:

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

(1) There is created a Diabetes Advisory Council to the diabetes centers, *the Board of Regents,* and the Department of Health ~~and Rehabilitative Services~~. The council shall:

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

(b) Provide advice and consultation to~~:~~

~~1.~~ the deans of the medical schools in which are located diabetes centers, and by June 30 of each year, the council shall submit written recommendations to the deans regarding the need for diabetes education, treatment, and research activities to promote the prevention and control of diabetes.

(c)~~2. The secretary of the department, and~~ By June 30 of each year, ~~the council shall~~ meet with the Secretary *of Health* or his or her designee to make specific recommendations regarding the public health aspects of the prevention and control of diabetes.

~~(c) By October 1, 1991, and, subsequently, no later than October 1 of each year preceding a legislative session for which a biennial budget is submitted, submit to the Governor and the Legislature a diabetes state plan. The plan must be developed with administrative assistance from the department and must contain information regarding: the problems of diabetes in Florida; the resources currently available and needed to~~

~~address the problems; the goals and methods by which the department, the diabetes centers, the council, and the health care community should address the problems; and an evaluation scheme for assessing progress. The plan shall set the overall policy and procedures for establishing a statewide health care delivery system for diabetes mellitus.~~

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

(3) The council shall be composed of 18 citizens of the state as follows: four practicing physicians; one representative from each medical school; seven interested citizens, at least three of whom shall be persons who have or have had diabetes mellitus or who have a child with diabetes mellitus; the ~~Deputy~~ Secretary *of* ~~for~~ Health or his or her designee; one representative from the *Division of* Children's Medical Services *of the Department of Health* ~~Program Office~~; and one professor of nutrition.

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

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

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

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

~~(7) The department shall consider the plan of the advisory council in dispersing funds appropriated for the prevention and control of diabetes.~~

Section 32. Section 391.051, Florida Statutes, 1996 Supplement, is amended to read:

391.051 Qualifications of director.—The Director *for* ~~of~~ Children's Medical Services must be a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of medical care to children and *who* has recognized skills in leadership and the promotion of children's health programs. The Director *for* ~~of~~ Children's Medical Services shall be *the deputy secretary and the Deputy State Health Officer for Children's Medical Services and is appointed by and reports to the secretary* ~~the division director of the Division of Children's Medical Services as provided under s. 20.43~~.

Section 33. Subsections (1), (2), and (4) of section 392.52, Florida Statutes, are amended to read:

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

(1) "Active tuberculosis" means tuberculosis disease that is demonstrated to be contagious by clinical *or*~~,~~ bacteriological~~, or radiographic~~ evidence, or by other means as determined by rule of the department. Tuberculosis disease is considered active until cured.

(2) "County *health department* ~~public health unit~~" means an agency or entity designated as such in chapter 154.

(4) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 34. Section 392.565, Florida Statutes, is amended to read:

392.565 Execution of certificate for involuntary hold.—When a person who has active tuberculosis or who is reasonably suspected of having ~~or having been exposed to~~ active tuberculosis presents to a physician licensed under chapter 458 or chapter 459 for examination or treatment and the physician has reason to believe that if the person leaves the treatment location the person will pose a threat to the public health based on test results or the patient's medical history and the physician has reason to believe that the person is not likely to appear at a hearing scheduled under s. 392.55 or s. 392.56, the treating physician shall request the State Health Officer or his or her designee to order that the person be involuntarily held by executing a certificate stating that the person appears to meet the criteria for involuntary examination or treatment and stating the observation upon which that conclusion is based. The sheriff of the county in which the certificate was issued shall take such person into custody and shall deliver the person to the nearest available licensed hospital, or to another location where isolation is available, as appropriate, for observation, examination, and treatment for a period not to exceed 72 hours, pending a hearing scheduled under s. 392.55 or s. 392.56. The certificate must be filed with the circuit court in which the person is involuntarily held and constitutes a petition for a hearing under s. 392.55 or s. 392.56.

Section 35. Subsections (2) and (4) of section 392.62, Florida Statutes, are amended to read:

392.62 Hospitalization and placement programs.—

(2) The department may operate a licensed hospital for the care and treatment to cure of persons who have active tuberculosis. *The hospital may have a forensic unit where, under medical protocol, a patient can be held in a secure or protective setting.* ~~However,~~ The department shall also seek to maximize use of existing licensed community hospitals for the care and treatment to cure of persons who have active tuberculosis.

(4) A hospital may, pursuant to court order, place a patient in temporary isolation for a period of no more than 72 continuous hours. The department shall obtain a court order in the same manner as prescribed in s. 392.57. *Nothing in this subsection precludes a hospital from isolating an infectious patient for medical reasons.*

Section 36. Subsections (4) and (5) of section 395.3025, Florida Statutes, 1996 Supplement, are amended to read:

395.3025 Patient and personnel records; copies; examination.—

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

(a) Licensed facility personnel and attending physicians for use in connection with the treatment of the patient.

(b) Licensed facility personnel only for administrative purposes or risk management and quality assurance functions.

(c) The agency, for purposes of health care cost containment.

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

(e) The agency ~~or the Department of Business and Professional Regulation~~ upon subpoena issued pursuant to s. 455.223, but the records obtained thereby must be used solely for the purpose of the agency ~~or the Department of Business and Professional Regulation~~ and the appropriate professional board in its investigation, prosecution, and appeal of disciplinary proceedings. If the agency ~~or the Department of Business and Professional Regulation~~ requests copies of the records, the facility shall charge no more than its actual copying costs, including reasonable staff time. The records must be sealed and must not be available to the public pursuant to s. 119.07(1) or any other statute providing access to records, nor may they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency~~, the Department of Business and Professional Regulation,~~ or the appropriate regulatory board. However, the agency ~~or the Department of Business and Professional Regulation~~ must make available, upon written request by a practitioner against whom probable cause has been found, any such records that form the basis of the determination of probable cause.

(f) The Department *of Health* or its agent, for the purpose of establishing and maintaining a trauma registry and for the purpose of ensuring that hospitals and trauma centers are in compliance with the standards and rules established under ss. 395.401, 395.4015, 395.4025, 395.404, 395.4045, and 395.405, and for the purpose of monitoring patient outcome at hospitals and trauma centers that provide trauma care services.

(g) The Department of *Children and Family* ~~Health and Rehabilitative~~ Services or its agent, for the purpose of investigations of cases of abuse, neglect, or exploitation of children or disabled adults or elderly persons.

(h) The State Long-Term Care Ombudsman Council and the district long-term care ombudsman councils, with respect to the records of a patient who has been admitted from a nursing home or long-term care facility, when the councils are conducting an investigation involving the patient as authorized under part II of chapter 400, upon presentation of identification as a council member by the person making the request. Disclosure under this paragraph shall only be made after a competent patient or the patient's representative has been advised that disclosure may be made and the patient has not objected.

(i) A local trauma agency or a regional trauma agency that performs quality assurance activities, or a panel or committee assembled to assist a local trauma agency or a regional trauma agency in performing quality assurance activities. Patient records obtained under this paragraph are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(j) Organ procurement organizations, tissue banks, and eye banks required to conduct death records reviews pursuant to s. 395.2050.

(5) The Department *of Health* may examine patient records of a licensed facility*, whether held by the facility or the Agency for Health Care Administration,* for the purpose of epidemiological investigations. ~~, provided that~~ The unauthorized release of information by agents of the department which would identify an individual patient is a misdemeanor of the *first* ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

Section 37. Present paragraphs (c) through (l) of subsection (1) of section 395.401, Florida Statutes, are redesignated as paragraphs (d) through (m), respectively, and a new paragraph (c) is added to that subsection, to read:

395.401 Trauma services system plans; verification of trauma centers and pediatric trauma referral centers; procedures; renewal.—

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

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

Section 38. Subsection (1) of section 401.107, Florida Statutes, is amended to read:

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

(1) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 39. Section 401.111, Florida Statutes, is amended to read:

401.111 Emergency medical services grant program; authority.—The department ~~of Health and Rehabilitative Services~~ is hereby authorized to make grants to local agencies and emergency medical services organizations in accordance with any agreement entered into pursuant to this part. These grants shall be designed to assist said agencies and organizations in providing emergency medical services. The cost of administering this program shall be paid by the department from funds appropriated to it.

Section 40. Section 401.117, Florida Statutes, is amended to read:

401.117 Grant agreements; conditions.—The department ~~of Health and Rehabilitative Services~~ shall use the following guidelines in developing the procedures for grant disbursement:

(1) The need for emergency medical services and the requirements of the population to be served.

(2) All emergency vehicles and attendants must conform to state standards established by law or *rule* ~~regulation~~ of the department.

(3) All vehicles shall contain minimum equipment and supplies as required by law or *rule* ~~regulation~~ of the department.

(4) All vehicles shall have at a minimum a direct communications linkup with the operating base and hospital designated as the primary receiving facility.

(5) Emphasis shall be accorded to applications that contain one or more of the following provisions:

(a) Services provided on a county, multicounty, or areawide basis.

(b) A single provider, or a coordinated provider, method of delivering services.

(c) Coordination of all communication links, including police, fire, emergency vehicles, and other related services.

Section 41. Subsections (10) and (21) of section 401.23, Florida Statutes, are amended to read:

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

(10) "Department" means the Department of Health ~~and Rehabilitative Services~~.

(21) "Secretary" means the Secretary of Health ~~and Rehabilitative Services~~.

Section 42. Paragraphs (a) and (c) of subsection (2) and subsection (5) of section 401.245, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

401.245 Emergency Medical Services Advisory Council.—

(2)(a) No more than 15 members may be appointed to this council. ~~Each district of the department shall, when possible, be represented on the advisory council.~~ Members shall be appointed for 4-year terms in such a manner that each year the terms of approximately one-fourth of the members expire. The chair of the council shall be designated by the secretary. Vacancies shall be filled for the remainder of unexpired terms in the same manner as the original appointment. Members shall receive no compensation but may be reimbursed for per diem and travel expenses.

(c) Appointments to the council shall be made by the secretary ~~of the Department of Health and Rehabilitative Services~~, except that state agency representatives shall be appointed by the respective agency head.

(5) The department ~~of Health and Rehabilitative Services~~ shall adopt rules to implement this section, which rules shall serve as formal operating procedures for the Emergency Medical Services Advisory Council.

(6) There is established a committee to advise the Department of Health on matters concerning preventative, pre-hospital, hospital, rehabilitative, and other post-hospital medical care for children.

(a) Committee members shall be appointed by the secretary, and shall include, but not be limited to, physicians and other medical professionals that have experience in emergency medicine or expertise in emergency and critical care for children.

(b) Appointments to the committee shall be for a term of two years. Vacancies may be filled for the unexpired term at the discretion of the secretary. The members shall serve without compensation, and shall not be reimbursed for necessary expenses incurred in the performance of their duties, unless there is funding available from the Federal government or contributions or grants from private sources.

Section 43. Section 401.252, Florida Statutes, is amended to read:

401.252 Interfacility transfer.—

(1) A licensed basic or advanced life support ambulance service may conduct interfacility transfers in a permitted ambulance, using a regis-

tered nurse in place of an emergency medical technician or paramedic, if:

(a) The registered nurse holds a current certificate of successful course completion in advanced cardiac life support;

(b) The physician in charge has granted permission for such a transfer, has designated the level of service required for such transfer, and has deemed the patient to be in such a condition appropriate to this type of ambulance staffing; and

(c) The registered nurse operates within the scope of chapter 464.

(2) A licensed basic or advanced life support service may conduct interfacility transfers in a permitted ambulance if the patient's treating physician certifies that the transfer is medically appropriate and the physician provides reasonable transfer orders. *An interfacility transfer must be conducted in a permitted ambulance if it is determined that the patient needs, or is likely to need, medical attention during transport.* If the emergency medical technician or paramedic believes the level of patient care required during the transfer is beyond his or her capability, the medical director, or his or her designee, must be contacted for clearance prior to conducting the transfer. If necessary, the medical director, or his or her designee, shall attempt to contact the treating physician for consultation to determine the appropriateness of the transfer.

(3) Infants less than 28 days old or infants weighing less than 5 kilograms, who require critical care interfacility transport to a neonatal intensive care unit, shall be transported in a permitted advanced life support or basic life support transport ambulance, or in a permitted advanced life support or basic life support ambulance that is recognized by the department as meeting designated criteria for neonatal interfacility critical care transport.

(4) The department shall adopt and enforce rules to carry out this section, including rules for permitting, equipping, and staffing transport ambulances and that govern the medical direction under which interfacility transfers take place.

Section 44. Subsection (2) of section 401.265, Florida Statutes, is amended to read:

401.265 Medical directors.—

(2) Each medical director shall establish a quality assurance committee to provide for quality assurance review of all emergency medical technicians and paramedics operating under his or her supervision. If the medical director has reasonable belief that conduct by an emergency medical technician or paramedic may constitute one or more grounds for discipline as provided by this part, he or she shall document facts and other information related to the alleged violation. The medical director shall report to the department ~~of Health and Rehabilitation Services~~ any emergency medical technician or paramedic whom the medical director reasonably believes to have acted in a manner which might constitute grounds for disciplinary action. Such a report of disciplinary concern must include a statement and documentation of the specific acts of the disciplinary concern. Within 7 days after receipt of such a report, the department shall provide the emergency medical technician or paramedic a copy of the report of the disciplinary concern and documentation of the specific acts related to the disciplinary concern. If the department determines that the report is insufficient for disciplinary action against the emergency medical technician or paramedic pursuant to s. 401.411, the report shall be expunged from the record of the emergency medical technician or paramedic.

Section 45. Subsection (8) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(8) Each emergency medical technician certificate and each paramedic certificate will expire automatically and may be renewed if the holder meets the qualifications for renewal as established by the department. *A certificate that is not renewed at the end of the 2-year period will automatically revert to an inactive status for a period not to exceed 180 days. Such certificate may be reactivated and renewed within the 180 days if the certificateholder meets all other qualifications for renewal and pays a $25 late fee. Reactivation shall be in a manner and on forms prescribed by department rule. The holder of a certificate that expired on December 1, 1996, has until September 30, 1997, to reactivate the certificate in accordance with this subsection.*

Section 46. Section 402.105, Florida Statutes, is transferred, renumbered as section 381.85, Florida Statutes, and amended to read:

381.85 ~~402.105~~ Biomedical and social research.—

(1) SHORT TITLE; PURPOSE AND INTENT.—

(a) This section may be cited as the "Florida Biomedical and Social Research Act."

(b) The purpose of this section is to provide a procedure by which proposed research on children or adults will be supported with funds appropriated to the department, and can be efficiently and expeditiously assessed for compliance with the substantive and procedural requirements established by the Review Council for Biomedical and Social Research in rules adopted by the department.

(c) It is the intent of the Legislature that:

1. Research involving human beings be conducted by the department, or with funds appropriated to the department, only when necessary and appropriate, and only after review and approval pursuant to the provisions of this section and related rules.

2. The department and the Review Council for Biomedical and Social Research jointly develop rules under which proposed research on human beings shall be promptly and appropriately submitted for review and approval pursuant to this section.

3. The rules to be adopted by the department and the procedures and criteria to be adopted by the Review Council for Biomedical and Social Research be guided by the ethical standards for human research set forth in the report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

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

(a) "Department" means the Department of Health ~~and Rehabilitative Services~~.

(b) "Research" means a systematic investigation designed to develop or contribute to knowledge that can be generalized.

(c) "Intervention" means physical procedures by which data are gathered and manipulations of the subject or the subject's environment that are performed for research purposes.

(d) "Interaction" means communication or interpersonal contact between investigator and subject.

(e) "Private information" means information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public.

(3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

(a) There is created the Review Council for Biomedical and Social Research to consist of nine members. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint, no later than January 1, 1991, three members, as follows: one individual knowledgeable in biomedical research, one individual knowledgeable in behavioral research, and one individual from the client advocacy community. The chairperson shall be elected by majority vote of the members.

(b) Members of the Review Council for Biomedical and Social Research shall be appointed to serve terms of 3 years. A member may not serve more than two consecutive terms.

(c) The council shall adopt internal organizational procedures or bylaws necessary for efficient operation of the council.

(d) The council shall have a budget and shall be financed through an annual appropriation made for this purpose in the General Appropria-

tions Act. Each member shall be entitled to receive per diem and expenses for travel, as provided in s. 112.061, while carrying out official business of the council. For administrative purposes only, the council shall be assigned to the Department of Legal Affairs.

(e) The council shall be staffed by an executive director and a secretary who shall be appointed by the council and who shall be exempt from the provisions of part II of chapter 110 relating to the Career Service System.

(f) The council shall meet and conduct business at least quarterly, or more often at the call of the chairperson.

(g) The council shall consult outside experts, target populations, and others to assist in decisionmaking during the review process.

(h) Meetings of the council shall be subject to the provisions of chapter 119 and s. 286.011.

(4) RESEARCH SUBJECT TO REVIEW.—Any research on human beings conducted under the authority of the department shall be subject to review and approval by the Review Council for Biomedical and Social Research. In order to effectuate the review and approval process, the council shall adopt criteria to be used in its review of proposed research, procedures by which proposals for research on human beings by the department are to be submitted to the council, and other procedures necessary to assist in providing an efficient and effective decisionmaking process.

(5) RULES.—The department, in consultation with the Review Council for Biomedical and Social Research, shall adopt rules necessary to carry out the provisions of this section. Such rules shall include, but not be limited to, defining the type of research to which such rules shall apply and prescribing internal departmental procedures for review and approval of research on human beings prior to submission to the council.

Section 47. Section 402.32, Florida Statutes, is transferred, renumbered as section 381.0056, Florida Statutes, and amended to read:

381.0056 ~~402.32~~ School health services program.—

(1) This section ~~shall be known and~~ may be cited as the "School Health Services Act."

(2) The Legislature finds that health services conducted as a part of the total school health program should be carried out to appraise, protect, and promote the health of students. School health services supplement, rather than replace, parental responsibility and are designed to encourage parents to devote attention to child health, to discover health problems, and to encourage use of the services of their physicians, dentists, and community health agencies.

(3) *When used in this* ~~The following words and phrases have the following meanings for the purpose of this~~ section:

(a) "Emergency health needs" means onsite management and aid for illness or injury pending the student's return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.

(b) "Invasive screening" means any screening procedure in which the skin or any body orifice is penetrated.

(c) "Physical examination" means a thorough evaluation of the health status of an individual.

(d) "School health services plan" means the document that describes the services to be provided, the responsibility for provision of the services, the anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and *county health departments* ~~public health units of the Department of Health and Rehabilitative Services~~.

(e) "Screening" means presumptive identification of unknown or unrecognized diseases or defects by the application of tests that can be given with ease and rapidity to apparently healthy persons.

(4) The Department of Health ~~and Rehabilitative Services~~ shall have the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews. However, the principal of each school shall have immediate supervisory authority over the health personnel working in the school.

(5) Each *county health department* ~~public health unit~~ shall develop, jointly with the district school board and the local school health advisory committee, a health services plan; and the plan shall include, at a minimum, provisions for:

(a) Health appraisal;

(b) Records review;

(c) Nurse assessment;

(d) Nutrition assessment;

(e) A preventive dental program;

(f) Vision screening;

(g) Hearing screening;

(h) Scoliosis screening;

(i) Growth and development screening;

(j) Health counseling;

(k) Referral and followup of suspected or confirmed health problems by the local *county health department* ~~public health unit~~;

(l) Meeting emergency health needs in each school;

(m) *County health department* ~~Public health unit~~ personnel to assist school personnel in health education curriculum development;

(n) Referral of students to appropriate health treatment, in cooperation with the private health community whenever possible;

(o) Consultation with a student's parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated;

(p) Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs; except, however, that provisions in the plan for maintenance of health records of individual students must be in accordance with s. 228.093;

(q) Health information which will be provided by the school health nurses, when necessary, regarding the placement of students in exceptional student programs and the reevaluation at periodic intervals of students placed in such programs; and

(r) Notification to the local nonpublic schools of the school health services program and the opportunity for representatives of the local nonpublic schools to participate in the development of the cooperative health services plan.

(6) A nonpublic school may request to participate in the school health services program. A nonpublic school voluntarily participating in the school health services program shall:

(a) Cooperate with the *county health department* ~~public health unit~~ and district school board in the development of the cooperative health services plan;

(b) Make available physical facilities for health services;

(c) Provide inservice health training to school personnel;

(d) Cooperate with public health personnel in the implementation of the school health services plan;

(e) Be subject to health service program reviews by the Department of Health ~~and Rehabilitative Services~~ and the Department of Education; and

(f) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the school will receive

specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(7) The district school board shall:

(a) Coordinate the educational aspects of the school health services program with the *Florida Comprehensive Health Education and Substance Abuse Prevention Act* ~~Comprehensive Health Education Act of 1973~~;

(b) Include health services and health education as part of the comprehensive plan for the school district;

(c) Provide inservice health training for school personnel;

(d) Make available physical facilities for health services; and

(e) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(8) The Department of Health ~~and Rehabilitative Services~~, in cooperation with the Department of Education, *may adopt* ~~is authorized to promulgate~~ rules necessary to implement this section.

(9) In the absence of negligence, no person shall be liable for any injury caused by an act or omission in the administration of school health services.

Section 48. Section 402.321, Florida Statutes, is transferred, renumbered as section 381.0057, Florida Statutes, and amended to read:

381.0057 ~~402.321~~ Funding for school health services.—

(1) It is the intent of the Legislature that funds in addition to those provided under the School Health Services Act be provided to those school districts and schools where there is a high incidence of medically underserved high-risk children, low birthweight babies, infant mortality, or teenage pregnancy. The purpose of this funding is to phase in those programs which offer the greatest potential for promoting the health of students and reducing teenage pregnancy.

(2) The Secretary of Health ~~and Rehabilitative Services~~, or his or her designee, in cooperation with the Commissioner of Education, or his or her designee, shall publicize the availability of funds, targeting those school districts or schools which have a high incidence of medically underserved high-risk children, low birthweight babies, infant mortality, or teenage pregnancy.

(3) The Secretary of Health ~~and Rehabilitative Services~~, or his or her designees, in cooperation with the Commissioner of Education, or his or her designees, in equal representation, shall form a joint committee to evaluate and select the school districts or schools to be funded.

(4) Any school district, school, or laboratory school which desires to receive state funding under the provisions of this section shall submit a proposal to the joint committee established in subsection (3). The proposal shall state the goals of the program, provide specific plans for reducing teenage pregnancy, and describe all of the health services to be available to students with funds provided pursuant to this section, including a combination of initiatives such as health education, counseling, extracurricular, and self-esteem components. School health services shall not promote elective termination of pregnancy as a part of counseling services. Only those program proposals which have been developed jointly by county *health departments* ~~public health units~~ and local school districts or schools, and which have community and parental support, shall be eligible for funding. Funding shall be available specifically for implementation of one of the following programs:

(a) School health improvement pilot project.—The program shall include basic health care to an elementary school, middle school, and high school feeder system. Program services shall include, but not be limited to:

1. Planning, implementing, and evaluating school health services. Staffing shall include a full-time, trained school health aide in each elementary, middle, and high school; one full-time nurse to supervise the aides in the elementary and middle schools; and one full-time nurse in each high school.

2. Providing student health appraisals and identification of actual or potential health problems by screenings, nursing assessments, and record reviews.

3. Expanding screening activities.

4. Improving the student utilization of school health services.

5. Coordinating health services for students with parents or guardians and other agencies in the community.

(b) Student support services team program.—The program shall include a multidisciplinary team composed of a psychologist, social worker, and nurse whose responsibilities are to provide basic support services and to assist, in the school setting, children who exhibit mild to severely complex health, behavioral, or learning problems affecting their school performance. Support services shall include, but not be limited to: evaluation and treatment for minor illnesses and injuries, referral and followup for serious illnesses and emergencies, onsite care and consultation, referral to a physician, and followup care for pregnancy or chronic diseases and disorders as well as emotional or mental problems. Services also shall include referral care for drug and alcohol abuse and sexually transmitted diseases, sports and employment physicals, immunizations, and in addition, effective preventive services aimed at delaying early sexual involvement and aimed at pregnancy, acquired immune deficiency syndrome, sexually transmitted diseases, and destructive lifestyle conditions, such as alcohol and drug abuse. Moneys for this program shall be used to fund three teams, each consisting of one half-time psychologist, one full-time nurse, and one full-time social worker. Each team shall provide student support services to an elementary school, middle school, and high school that are a part of one feeder school system and shall coordinate all activities with the school administrator and guidance counselor at each school. A program which places all three teams in middle schools or high schools may also be proposed.

(c) Full service schools.—The full-service schools shall integrate the services of the Department of Health ~~and Rehabilitative Services~~ that are critical to the continuity-of-care process. The department ~~of Health and Rehabilitative Services~~ shall provide services to students on the school grounds. ~~The~~ Department ~~of Health and Rehabilitative Services~~ personnel shall provide their specialized services as an extension of the educational environment. Such services may include nutritional services, medical services, aid to dependent children, parenting skills, counseling for abused children, and education for the students' parents or guardians.

Funding may also be available for any other program that is comparable to a program described in this subsection but is designed to meet the particular needs of the community.

(5) In addition to the merits of a proposal, selection shall be based on those school districts or schools that most closely meet the following criteria:

(a) Have evidence of a comprehensive inservice staff development plan to ensure delivery of appropriate curriculum.

(b) Have evidence of a cooperative working relationship between the county public health unit and the school district or school and have community as well as parental support.

(c) Have a high percentage of subsidized school lunches.

(d) Have a high incidence of medically underserved high-risk children, low birthweight babies, infant mortality, or teenage pregnancy.

(6) Each school district or school program that is funded through the provisions of this section shall provide a mechanism through which a parent may, by written request, exempt a child from all or certain services provided by a school health services program described in subsection (4).

Section 49. Section 402.41, Florida Statutes, is amended to read:

402.41 Educational materials and training concerning human immunodeficiency virus infections and acquired immune deficiency syndrome.—The Department of Health ~~and Rehabilitative Services~~ shall develop educational materials and training about the transmission, control, and prevention of human immunodeficiency virus infections and acquired immune deficiency syndrome and other communicable diseases relevant for use in those facilities licensed under the provisions of this chapter.

Section 50. Section 402.475, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 381.87, Florida Statutes, and amended to read:

381.87 ~~402.475~~ Osteoporosis prevention and education program.—

(1) The Department of Health ~~and Rehabilitative Services~~, using available federal funds, state funds appropriated for that purpose, or other available funding as provided for in this section, shall establish, promote, and maintain an osteoporosis prevention and education program to promote public awareness of the causes of osteoporosis, options for prevention, the value of early detection, and possible treatments, including the benefits and risks of those treatments. The department shall consult with medical professionals, including physicians licensed under chapter 458 or chapter 459, in carrying out these duties. The department may accept, for that purpose, any special grant of money, services, or property from the Federal Government or any of its agencies or from any foundation, organization, or medical school.

(2) The program must include:

(a) Development of a public education and outreach campaign to promote osteoporosis prevention and education, including, but not limited to, the following subjects:

1. The cause and nature of the disease.

2. Risk factors.

3. The role of oophorectomy and hysterectomy.

4. Prevention of osteoporosis, including nutrition, diet, and physical exercise.

5. Diagnostic procedures and appropriate indications for their use.

6. Hormone replacement, including benefits and risks.

7. Environmental safety and injury prevention.

8. Availability of osteoporosis treatment services in the community.

(b) Distribution of educational materials to be made available for consumers, particularly targeted to high-risk groups, through local health departments, local physicians, and other providers, including, but not limited to, health maintenance organizations, hospitals, and clinics, and through women's organizations and the Department of Elderly Affairs.

(c) Development of professional education programs for health care providers to assist them in understanding research findings and the subjects set forth in paragraph (a).

(3) The *Department of Health* ~~State Health Office~~ shall implement this section. The *department* ~~State Health Office~~ shall consult with the Agency for Health Care Administration and the Department of Elderly Affairs with respect to the prevention and education activities relating to osteoporosis which are described in this section.

Section 51. Section 402.60, Florida Statutes, is transferred, renumbered as section 381.88, Florida Statutes, and amended to read:

381.88 ~~402.60~~ Insect sting emergency treatment.—

(1) This section may be cited as the "Insect Sting Emergency Treatment Act."

(2) The purpose of this section is to provide for the certification of persons who administer lifesaving treatment to persons who have severe adverse reactions to insect stings when a physician is not immediately available.

(3) The Department of Health ~~and Rehabilitative Services~~ may:

(a) Adopt rules necessary to administer this section.

(b) Conduct educational training programs as described in subsection (4), and approve programs conducted by other persons or governmental agencies.

(c) Issue and renew certificates of training to persons who have complied with this section and the rules adopted by the department.

(d) Collect fees necessary to administer this section.

(4) Educational training programs required by this section must be conducted by a physician licensed to practice medicine in this state. The curriculum must include at a minimum:

(a) Recognition of the symptoms of systemic reactions to insect stings; and

(b) The proper administration of a subcutaneous injection of epinephrine.

(5) A certificate of training may be given to a person who:

(a) Is 18 years of age or older;

(b) Has, or reasonably expects to have, responsibility for at least one other person who has severe adverse reactions to insect stings as a result of his or her occupational or volunteer status, including a camp counselor, scout leader, school teacher, forest ranger, tour guide, or chaperone;

(c) Has successfully completed an educational training program as described in subsection (4).

(6) A person who successfully completes an educational training program may obtain a certificate upon payment of an application fee of $25.

(7) A certificate issued pursuant to this section authorizes the holder thereof to receive, upon presentment of the certificate, from any physician licensed in this state or from the department, a prescription for premeasured doses of epinephrine and the necessary paraphernalia for administration. The certificate also authorizes the holder thereof to possess and administer, in an emergency situation when a physician is not immediately available, the prescribed epinephrine to a person suffering a severe adverse reaction to an insect sting.

Section 52. Section 402.61, Florida Statutes, is transferred, renumbered as section 381.89, Florida Statutes, and amended to read:

381.89 ~~402.61~~ Regulation of tanning facilities.—

(1) As used in this section:

(a) "Tanning facility" means a place of business which provides access to a tanning device by customers.

(b) "Department" means the Department of Health ~~and Rehabilitative Services~~.

(c) "Tanning device" means equipment that emits electromagnetic radiation of wavelengths between 200 and 400 nanometers and that is used for tanning the skin, including a sunlamp, tanning booth, or tanning bed or any accompanying equipment.

(2) This section does not apply to a tanning facility that uses only phototherapy devices that emit ultraviolet radiation which are used only by or under the direct supervision of a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459.

(3)(a) A person may not operate a tanning facility unless it is licensed under this section.

(b) The department shall establish procedures for the issuance and annual renewal of licenses and shall establish annual license and renewal fees in an amount necessary to cover the expenses of administering this section. Annual license and renewal fees shall be not less than $125 nor more than $250 per tanning device. Effective October 1, 1991, the fee amount shall be the minimum fee proscribed in this paragraph and such fee amount shall remain in effect until the effective date of a fee schedule adopted by the department.

(c) The department may adopt a system under which licenses expire on staggered dates and the annual renewal fees are prorated monthly to reflect the actual number of months the license is valid.

(d) The department may cancel, revoke, or suspend a license to operate a tanning facility if the licensee:

1. Fails to pay any fee required by this section;

2. Obtains or attempts to obtain a license by fraud; or

3. Violates a provision of this section.

(4)(a) A tanning facility must give each customer a written warning that states that:

1. Not wearing the provided eye protection can cause damage to the eyes.

2. Overexposure causes burns.

3. Repeated exposure can cause premature aging of the skin or skin cancer.

4. Abnormal skin sensitivity or burning may be caused by certain foods, cosmetics, or medications, including, without limitation, tranquilizers, diuretics, antibiotics, high blood pressure medicines, or birth control pills.

5. Any person who takes a prescription or over-the-counter medication should consult a physician before using a tanning device.

6. It does not carry liability insurance for injuries caused by tanning devices or states the limits of any liability insurance it carries.

(b) A tanning facility must post a warning sign in any area where a tanning device is used. Posting this sign does not absolve the facility of any liability. The sign must state:

DANGER, ULTRAVIOLET RADIATION
Follow these instructions:

1. Avoid frequent or lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury or allergic reactions. Repeated exposure can cause chronic sun damage characterized by wrinkling, dryness, fragility and bruising of the skin or skin cancer.

2. Wear protective eyewear. FAILURE TO USE PROTECTIVE EYEWEAR CAN RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

3. Ultraviolet radiation from sunlamps will aggravate the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

4. Using medications or cosmetics can increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Women who are pregnant or on birth control who use this product can develop discolored skin. IF YOU DO NOT TAN IN THE SUN YOU WILL NOT TAN BY USING THIS DEVICE.

(5) A tanning facility may not claim or distribute promotional materials that claim a tanning device is safe or free from risk.

(6) A tanning facility must:

(a) During operating hours, have an operator present who is sufficiently knowledgeable in the correct operation of the tanning devices to inform and assist each customer in the proper use of the devices.

(b) Before each use of a tanning device:

1. Properly sanitize that tanning device equipment, including, without limitation, handrails, headrests, and bed surfaces; and

2. Provide a customer with properly sanitized protective eyewear that protects the eye from ultraviolet radiation and allows adequate vision to maintain balance.

(c) Show each customer how to use suitable physical aids, such as handrails and floor markings, to maintain proper exposure distances recommended by the manufacturer.

(d) Use a timer on each tanning device which is accurate for any selected time interval to plus or minus 10 percent.

(e) Limit each customer to the maximum exposure time recommended by the manufacturer of the tanning device.

(f) Maintain the interior temperature of the tanning facility below 100° F.

(g) Each time a person uses a tanning facility or executes or renews a contract to use a tanning facility, have him sign a written statement acknowledging that he has read and understands the warnings before using the device and that he agrees to use the protective eyewear.

(h) Display its license in a public area of the tanning facility.

(i) Report any injury or any complaint of injury to the department on forms prescribed by the department and provide a copy of the report to the complainant. The department shall send to the federal Food and Drug Administration a copy of any report of an injury occurring in a tanning facility.

(j) Keep a record, for a period of not less than 4 years, of each customer's use of a tanning device.

(7) A tanning facility may not allow a minor between the ages of 14 and 18 to use a tanning device unless it has on file a statement signed by the minor's parent or legal guardian stating that the parent or legal guardian has read and understands the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the provided protective eyewear.

(8) A minor under the age of 14 must be accompanied by a parent or legal guardian when using a tanning device.

(9) The department shall inspect or investigate a tanning facility as necessary but at least annually.

(10) PENALTIES.—

(a) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083:

1. Owning or operating, or soliciting business as, a tanning facility in this state without first procuring a license from the department, unless specifically exempted by this section.

2. Obtaining or attempting to obtain a license by means of fraud, misrepresentation, or concealment.

(b) Each of the following acts constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

1. Failing to maintain the records required by this section or knowingly making false entries in such records.

2. Failing to comply with subsection (7) or subsection (8).

(c) The court may, in addition to other punishment provided for, suspend or revoke the license of any licensee under this section who has been found guilty of any violation listed in paragraph (a) or paragraph (b).

(d) In the event the department or any state attorney shall have probable cause to believe that a tanning facility or other person has violated any provision of paragraph (a), an action may be brought by the department or any state attorney to enjoin such tanning facility or any person from continuing such violation, or engaging therein or doing any acts in furtherance thereof, and for such other relief as to the court seems appropriate.

(11)(a) The department may impose an administrative fine not to exceed $1,000 per violation per day, for the violation of any provision of this section, rule adopted under this section, or term or condition of any license issued by the department.

(b) In determining the amount of fine to be levied for a violation, as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation and the extent to which the provisions of this act, the rules adopted under this act, or any terms or conditions of any license were violated.

2. Actions taken by the licensee to correct the violation.

3. Any previous violations by the licensee.

(12) The department may institute legal action for injunctive or other relief to enforce this section.

(13) The department shall adopt rules to implement this act.

Section 53. Subsection (41) of section 403.703, Florida Statutes, 1996 Supplement, is amended to read:

403.703 Definitions.—As used in this act, unless the context clearly indicates otherwise, the term:

(41) "Recovered materials processing facility" means a facility engaged solely in the storage, processing, resale, or reuse of recovered materials. Such a facility is not a solid waste management facility if it meets the conditions of s. 403.7045(1)*(e)*~~(f)~~.

Section 54. Subsection (6) of section 404.031, Florida Statutes, is amended to read:

404.031 Definitions.—As used in this chapter, unless the context clearly indicates otherwise, the term:

(6) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 55. Section 404.051, Florida Statutes, is amended to read:

404.051 Powers and duties of the Department of Health ~~and Rehabilitative Services~~.—For protection of the public health and safety, the department is authorized to:

(1) Develop comprehensive policies and programs for the evaluation, determination, and amelioration of hazards associated with the use, possession, or disposal of sources of ionizing radiation. Such policies and programs shall be developed with due regard for compatibility or consistency with federal programs for regulation of radiation machines and byproduct, source, and special nuclear materials.

(2) Advise, consult, and cooperate with other agencies of the state, the Federal Government, other states, interstate agencies, political subdivisions, and other organizations concerned with the safe use of sources of radiation.

(3) Encourage, participate in, or conduct studies, investigations, public hearings, training, research, and demonstrations relating to the control of sources of ionizing radiation, the measurement of ionizing radiation, the effect upon public health and safety of exposure to ionizing radiation, and related problems.

(4) Adopt, promulgate, amend, and repeal rules and standards which may provide for licensure, registration, or regulation relating to the manufacture, production, transportation, use, possession, handling, treatment, storage, disposal, sale, lease, or other disposition of radioactive material, including naturally occurring radioactive material and low-level radioactive waste, and radiation machines as may be necessary to carry out the provisions of this chapter. The recommendations of nationally recognized bodies in the field of radiation protection shall be taken into consideration in the adoption, promulgation, amendment, and repeal of such rules and standards.

(5) Require the submission of plans, specifications, and reports for new construction and material alterations on the design and protective shielding of installations for radioactive material and radiation machines, excluding X-ray machines of less than 200,000 volts potential, and on systems for the disposal of radioactive wastes, for the determination of any ionizing radiation hazard; and it may render opinions and approve or disapprove such plans and specifications.

(6) Require all sources of ionizing radiation to be shielded, transported, handled, used, possessed, treated, stored, or disposed of in a manner to provide compliance with the provisions of this chapter and rules and standards adopted hereunder.

(7) Conduct evaluations of the levels of radioactive materials in the environment for the purpose of determining whether there is compliance with, or violation of, the provisions or standards contained in this chapter or the rules issued pursuant hereto or to otherwise protect the public health and safety.

(8) Collect and disseminate information relating to the control of sources of ionizing radiation, including, but not limited to:

(a) Maintenance of files of all radioactive material license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations.

(b) Maintenance of files of all radiation machine registrants requiring registration under the provisions of this chapter.

(c) Maintenance of files of department licensees and nuclear power plant licensees of the United States Nuclear Regulatory Commission that generate low-level radioactive waste, recording the quarterly amount of low-level radioactive waste shipped by each licensee to commercial low-level radioactive waste management facilities.

(9) Require, on forms prescribed and furnished by the department, registration and periodic reregistration of radiation machines, and licensing and periodic renewal of licenses for radioactive materials.

(10) Exempt certain sources of ionizing radiation, or kinds of uses or users, from the licensing or registration requirements set forth in this chapter when the department determines that the exemption of such sources of ionizing radiation, or kinds of users or uses, will not constitute a significant risk to the health and safety of the public.

(11) *Adopt* ~~Promulgate~~ rules pursuant to this chapter which may provide for the recognition of other state and federal licenses as the department deems desirable, subject to such registration requirements as it may prescribe.

(12) Respond to any emergency which involves possible or actual release of radioactive materials, carry out or supervise any required decontamination, and otherwise protect the public health and safety.

(13) Act as the designated state agency in this state responsible for ensuring compliance with the provisions of the Southeast Interstate Low-Level Radioactive Waste Compact and for assessing penalties for noncompliance with such provisions as prescribed in ss. 404.161 and 404.162.

(14) Require department licensees and nuclear power plant licensees of the United States Nuclear Regulatory Commission to take appropriate measures to reduce the volume of low-level radioactive waste they generate, and to monitor the progress of department licensees and nuclear power plant licensees of the commission in reducing such volume.

(15) Develop and implement a responsible data-management program for the purpose of collecting and analyzing statistical information necessary to protect the public health and safety and to reply to requests from the Southeast Interstate Low-Level Radioactive Waste Commission for data and information.

(16) Accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions from the Federal Government and from other sources, public or private.

Section 56. Paragraphs (a) and (b) of subsection (2) of section 404.056, are amended, present paragraphs (e) through (h) of subsection (3) are redesignated as paragraphs (f) through (i), respectively, and a new paragraph (e) is added to subsection (3) of that section, to read:

404.056 Environmental radiation standards and programs; radon protection.—

(2) FLORIDA COORDINATING COUNCIL ON RADON PROTECTION.—

(a) Establishment.—It is declared to be in the best interest of the state that public agencies responsible for and involved in radon protection activities work together to reduce duplication of effort, foster maximum efficient use of existing resources, advise and assist the agencies involved in radon protection and mitigation in implementing the best management practices and the best available technology in limiting exposure to radon, identify outside funding sources and recommend priorities for research into the effects of radon, and enhance communication between all interests involved in radon protection and mitigation activities. Therefore, the Florida Coordinating Council on Radon Protection is hereby established as an advisory body~~, as defined in s. 11.611(3)(a),~~ to the Department of Community Affairs in developing the construction and mitigation standards required by s. 553.98 and to the department ~~of Health and Rehabilitative Services~~ in developing the public information program on radon and radon progeny as required by subsection (4).

(b) Membership.—The Florida Coordinating Council on Radon Protection shall be composed of the following representatives or their authorized designees:

1. The Secretary of Community Affairs;

2. The Secretary of Health ~~and Rehabilitative Services~~;

3. The Commissioner of Education or a representative;

4. An expert in the mitigation or prevention of radon, the development of building codes designed to control and abate radon, or the development of construction techniques to mitigate the effects of radon in existing buildings, one representative of one of these fields to be jointly appointed by the University of South Florida and Florida Agricultural and Mechanical University, and one representative of one of these fields to be appointed by the University of Florida. Two representatives from any of these fields shall be appointed by the Board of Regents from other universities in the state;

5. One representative each from the Florida Association of the American Institute of Architects, the Florida Engineering Society, the Associated General Contractors Council, the Florida Association of Counties, the Florida League of Cities, the Florida Association of Realtors, the Florida Home Builders Association, and the Florida Phosphate Council; and an elected official of county government, to be appointed by the Association of Counties; and an elected official of city government, to be appointed by the League of Cities;

6. One representative each from two recognized voluntary health agencies to be appointed by the Secretary of Health ~~and Rehabilitative Services~~; and

7. One representative each from two public interest consumer groups to be appointed by the Secretary of ~~the Department of~~ Community Affairs.

(3) CERTIFICATION.—

(e) Any person who practices fraud, deception, or misrepresentation in performing radon gas or radon progeny measurements or in performing mitigation of buildings for radon gas or radon progeny is subject to the penalties provided in s. 404.161.

Section 57. Subsections (2), (3), and (5) of section 404.0614, Florida Statutes, are amended to read:

404.0614 Licensing of commercial low-level radioactive waste management facilities.—

(2) The department, within 90 days of receiving an application for a license to construct, operate, or close a commercial low-level radioactive waste management facility, shall forward a copy of the application to the Department of Environmental Protection and, after review by both departments, notify the applicant of any errors or omissions and request any additional information needed by the Department of Environmental Protection to issue a report to the Department of Health ~~and Rehabilitative Services~~ as required by subsection (3) and needed by the Department of Health ~~and Rehabilitative Services~~ to review the license application.

(3) The department, after receiving a complete license application, shall notify the Department of Environmental Protection that a complete license application to construct, operate, or close a commercial low-level radioactive waste management facility has been received, shall send a copy of the complete application to the Department of Environmental Protection, and shall request a report from the Department of Environmental Protection describing the ecological, meteorological, topographical, hydrological, geological, and seismological characteristics of the proposed site. Such report shall be completed no later than 180 days from the date the department requests the report. The Department of Environmental Protection shall be reimbursed for the cost of the report from fees collected by the Department of Health ~~and Rehabilitative Services~~ pursuant to subsection (8).

(5) The department shall consider the report by the Department of Environmental Protection in addition to information required by the Department of Health ~~and Rehabilitative Services~~ in the license application and, within 180 days from receiving that report, decide whether to grant a license to construct, operate, or close the commercial low-level radioactive waste management facility. Such a license shall be subject to renewal by the department as specified in the terms of the license initially granted by the department. The failure of the department to renew a license does not relieve the licensee of any obligations incurred under this section.

Section 58. Subsection (1) of section 404.131, Florida Statutes, 1996 Supplement, is amended to read:

404.131 Fees.—

(1) The department ~~of Health and Rehabilitative Services~~ is authorized to charge and collect reasonable fees for specific and general licenses and for the registration of radiation machines. The fees shall not exceed the estimated costs to the department of performing licensing, registration, inspection, and other regulatory duties. Unless otherwise provided by law, such fees shall be deposited to the credit of the Radiation Protection Trust Fund, to be held and applied solely for salaries and expenses of the department incurred in implementing and enforcing the provisions of this chapter.

Section 59. Subsections (1), (2), (6), and (8) of section 404.20, Florida Statutes, are amended to read:

404.20 Transportation of radioactive materials.—

(1) The department ~~of Health and Rehabilitative Services~~ shall adopt reasonable rules governing the transportation of radioactive materials which, in the judgment of the department, will promote the public health, safety, or welfare and protect the environment.

(a) Such rules shall be limited to provisions for the packing, marking, loading, and handling of radioactive materials, and the precautions necessary to determine whether the material when offered is in proper condition for transport, and shall include criteria for departmental approval of routes in this state which are to be used for the transportation of radioactive materials as defined in 49 C.F.R. s. 173.403(l)(1), (2), and (3) and (n)(4)(i), (ii), and (iii), and all radioactive materials shipments destined for treatment, storage, or disposal facilities as defined in the Southeast Interstate Low-Level Radioactive Waste Compact. The department may designate routes in the state to be used for the transportation of all other shipments of radioactive materials.

(b) Such rules shall be compatible with, but no less restrictive than, those established by the United States Nuclear Regulatory Commission, the United States Federal Aviation Agency, the United States Department of Transportation, the United States Coast Guard, or the United States Postal Service.

(2)(a) Rules adopted by the department ~~of Health and Rehabilitative Services~~ pursuant to subsection (1) may be enforced, within their respec-

tive jurisdictions, by any authorized representative of the department ~~of Health and Rehabilitative Services~~, the Department of Highway Safety and Motor Vehicles, and the Department of Transportation.

(b) The department ~~of Health and Rehabilitative Services~~, through any authorized representative, is authorized to inspect any records of persons engaged in the transportation of radioactive materials when such records reasonably relate to the method or contents of packing, marking, loading, handling, or shipping of radioactive materials.

(c) The department ~~of Health and Rehabilitative Services~~, through any authorized representative, is authorized to enter upon and inspect the premises or vehicles of any person engaged in the transportation of radioactive materials, with or without a warrant, for the purpose of determining compliance with the provisions of this section and the rules promulgated hereunder.

(6) Any person desiring to transport radioactive materials into or through the borders of this state, destined to a treatment, storage, or disposal facility as defined in the Southeast Interstate Low-Level Radioactive Waste Compact, shall obtain a permit from the department ~~of Health and Rehabilitative Services~~ to bring such materials into the state. A permit application shall contain the time at which such radioactive materials will enter the state; a description of the radioactive materials to be shipped; the proposed route over which such radioactive materials will be transported into the state; and, in the event that such radioactive materials will leave the state, the time at which that will occur.

(8) Upon a finding by the department ~~of Health and Rehabilitative Services~~ that any provision of this section, or of the rules *adopted* ~~promulgated~~ hereunder, is being violated, it may issue an order requiring correction.

Section 60. Subsections (1), (2), (3), (4), and (5) of section 404.22, Florida Statutes, are amended to read:

404.22 Radiation machines and components; inspection.—

(1) The department ~~of Health and Rehabilitative Services~~ and its duly authorized agents have the power to inspect in a lawful manner at all reasonable hours any hospital or other health care facility or other place in the state in which a radiation machine is installed for the purpose of determining whether the facility, the radiation machine and its components, the film and film processing equipment, and the resultant image produced meet the standards of the department ~~of Health and Rehabilitative Services~~ as set forth in this chapter and rules adopted pursuant thereto. If, in the opinion of the department, a radiation machine which fails to meet such standards can be made to meet the standards through an adjustment or limitation upon the stations or range of the radiation machine or through the purchase of a component meeting the standards, the department shall order the owner of the radiation machine to make the necessary adjustment or to purchase the necessary component within 90 days of the date or receipt of the order. However, if the radiation machine cannot be made to meet the standards, the department shall order the owner to cease the utilization of the radiation machine.

(2) Any person who enters the state with a radiation machine or component owned by him for the purpose of installing and utilizing the radiation machine shall register the radiation machine with the department ~~of Health and Rehabilitative Services~~. The department shall inspect the radiation machine to determine its compliance with the standards and shall approve or disapprove the radiation machine or shall order adjustments to the radiation machine in accordance with the provisions of subsection (1).

(3) No person shall sell or offer to sell in this state any radiation machine or component thereof which does not meet the standards of the department ~~of Health and Rehabilitative Services~~ or which cannot be adjusted to meet such standards in accordance with the provisions of subsection (1).

(4) The department ~~of Health and Rehabilitative Services~~ shall enforce the provisions of this section and may impose an administrative fine, in addition to all other fines and penalties imposed by law, in an amount of $1,000 for each violation of this section.

(5)(a) The department *may* ~~is authorized to~~ charge and collect reasonable fees annually for the registration and inspection of radiation machines pursuant to this section. Such fees shall include the registration fee provided in s. 404.131 and shall be deposited into the Radiation Protection Trust Fund. Registration shall be on an annual basis. Registration shall consist of having the registrant file, on forms prescribed and furnished by the department, information which includes, but is not limited to: type and number of radiation machines, location of radiation machines, and changes in ownership. ~~Subsequent to fiscal year 1981-1982,~~ The department shall establish by rule *a* ~~an annual~~ fee schedule based upon the actual costs incurred by the department in carrying out its registration and inspection responsibilities, including the salaries, expenses, and equipment of inspectors, but excluding costs of supervision and program administration. The fee schedule shall reflect differences in the frequency and complexity of inspections necessary to ensure that the radiation machines are functioning in accordance with the applicable standards developed pursuant to this chapter and rules adopted pursuant hereto.

(b) The fee schedule and frequency of inspections shall be determined as follows:

1. Radiation machines which are used in the practice of medicine, chiropractic medicine, osteopathic medicine, or naturopathic medicine shall be inspected at least *once every 2 years, but not more than* annually, for an annual fee which is not less than $83 or more than $145 for the first radiation machine within an office or facility and not less than $36 or more than $85 for each additional radiation machine therein.

2. Radiation machines which are used in the practice of veterinary medicine shall be inspected at least once every 3 years for an annual fee which is not less than $28 or more than $50 for the first radiation machine within an office or facility and not less than $19 or more than $34 for each additional radiation machine therein.

3. Radiation machines which are used for educational or industrial purposes shall be inspected at least once every 3 years for an annual fee which is not less than $26 or more than $47 for the first radiation machine within an office or facility and not less than $12 or more than $23 for each additional radiation machine therein.

4. Radiation machines which are used in the practice of dentistry or podiatry shall be inspected at least once every 5 years but not more often than once every 4 years for an annual fee which is not less than $16 or more than $31 for the first radiation machine within an office or facility and not less than $5 or more than $11 for each additional radiation machine therein.

5. Radiation machines which accelerate particles and are used in the healing arts shall be inspected at least annually for an annual fee which is not less than $153 or more than $258 for the first radiation machine within an office or facility and not less than $87 or more than $148 for each additional radiation machine therein.

6. Radiation machines which accelerate particles and are used for educational or industrial purposes shall be inspected at least once every 2 years for an annual fee which is not less than $46 or more than $81 for the first radiation machine within an office or facility and not less than $26 or more than $48 for each additional radiation machine therein.

7. If a radiation machine fails to meet the applicable standards upon initial inspection, the department may reinspect the radiation machine and charge a reinspection fee in accordance with the same schedule of fees as in subparagraphs 1. through 6.

(c) The fee schedule for fiscal year 1981-1982 shall be the minimum fee prescribed in subparagraphs (b)1. through 6. and shall remain in effect until the effective date of a fee schedule *adopted* ~~promulgated~~ by rule by the department pursuant to this subsection.

Section 61. Paragraph (e) of subsection (1) and paragraph (f) of subsection (3) of section 408.033, Florida Statutes, are amended to read:

408.033 Local and state health planning.—

(1) LOCAL HEALTH COUNCILS.—

(e) Local health councils may employ personnel *or contract for staffing services with persons who possess appropriate qualifications* to carry

out the councils' purposes. ~~Such personnel shall possess qualifications and be compensated in a manner commensurate with comparable positions in the Career Service System.~~ However, such personnel *are* ~~shall~~ not ~~be deemed to be~~ state employees.

(3) FUNDING.—

(f) The agency shall deposit in the Health Care Trust Fund all health care facility assessments that are assessed under this subsection and proceeds from the certificate-of-need application fees. *The agency shall transfer to the Department of Health an amount* ~~which are~~ sufficient to maintain the aggregate funding level for the local health councils and the Statewide Health Council as specified in the General Appropriations Act. The remaining certificate-of-need application fees shall be used only for the purpose of administering the Health Facility and Services Development Act.

Section 62. Subsection (13) of section 408.701, Florida Statutes, is amended to read:

408.701 Community health purchasing; definitions.—As used in ss. 408.70-408.706, the term:

(13) "Health care provider" or "provider" means a state-licensed or state-authorized facility, *a facility principally supported by a local government or by funds from a charitable organization that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code,* a licensed practitioner, ~~or~~ a county *health department* ~~public health unit~~ established under part I of chapter 154, *a patient care center described in s. 391.031, a prescribed pediatric extended care center defined in s. 391.202, a federally supported primary-care program such as a migrant health center or a community health center authorized under s. 329 or s. 330 of the United States Public Health Services Act that* ~~which~~ delivers health care services to individuals, *or a community facility that receives funds from the state under the Community Alcohol, Drug Abuse, and Mental Health Services Act and provides mental health services to individuals.*

Section 63. Subsections (1) and (3) and paragraph (b) of subsection (5) of section 409.905, Florida Statutes, 1996 Supplement, are amended to read:

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

(1) ADVANCED REGISTERED NURSE PRACTITIONER SERVICES.—The agency shall pay for services provided to a recipient by a licensed advanced registered nurse practitioner who has a valid collaboration agreement with a licensed physician on file with the *Department of Health* ~~Department of Business and Professional Regulation~~ or who provides anesthesia services in accordance with established protocol required by state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides the same services, unless otherwise provided for in the General Appropriations Act.

(3) FAMILY PLANNING SERVICES.—The agency shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information*;* ~~,~~ education*; counseling regarding the availability, benefits, and risks of each method of pregnancy prevention;* ~~,~~ drugs and supplies*;* ~~,~~ and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

(5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid recipient 21 years of age or older to 45 days or the number of days necessary to comply with the General Appropriations Act.

(b) A licensed hospital maintained primarily for the care and treatment of patients having mental disorders or mental diseases is not eligible to participate in the hospital inpatient portion of the Medicaid program except as provided in federal law. However, the department shall apply for a waiver, within 9 months after June 5, 1991, designed to provide hospitalization services for mental health reasons to children and adults in the most cost-effective and lowest cost setting possible. Such waiver shall include a request for the opportunity to pay for care in hospitals known under federal law as "institutions for mental disease" or "IMD's." The waiver proposal shall propose no additional aggregate cost to the state or Federal Government, and shall be conducted in *Hillsborough County, Highlands County, Hardee County, Manatee County, and Polk County* ~~District 6 of the Department of Health and Rehabilitative Services~~. The waiver proposal may incorporate competitive bidding for hospital services, comprehensive brokering, prepaid capitated arrangements, or other mechanisms deemed by the department to show promise in reducing the cost of acute care and increasing the effectiveness of preventive care. When developing the waiver proposal, the department shall take into account price, quality, accessibility, linkages of the hospital to community services and family support programs, plans of the hospital to ensure the earliest discharge possible, and the comprehensiveness of the mental health and other health care services offered by participating providers. The department is directed to monitor and evaluate the implementation of this waiver program if it is granted and report to the chairs of the appropriations committees of the Senate and the House of Representatives by February 1, 1992.

Section 64. Subsection (19) of section 409.908, Florida Statutes, 1996 Supplement, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(19) County *health department* ~~public health clinic~~ services may be reimbursed a rate per visit based on total reasonable costs of the clinic, as determined by the agency in accordance with federal regulations under the authority of 42 C.F.R. s. 431.615. ~~However, this cost-based reimbursement shall not be implemented until the State Health Officer has certified that cost-accounting systems have been modified and are in place prior to implementation in a specific county in order to ensure accurate and timely reporting of Medicaid-related costs in accordance with established Medicaid reimbursement standards. This section shall be repealed effective June 30, 1995, unless otherwise provided for in the General Appropriations Act or other provision of law. The agency shall develop a methodology to adequately evaluate the cost-effectiveness of this method of reimbursement and shall make recommendations to the Legislature based on this evaluation prior to the 1995 regular legislative session.~~

Section 65. Paragraph (a) of subsection (2) of section 414.026, Florida Statutes, 1996 Supplement, is amended to read:

414.026 WAGES Program State Board of Directors.—

(2)(a) The board of directors shall be composed of the following members:

1. The Commissioner of Education, or the commissioner's designee.

2. The Secretary of *Children and Family* ~~Health and Rehabilitative~~ Services.

3. The Secretary of Health.

4.~~3.~~ The Secretary of Labor and Employment Security.

5.~~4.~~ The Secretary of Community Affairs.

6.~~5.~~ The Secretary of Commerce.

7.~~6.~~ The president of Enterprise Florida Jobs and Education Partnership, established under s. 288.0475.

8.~~7.~~ Nine members appointed by the Governor, as follows:

a. Six members shall be appointed from a list of ten nominees, of which five must be submitted by the President of the Senate and five must be submitted by the Speaker of the House of Representatives. The list of five nominees submitted by the President of the Senate and the Speaker of the House of Representatives must each contain at least three individuals employed in the private sector, two of whom must have management experience. One of the five nominees submitted by the President of the Senate and one of the five nominees submitted by the Speaker of the House of Representatives must be an elected local government official who shall serve as an ex officio member.

b. Three members shall be at-large members appointed by the Governor.

c. Of the nine members appointed by the Governor, at least six must be employed in the private sector and of these, at least five must have management experience.

The members appointed by the Governor shall be appointed to 4-year, staggered terms. Within 60 days after a vacancy occurs on the board, the Governor shall fill the vacancy of a member appointed from the nominees submitted by the President of the Senate and the Speaker of the House of Representatives for the remainder of the unexpired term from one nominee submitted by the President of the Senate and one nominee submitted by the Speaker of the House of Representatives. Within 60 days after a vacancy of a member appointed at-large by the Governor occurs on the board, the Governor shall fill the vacancy for the remainder of the unexpired term. The composition of the board must generally reflect the racial, gender, and ethnic diversity of the state as a whole. ~~The list of initial five nominees shall be submitted by the President of the Senate and the Speaker of the House of Representatives by July 1, 1996, and the initial appointments by the Governor shall be made by September 1, 1996.~~

Section 66. Subsection (7) of section 414.23, Florida Statutes, 1996 Supplement, is amended to read:

414.23 Evaluation.—The department shall arrange for evaluation of programs operated under this chapter, as follows:

(7) Evaluations described in this section are exempt from the provisions of *s. 381.85* ~~s. 402.105~~.

Section 67. Paragraph (c) of subsection (10) of section 414.38, Florida Statutes, 1996 Supplement, is amended to read:

414.38 Pilot work experience and job training for noncustodial parents program.—

(10)

(c) In order to provide evaluation findings with the highest feasible level of scientific validity, the Department of Health and Rehabilitative Services may contract for an evaluation design that includes random assignment of program participants to program groups and control groups. Under such design, members of control groups must be given the level of job training and placement services generally available to noncustodial parents who are not included in the local work experience and job training pilot program areas. The provisions of *s. 381.85* ~~s. 402.105~~ or similar provisions of federal or state law do not apply under this section.

Section 68. Section 414.391, Florida Statutes, is created to read:

414.391 Automated fingerprint imaging.—

(1) The Department of Children and Family Services shall develop and implement, as part of the electronic benefits transfer program, a statewide program to prevent public assistance fraud by using a type of automated fingerprint imaging of adult and teen parent applicants for, and adult and teen parent recipients of, public assistance under this chapter.

(2) In adopting rules under this section, the department shall ensure that any automated fingerprint imaging performed by the department is used only to prevent fraud by adult and teen parent recipients of public assistance and is in compliance with state and federal disclosure requirements.

(3) The department shall prepare, by April 1998, a plan for implementation of this program. Implementation shall begin with a pilot of the program in one or more areas of the state by November 1, 1998. Pilot evaluation results shall be used to determine the method of statewide expansion. The priority for use of the savings derived from reducing fraud through this program shall be to expand the program to other areas of the state.

(4) The department shall request any waivers of federal regulations necessary to implement the program within the limits described in this section.

Section 69. Section 414.392, Florida Statutes, is created to read:

414.392 Applicant screening.—At the time of application or reapplication, each adult or teen parent applying for public assistance benefits under this chapter must provide the state with an automated fingerprint image performed by the state, before receiving any benefits.

Section 70. Subsection (2) of section 458.316, Florida Statutes, is amended to read:

458.316 Public health certificate.—

(2) Such certificate shall be issued pursuant to the following conditions:

(a) The certificate shall authorize the holder to practice only in conjunction with his employment duties with the Department of Health ~~and Rehabilitative Services~~ and shall automatically expire when the holder's relationship with the department is terminated.

(b) The certificate is subject to biennial renewal and shall be renewable only if the secretary of the Department of Health ~~and Rehabilitative Services~~ recommends in writing that the certificate be renewed.

Section 71. Subsections (5) and (15) of section 468.301, Florida Statutes, are amended to read:

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

(5) "Department" means the Department of Health ~~and Rehabilitative Services~~.

(15) "Secretary" means the Secretary of Health ~~and Rehabilitative Services~~.

Section 72. Present paragraphs (d) through (i) of subsection (1) of section 468.3101, Florida Statutes, are redesignated as paragraphs (e) through (j), respectively, a new paragraph (d) is added to that section, and subsection (2) of that section is reenacted to read:

468.3101 Disciplinary grounds and actions.—

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

(d) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime against a person. A plea of nolo contendere shall be considered a conviction for the purposes of this provision.

(2) If the department finds any person or firm guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to approve an application for certification.

(b) Revocation or suspension of a certificate.

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

(d) Issuance of a reprimand.

(e) Placement of the radiologic technologist on probation for such period of time and subject to such conditions as the department may specify, including requiring the radiologic technologist to submit to treatment, to undertake further relevant education or training, to take an examination, or to work under the supervision of a licensed practitioner.

Section 73. Subsection (1) of section 468.314, Florida Statutes, is amended to read:

468.314 Advisory Council on Radiation Protection; appointment; terms; powers; duties.—

(1) The Advisory Council on Radiation Protection is created within the Department of Health ~~and Rehabilitative Services~~ and shall consist of 15 persons to be appointed by the secretary for 3-year terms.

Section 74. Subsections (4) and (5) of section 489.553, Florida Statutes, 1996 Supplement, are amended to read:

489.553 Administration of part; registration qualifications; examination.—

(4) To be eligible for registration by the department as a septic tank contractor, the applicant must:

(a) Be of good moral character. *In considering good moral character, the department may consider any matter that has a substantial connection between the good moral character of the applicant and the professional responsibilities of a registered contractor, including, but not limited to: the applicant being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting; and previous disciplinary action involving septic tank contracting, where all judicial reviews have been completed.*

(b) Pass an examination approved by the department which demonstrates that the applicant has a fundamental knowledge of the state laws relating to the installation and maintenance of onsite sewage treatment and disposal systems.

(c) Be at least 18 years of age.

(d) Have a total of at least 3 years of active experience serving an apprenticeship as a skilled workman under the supervision and control of a registered septic tank contractor or a plumbing contractor as defined in s. 489.105 who has provided septic tank contracting services. Related work experience or educational experience may be substituted for no more than 2 years of active contracting experience. Each 30 hours of course work approved by the department will substitute for 6 months of work experience.

(e) Have not had a registration revoked, the effective date of which was less than 5 years before the application.

(5) To be eligible for registration by the department as a master septic tank contractor, the applicant must:

(a) Have been a registered septic tank contractor in Florida for at least 3 years *or a plumbing contractor certified under part I of this chapter who has provided septic tank contracting services for at least 3 years.*

(b) Take and complete, to the satisfaction of the department, a minimum of 30 hours of approved coursework.

(c) Pass an examination approved by the department which demonstrates that the applicant has advanced knowledge relating to the installation and maintenance of onsite sewage treatment and disposal systems, including, but not limited to, the fundamental knowledge required to close residential repair jobs, design systems, and perform soil evaluations, when determined to meet site-evaluation expertise established by rule.

(d) Be reviewed by the department for any major infractions of this chapter or other law relating to onsite sewage treatment and disposal.

Section 75. Subsection (1) of section 514.011, Florida Statutes, is amended to read:

514.011 Definitions.—As used in this chapter:

(1) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 76. Subsection (3) of section 514.028, Florida Statutes, is amended to read:

514.028 Advisory review board.—

(3) Members shall ~~not~~ be reimbursed for *travel* expenses incurred in connection with service on the advisory review board *pursuant to s. 112.061.*

Section 77. Subsection (3) of section 627.4236, Florida Statutes, is amended to read:

627.4236 Coverage for bone marrow transplant procedures.—

(3)(a) The *Agency for Health Care Administration shall* ~~Secretary of Health and Rehabilitative Services must~~ adopt rules specifying the bone marrow transplant procedures that are accepted within the appropriate oncological specialty and are not experimental for purposes of this section. The rules must be based upon recommendations of an advisory panel appointed by the *director of the agency* ~~secretary~~, composed of:

1. One adult oncologist, selected from a list of three names recommended by the Florida Medical Association;

2. One pediatric oncologist, selected from a list of three names recommended by the Florida Pediatric Society;

3. One representative of the J. Hillis Miller Health Center at the University of Florida;

4. One representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.;

5. One consumer representative, selected from a list of three names recommended by the Insurance Commissioner;

6. One representative of the Health Insurance Association of America;

7. Two representatives of health insurers, one of whom represents the insurer with the largest Florida health insurance premium volume and one of whom represents the insurer with the second largest Florida health insurance premium volume; and

8. One representative of the insurer with the largest Florida small group health insurance premium volume.

(b) The *director shall also* ~~secretary must~~ appoint a member of the advisory panel to serve as chairperson.

(c) The *agency shall* ~~Office of the Deputy Secretary for Health of the Department of Health and Rehabilitative Services must~~ provide, within existing resources, staff support to enable the panel to carry out its responsibilities under this section.

(d) In making recommendations and adopting rules under this section, the advisory panel and the *director* ~~secretary~~ shall:

1. Take into account findings, studies, or research of the federal Agency for Health Care Policy, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, and Congressional Office of Technology Assessment, and any other relevant information.

2. Consider whether the federal Food and Drug Administration or National Cancer Institute are conducting or sponsoring assessment pro-

cedures to determine the safety and efficacy of the procedure or substantially similar procedures, or of any part of such procedures.

3. Consider practices of providers with respect to requesting or requiring patients to sign a written acknowledgment that a bone marrow transplant procedure is experimental.

(e) The advisory panel shall conduct, at least biennially, a review of scientific evidence to ensure that its recommendations are based on current research findings and that insurance policies offer coverage for the latest medically acceptable bone marrow transplant procedures.

Section 78. Subsection (1) of section 766.101, Florida Statutes, 1996 Supplement, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a state or local professional society of health care providers,

c. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

d. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

e. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

f. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

g. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

h. A peer review or utilization review committee organized under chapter 440, or

i. *A committee of a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records* ~~An optometric service plan certified under chapter 637~~,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

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

Section 79. Paragraph (b) of subsection (4) of section 766.314, Florida Statutes, 1996 Supplement, is amended to read:

766.314 Assessments; plan of operation.—

(4) The following persons and entities shall pay into the association an initial assessment in accordance with the plan of operation:

(b)1. On or before October 15, 1988, all physicians licensed pursuant to chapter 458 or chapter 459 as of October 1, 1988, other than participating physicians, shall be assessed an initial assessment of $250, which must be paid no later than December 1, 1988.

2. Any such physician who becomes licensed after September 30, 1988, and before January 1, 1989, shall pay into the association an initial assessment of $250 upon licensure.

3. Any such physician who becomes licensed on or after January 1, 1989, shall pay an initial assessment equal to the most recent assessment made pursuant to this paragraph, paragraph (5)(a), or paragraph (7)(b).

4. However, if the physician is a physician specified in this subparagraph, the assessment is not applicable:

a. A resident physician, assistant resident physician, or intern in an approved postgraduate training program, as defined by the Board of Medicine or the Board of Osteopathic Medicine by rule;

b. A retired physician who has withdrawn from the practice of medicine but who maintains an active license as evidenced by an affidavit filed with the Department of Business and Professional Regulation. Prior to reentering the practice of medicine in this state, a retired physician as herein defined must notify the Board of Medicine or the Board of Osteopathic Medicine and pay the appropriate assessments pursuant to this section;

c. A physician who holds a limited license pursuant to s. 458.317 and who is not being compensated for medical services;

d. A physician who is employed full time by the United States Department of Veterans Affairs and whose practice is confined to United States Department of Veterans Affairs hospitals; or

e. A physician who is a member of the Armed Forces of the United States and who meets the requirements of s. 455.02.

f. A physician who is employed full time by the State of Florida and whose practice is confined to state-owned correctional institutions, *a county health department, or* ~~and~~ state-owned mental health *or developmental services* facilities, *or who is employed full time by the Department of Health*.

Section 80. Section 28.101, Florida Statutes, 1996 Supplement, is amended to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(a) A charge of $5. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph ~~to the Department of Health and Rehabilitative Services~~ for deposit in the Child Welfare Training Trust Fund created in s. 402.40.

(b) A charge of $5. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Displaced Homemaker Trust Fund created in s. 410.30. If a petitioner does not have sufficient funds with which to pay this fee and signs an affidavit so stating, all or a portion of the fee shall be waived subject to a subsequent order of the court relative to the payment of the fee.

(c) A charge of $18. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Domestic Violence Trust Fund. Such funds which are generated shall be directed to the Department of *Children and Family*

~~Health and Rehabilitative~~ Services for the specific purpose of funding domestic violence centers.

(2) Upon receipt of a final judgment of dissolution of marriage for filing, and in addition to the filing charges in s. 28.241, the clerk shall collect and receive a service charge of $7 pursuant to s. 382.023 for the recording and reporting of such final judgment of dissolution of marriage to the Department of Health ~~and Rehabilitative Services~~.

Section 81. Paragraph (g) of subsection (3) of section 28.222, Florida Statutes, is amended to read:

28.222 Clerk to be county recorder.—

(3) The clerk of the circuit court shall record the following kinds of instruments presented to him or her for recording, upon payment of the service charges prescribed by law:

(g) Certified copies of death certificates authorized for issuance by the Department of Health ~~and Rehabilitative Services~~ which exclude the information that is confidential under s. 382.008~~(6)~~, and certified copies of death certificates issued by another state whether or not they exclude the information described as confidential in s. 382.008~~(6)~~.

Section 82. Paragraph (b) of subsection (1) of section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption.—

(1) Unless consent is excused by the court, a petition to adopt a minor may be granted only if written consent has been executed after the birth of the minor by:

(b) The father of the minor, if:

1. The minor was conceived or born while the father was married to the mother.

2. The minor is his child by adoption.

3. The minor has been established by court proceeding to be his child.

4. He has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health ~~and Rehabilitative Services~~.

5. He has provided the child with support in a repetitive, customary manner.

Section 83. Section 63.165, Florida Statutes, is amended to read:

63.165 State registry of adoption information; duty to inform and explain.—*Notwithstanding any other law to the contrary, the department shall maintain a registry with the last known names and addresses of an adoptee and his or her natural parents and adoptive parents and any other identifying information which the adoptee, natural parents, or adoptive parents desire to include in the registry. The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information therein, but no one shall be required to do so.*

(1) Anyone seeking to enter, change, or use information in the registry, or any agent of such person, shall present verification of his or her identity and, if applicable, his or her authority. A person who enters information in the registry shall be required to indicate clearly the persons to whom he or she is consenting to release this information, which persons shall be limited to the adoptee and the natural mother, natural father, adoptive mother, adoptive father, natural siblings, and maternal and paternal natural grandparents of the adoptee. Except as provided in this section, information in the registry is confidential and exempt from the provisions of s. 119.07(1). Consent to the release of this information may be made in the case of a minor adoptee by his or her adoptive parents or by the court after a showing of good cause. At any time, any person may withdraw, limit, or otherwise restrict consent to release information by notifying the department in writing.

(2) The department may charge a reasonable fee to any person seeking to enter, change, or use information in the registry. The department shall deposit such fees in a trust fund to be used by the department only for the efficient administration of this section. The department and agencies shall make counseling available for a fee to all persons seeking to use the registry, and the department shall inform all affected persons of the availability of such counseling.

(3) The department, intermediary, or licensed child-placing agency must inform the birth parents before parental rights are terminated, and the adoptive parents before placement, in writing, of the existence and purpose of the registry established under *this section* ~~s. 382.027~~, but failure to do so does not affect the validity of any proceeding under this chapter.

Section 84. Subsection (4) of section 68.07, Florida Statutes, is amended to read:

68.07 Change of name.—

(4) On filing the final judgment, the clerk shall*, if the birth occurred in this state,* send a report of the judgment to the *Office of Vital Statistics of the* Department of Health ~~and Rehabilitative Services~~ on a form to be furnished by *the* ~~that~~ department. The form shall contain sufficient information to identify the original birth certificate of the person, the new name, and the file number of the judgment. This report shall be filed by the *department* ~~state registrar~~ with respect to a person born in this state and shall become a part of the vital statistics of this state. With respect to a person born in another state, the *clerk shall provide the petitioner with a certified copy of the final judgment.* ~~Department of Health and Rehabilitative Services shall send the report to the office of vital statistics of the state in which the person's birth occurred.~~

Section 85. Section 382.002, Florida Statutes, is amended to read:

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

~~(1) "Applicant" means the person requesting a copy of a vital record.~~

(1)~~(2)~~ "~~Computer~~ Certification" *or "certified"* means a document ~~produced by computer or other electromagnetic equipment~~ containing all or a part of the exact information contained on the original vital record, and which, when *issued* ~~certified~~ by the State Registrar, has the full force and effect of the original vital record.

(2)~~(3)~~ "Dead body" means a human body or such parts of a human body from the condition of which it reasonably may be concluded that death recently occurred.

~~(4) "Death without medical attendance" means a death occurring more than 30 days after the decedent was last treated by a physician, except where death was medically expected as certified by an attending physician.~~

(3)~~(5)~~ "Department" means the Department of Health ~~and Rehabilitative Services~~.

(4)~~(6)~~ "Dissolution of marriage" includes an annulment of marriage.

(5)~~(7)~~ "Fetal death" means death prior to the complete expulsion or extraction of a product of human conception from its mother if the 20th week of gestation has been reached and the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(6)~~(8)~~ "Final disposition" means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or *a* fetus~~,~~ as *described* ~~defined~~ in subsection *(5)* ~~(7)~~. In the case of cremation, dispersion of ashes or cremation residue is considered to occur after final disposition; the cremation itself is considered final disposition.

(7)~~(9)~~ "Funeral director" means a licensed funeral director or direct disposer licensed pursuant to chapter 470 or other person who first assumes custody of or effects the final disposition of a dead body or *a* fetus~~,~~ as *described* ~~defined~~ in subsection *(5)* ~~(7)~~.

(8) "Legal age" means a person who is not a minor, or a minor who has had the disability of nonage removed as provided under chapter 743.

(9)~~(10)~~ "Live birth" means the complete expulsion or extraction of a product of human conception from its mother, irrespective of the dura-

tion of pregnancy, which, after such expulsion, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, and definite movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(10)~~(11)~~ "Medical examiner" means a person ~~so~~ appointed pursuant to chapter 406.

(11)~~(12)~~ "Physician" means a person authorized to practice medicine, ~~or~~ osteopathic medicine, *or chiropractic* pursuant to chapter 458, ~~or~~ chapter 459*, or chapter 460*.

~~(13) "Presumptive death" means determination by a court of competent jurisdiction that a death has occurred or is presumed to have occurred in this state or adjacent waters, but the body of the person involved has not been located or recovered.~~

(12)~~(14)~~ "Registrant" means the child entered on a birth certificate, the deceased entered on a death certificate, and ~~both~~ the husband *or* ~~and~~ wife entered on a marriage or dissolution of marriage record.

(13)~~(15)~~ "Vital records" *or "records"* means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, name change filed pursuant to s. 68.07, and data related thereto.

(14)~~(16)~~ "Vital statistics" means a system of registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by this act, and activities related thereto, including the tabulation, analysis, and publication of data obtained from vital records.

Section 86. Subsections (2), (6), (7), (8), and (10) of section 382.003, Florida Statutes, are amended to read:

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

(2) Procure the complete registration of *all vital records* ~~the same~~ in each registration district ~~as constituted in subsection (4)~~ and in the Office of Vital Statistics.

(6) Investigate cases of irregularity or violation of law, and all local registrars of vital statistics shall aid the department in such investigations. When necessary, the department shall report cases of violations of any of the provisions of this chapter to the state attorney having charge of the prosecution of misdemeanors in the registration district in which *the* ~~such~~ violation *occurs* ~~shall occur~~.

(7) Approve all forms used in registering, recording, certifying, and preserving vital records, or in otherwise carrying out the purposes of this chapter, and no other forms shall be used other than those approved by the department. The department is responsible for the careful examination of the certificates received monthly from the local registrars and marriage certificates and dissolution of marriage reports received from the circuit and county courts. A certificate that is complete and satisfactory shall be accepted and given a state file number and considered a state-filed record. If any such certificates are incomplete or unsatisfactory, the department shall require ~~such~~ further information to be supplied as may be necessary to make the record complete and satisfactory. All physicians, midwives, informants, or funeral directors, and all other persons having knowledge of the facts, are required to supply, upon a form approved by the department or upon the original certificate, such information as they may possess regarding any vital record~~, as requested by the department~~.

(8) Prepare and publish an annual report of vital statistics and such other reports as may be required ~~by the department~~.

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

Section 87. Section 382.004, Florida Statutes, is amended to read:

382.004 *Reproduction* ~~Microfilming~~ and *destruction of* ~~destroying~~ records.—

(1) The department is authorized to photograph, microphotograph, reproduce on film, or reproduce by electronic means vital records in such a manner that the data on each page are in exact conformity with the original record.

(2) The department is ~~hereby~~ authorized to destroy any of the original vital records after they have been photographed or reproduced in exact conformity with the original record and after approval for destruction in accordance with chapter 257.

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

Section 88. Section 382.005, Florida Statutes, is amended to read:

382.005 Duties of local registrars.—

(1) Each local registrar is charged with the strict and thorough enforcement of the provisions of this chapter and rules adopted hereunder in his or her registration district, and ~~he or she~~ shall make an immediate report to the department of any violation or apparent violation of this law or rules adopted hereunder.

(2) Each local registrar shall make available blank forms as necessary ~~to such persons as required of them~~ and shall *examine* ~~be responsible for the careful examination of~~ each certificate of *live* birth, death, or fetal death when presented for registration~~,~~ in order to ascertain whether or not it has been completed in accordance with the provisions of this chapter *and adopted*~~,~~ rules ~~adopted hereunder, and the instructions of the department~~. All birth, death, and fetal death certificates shall be typewritten ~~or printed legibly~~ in permanent black ink, and a certificate is not complete and correct if it does not supply each item of information called for ~~therein~~ or satisfactorily account for its omission.

~~(3) If any certificate of death or fetal death is incomplete or unsatisfactory, the local registrar shall call attention to the defect in the record and may withhold the burial, removal, or other permit until such defects are corrected. If the certificate of death or fetal death is properly executed and complete, the local registrar shall then issue a burial, removal, or other permit to the funeral director; provided, that in case the death occurred from some disease which is held by the department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the dead body shall be issued by the local registrar, except under such conditions as may be prescribed by the department.~~

~~(4) If a certificate of birth is incomplete, the local registrar shall immediately notify the institution where the birth occurred or the informant, and require the completion of the missing items of information, if they can be obtained prior to issuing certified copies of the record.~~

(3)~~(5)~~ The local registrar or his or her deputy, if ~~so~~ authorized by the department, shall sign as registrar in attestation of the date of registration ~~in his or her office~~ and may also make and preserve a local record of each birth, death, and fetal death certificate registered by him or her, in such manner as directed by the department. ~~And~~ The local registrar ~~or deputy~~ shall~~, on or before the 7th day of each month,~~ transmit *daily* to the department all original certificates registered. ~~by him or her for the preceding month. And~~ If no births, ~~or~~ deaths, or ~~no~~ fetal deaths occurred in any month, the local registrar or deputy shall, on the 7th day of the following month, report that fact to the department on a form provided for such purpose.

(4)~~(6)~~ Each local registrar, immediately upon ~~his or her acceptance of~~ appointment, shall *designate one or more deputy registrars to act on behalf of the local registrar* ~~appoint a chief deputy registrar, who shall act in the local registrar's stead in case of his or her absence or disability and may appoint other deputy registrars~~.

Section 89. Section 382.006, Florida Statutes, is amended to read:

382.006 Burial-transit permit.—

(1) The funeral director who first assumes custody of a dead body or fetus *must* ~~shall~~ obtain a burial-transit permit prior to final disposition ~~or removal from the state of the dead body or fetus~~ and within 5 days after death. *The application for a burial-transit permit must be signed by the funeral director and include the funeral director's license number. The funeral director must attest on the application that he or she has contacted the physician's or medical examiner's office and has received assurance that the physician or medical examiner will provide medical certification of the cause of death within 72 hours after receipt of the death certificate from the funeral director.*

(2) A ~~Such~~ burial-transit permit shall be issued by the local registrar or subregistrar of the registration district in which the death occurred or the body was found. *A* ~~No such~~ burial-transit permit shall *not* be issued*:*

(a) Until a complete and satisfactory certificate of death or fetal death has been filed in accordance with the requirements of this chapter *and adopted rules, unless* ~~or~~ the funeral director provides adequate assurance that a complete and satisfactory certificate will be so registered.

(b) Except under conditions prescribed by the department, if the death occurred from some disease which is held by the department to be infectious, contagious, or communicable and dangerous to the public health.

(3)~~(2)~~ The funeral director shall deliver the burial-transit permit to the person in charge of the place of final disposition, before interring or otherwise disposing of the dead body or fetus within this state; or when transported to a point outside the state, the permit shall accompany the dead body or fetus to its destination.

(4)~~(3)~~ A burial-transit permit issued under the law of another state or country, *or a certification of a death certificate issued under the law of a state or country that does not issue burial-transit permits,* which accompanies a dead body or fetus brought into this state~~,~~ shall be authority for final disposition of the dead body or fetus in this state.

(5) Rules of the department may provide for the issuance of a burial-transit permit prior to the filing of a certificate of death or fetal death upon conditions designed to assure compliance with the purposes of this chapter in cases in which compliance with the requirement that the certificate be filed prior to the issuance of the permit would result in undue hardship.

(6) Burial-transit permits filed with the local registrar under the provisions of this chapter may be destroyed after the expiration of 3 years from the date of filing.

~~(4) A permit for disinterment and reinterment shall be required prior to disinterment or reinterment of a dead body or fetus except as authorized or otherwise provided by law. Such permit shall be issued by the local registrar for vital statistics of the district in which the dead body or fetus is buried, to a funeral director, upon proper application.~~

Section 90. Section 382.007, Florida Statutes, is amended to read:

382.007 Final dispositions prohibited without *burial-transit* ~~burial~~ permit; records of dead bodies disposed.—*A* ~~No~~ person in charge of any premises on which final dispositions are made shall *not* inter or permit the interment or other disposition of any dead body unless it is accompanied by a *burial-transit permit* ~~burial, other disposition, or removal permit as herein provided~~. Any such person shall endorse upon the permit the date of interment, or other disposition, over his or her signature, and shall return all permits so endorsed to the local registrar of *the district where the place of final disposition is located* ~~his or her district~~ within 10 days from the date of interment or other disposition. He or she shall keep a record of all dead bodies interred or otherwise disposed of on the premises under his or her charge, in each case stating the name of each deceased person, place of death, date of burial or other disposition, and name and address of the funeral director which record shall at all times be open to official inspection.~~; provided, that~~ The funeral director, when burying a dead body in a cemetery ~~or burial grounds~~ having no person in charge, shall sign the *burial-transit* ~~burial or removal~~ permit, giving the date of burial, and shall write across the face of the permit the words "No person in charge," and file the ~~burial or removal~~ permit within 10 days *after burial* with the *local* registrar of the district in which the cemetery is located. ~~Permits filed with the local registrar under the provisions of this section may be destroyed by the official custodian after the expiration of 3 years from the date of such filing.~~

Section 91. Section 382.008, Florida Statutes, 1996 Supplement, is amended to read:

382.008 Death and fetal death registration.—

(1) A certificate for each death and fetal death which occurs in this state shall be *filed on a form prescribed by the department* ~~registered~~ with the local registrar of the district in which the death occurred within 5 days after such death and prior to final disposition ~~or removal of the dead body or fetus from the state~~, and shall be registered by such registrar if it has been completed and filed in accordance with this chapter *or adopted rules. In addition, each certificate of death or fetal death*:

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

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

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

(2) The funeral director who first assumes custody of a dead body or fetus shall file the *certificate of* death or fetal death ~~certificate~~. In the absence of *the funeral director* ~~such a person~~, the physician or other person in attendance at or after the death shall file the certificate of death or fetal death. The person who *files* ~~registers~~ the certificate shall obtain ~~the~~ personal data from the next of kin or the best qualified person or source available. The medical certification of cause of death shall be furnished to the funeral director, either in person or via certified mail, by the physician or medical examiner responsible for furnishing such information. *For fetal deaths, the physician, midwife, or hospital administrator shall provide any medical or health information to the funeral director within 72 hours after expulsion or extraction.*

(3) Within 72 hours after receipt of a death or fetal death certificate from *the* ~~a~~ funeral director, the medical certification *of cause of death* shall be completed~~, signed,~~ and made available to the funeral director by the physician in charge of the decedent's care for the illness or condition which resulted in death, ~~or~~ the physician in attendance at the time of death or fetal death or immediately before or after such death or fetal death*, or the medical examiner if the provisions of s. 382.011 apply. The physician or medical examiner*~~, who~~ shall certify over his or her signature the cause of death to *the best of* his or her ~~best~~ knowledge and belief~~; except the provisions of s. 382.011 apply when the death or fetal death requires investigation pursuant to s. 406.11 or the death or fetal death occurred without medical attendance~~.

(a) The local registrar may grant the funeral director an extension of time upon a good and sufficient showing of any of the following conditions:

1. An autopsy is pending.

2. Toxicology, laboratory, or other diagnostic reports have not been completed.

3. The identity of the decedent is unknown and further investigation or identification is required.

(b) If the physician or medical examiner has indicated that he or she will sign and complete the medical certification of cause of death, but will not be available until after the 5-day registration deadline, the local registrar may grant an extension of 5 days. If a further extension is required, the funeral director must provide written justification to the registrar.

(4) If the local registrar has granted an extension of time to provide the medical certification of cause of death, the funeral director shall file

a temporary certificate of death or fetal death which shall contain all available information, including the fact that the cause of death is pending. The physician or medical examiner shall provide an estimated date for completion of the permanent certificate.

(5) A permanent certificate of death or fetal death, containing the cause of death and any other information which was previously unavailable, shall be registered as a replacement for the temporary certificate. The permanent certificate may also include corrected information if the items being corrected are noted on the back of the certificate and dated and signed by the funeral director, physician, or medical examiner, as appropriate.

~~(4) The department may by rule and upon such conditions as it may prescribe to assure compliance with the purposes of this act, provide for the extension of the periods prescribed in this chapter for the filing of death certificates, fetal death certificates, medical certifications of causes of death, and for the obtaining of burial-transit permits in cases in which compliance with the applicable prescribed period would result in undue hardship.~~

~~(5) Rules of the department may provide for the issuance of a burial-transit permit prior to the filing of a certificate of death or fetal death upon conditions designed to assure compliance with the purposes of this act in cases in which compliance with the requirement that the certificate be filed prior to the issuance of the permit would result in undue hardship.~~

(6) *The original certificate of death or fetal death shall contain all the information required by the department for legal, social, and health research purposes. All information relating to cause of death in* ~~The cause-of-death section of~~ all death and fetal death records and the parentage, marital status, and medical information included in all fetal death records of this state are confidential and exempt from the provisions of s. 119.07(1), except for health research purposes as approved by the department; nor may copies of the same be issued except as provided in s. 382.025~~(4)~~.

~~(7) The provisions of s. 382.013(5), (6), and (7) also apply to the entry of similar information on fetal death certificates.~~

Section 92. Section 382.011, Florida Statutes, is amended to read:

382.011 *Medical examiner determination of cause of death* ~~When Death occurs without medical attendance or due to unlawful act or neglect.~~—

(1) In the case of any death or fetal death due to causes or conditions listed in s. 406.11, *or where the death occurred more than 30 days after the decedent was last treated by a physician unless the death was medically expected as certified by an attending physician* ~~occurring without medical attendance~~, or where there is reason to believe that the death may have been due to unlawful act or neglect, the funeral director or other person to whose attention the death may come shall refer the case to the medical examiner of the district in which the death occurred for ~~his or her~~ investigation and *determination of* ~~certification; and the medical examiner shall certify the cause of death, as required for a burial permit, and to properly classify~~ the cause of death.

(2) The medical examiner shall complete and sign the medical certification *of cause of death* ~~section~~ of the death or fetal death certificate within 72 hours after notification, whether or not final determination of the cause of death has been established, *unless an extension has been granted as provided under s. 382.008. Any* amendment fees *prescribed in s. 382.0255 shall be* ~~are~~ waived when a later determination of cause of death is made ~~in such a case~~.

(3) The funeral director shall retain the responsibility for preparation of the death or fetal death certificate, obtaining the necessary signatures, filing with the local registrar in a timely manner, and disposing of the remains when the remains are released by the medical examiner.

Section 93. Section 382.012, Florida Statutes, is amended to read:

382.012 Presumptive death *certificate.*—

(1) "Presumptive death" means a determination by a court of competent jurisdiction that:

(a) A death of a resident of this state has occurred or is presumed to have occurred, but the body of the person involved has not been located or recovered; or

(b) A death of a nonresident of this state has occurred or is presumed to have occurred in this state, but the body of the person involved has not been located or recovered.

(2) The department shall file a presumptive death certificate when ordered by a court of competent jurisdiction. In case of a presumptive death certificate, the medical certification *of cause of death must* ~~section shall~~ be signed by the judge issuing the court order. *A petitioner seeking a presumptive death certificate must include in the petition before the court all information necessary to complete the presumptive death certificate.*

Section 94. Section 382.013, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 382.013, F.S., for present text.)

382.013 Birth registration.—A certificate for each live birth that occurs in this state shall be filed within 5 days after such birth with the local registrar of the district in which the birth occurred and shall be registered by the local registrar if the certificate has been completed and filed in accordance with this chapter and adopted rules.

(1) FILING.—

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

(b) If a birth occurs outside a facility and the child is not taken to the facility within 3 days after delivery, the certificate shall be prepared and filed by one of the following persons in the indicated order of priority:

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

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

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

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

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

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

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

(2) PATERNITY.—

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

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

(c) If the mother is not married at the time of birth, the name of the father may not be entered on the birth certificate without the execution of a consenting affidavit signed by both the mother and the person to be named as the father. The facility shall provide the mother and the person to be named as the father with the affidavit, as well as information provided by the Title IV-D agency established pursuant to s. 409.2557, regarding the benefits of voluntary establishment of paternity. Upon request of the mother and the person to be named as the father, the facility shall assist in the execution of the affidavit.

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

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

(3) NAME OF CHILD.—

(a) If the mother is married at the time of birth, the mother and father whose names are entered on the birth certificate shall select the given names and surname of the child if both parents have custody of the child, otherwise the parent who has custody shall select the child's name.

(b) If the mother and father whose names are entered on the birth certificate disagree on the surname of the child and both parents have custody of the child, the surname selected by the father and the surname selected by the mother shall both be entered on the birth certificate, separated by a hyphen, with the selected names entered in alphabetical order. If the parents disagree on the selection of a given name, the given name may not be entered on the certificate until a joint agreement that lists the agreed upon given name and is notarized by both parents is submitted to the department, or until a given name is selected by a court.

(c) If the mother is not married at the time of birth, the person who will have custody of the child shall select the child's given name and surname.

(d) If multiple names of the child exceed the space provided on the face of the birth certificate they shall be listed on the back of the certificate. Names listed on the back of the certificate shall be part of the official record.

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

(5) DISCLOSURE.—The original certificate of live birth shall contain all the information required by the department for legal, social, and health research purposes. However, all information concerning parentage, marital status, and medical details shall be confidential and exempt from the provisions of s. 119.07(1), except for health research purposes as approved by the department, nor shall copies of the same be issued except as provided in s. 382.025.

Section 95. Section 382.0135, Florida Statutes, is amended to read:

382.0135 Social security numbers; enumeration-at-birth program.—The department ~~of Health and Rehabilitative Services, through the State Registrar,~~ shall make arrangements with the United States Social Security Administration to *participate* ~~enable this state to begin participating, as soon as practicable,~~ in the voluntary enumeration-at-birth program ~~established by that federal agency~~. The State Registrar is authorized to ~~and shall~~ take any actions ~~that are~~ necessary ~~in order~~ to administer the program in this state, including modifying the procedures and forms used in the birth registration process.

Section 96. Section 382.015, Florida Statutes, 1996 Supplement, is amended to read:

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

(1) ADOPTION *AND ANNULMENT OF ADOPTION.*—

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

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

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

(2) DETERMINATION OF PATERNITY.—

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

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

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

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

~~(3) ANNULMENT OF ADOPTION.—Upon receipt of the report of an annulment of an adoption from a clerk of the court, or upon receipt of a certified copy of a final decree, or judgment of the annulment of adoption, the department shall, if a new certificate of birth was filed, based upon an adoption order, remove such new certificate and restore the original certificate to its original place in the files and the certificate so removed shall then be destroyed by the department.~~

~~(4) DUTY OF DEPARTMENT UPON RECEIPT OF REPORTS ON CHILDREN NOT BORN IN THIS STATE.—Upon receipt of a report of an adoption, determination of paternity, or annulment of an adoption from a clerk of the court, in which report it affirmatively appears that the person involved was born in a state other than the State of Florida, it shall be the duty of the department to forward a copy of such report to the State Registrar or comparable official of the state in which said person was born.~~

(4)~~(5)~~ SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR ORIGINAL.—When a new certificate of birth is prepared, the department shall substitute the new certificate of birth for the *original certificate* ~~one~~ on file ~~in the Office of Vital Statistics~~. *All copies of the original certificate of live birth in the custody of a local registrar or other state custodian of vital records shall be forwarded to the State Registrar.* Thereafter, when a certified copy of the certificate of birth of such person or portion thereof is issued, it shall be a copy of the new certificate of birth or portion thereof, except when *a court* ~~an~~ order *requires* ~~of a court of competent jurisdiction shall require the~~ issuance of a *certified* copy of the original certificate of birth. *In*~~, and in the case of~~ an adoption, change in paternity, *affirmation of parental status, undetermined parentage,* or court-ordered substitution, the department shall place the original certificate of birth and all papers pertaining thereto under seal, not to be broken ~~or opened~~ except by order of a court of competent jurisdiction *or as otherwise provided by law*. ~~The original birth certificate is confidential and exempt from the provisions of s. 119.07(1). In the case of an adoptive child, access to the original certificate of birth shall be governed by s. 63.162.~~

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

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

Section 97. Section 382.016, Florida Statutes, is amended:

(Substantial rewording of section. See s. 382.016, F.S., for present text.)

382.016 Amendment of records.—

(1) The department, upon receipt of the fee prescribed in s. 382.0255, documentary evidence of any misstatement, error, or omission occurring in any birth, death, or fetal death record as may be required by department rule, and an affidavit setting forth the changes to be made, shall amend or replace the original certificate as necessary. However, except for a misspelling or an omission on a death certificate with regard to the name of the surviving spouse, the department may not change the name of the surviving spouse on the certificate except by order of a court of competent jurisdiction.

(2) Until a child's first birthday, the child's given name or surname may be amended upon receipt of the fees prescribed in s. 382.0255 and an affidavit signed by each parent named on the original birth certificate or by the registrant's guardian. If both parents are named on the certificate but both are not willing or available to sign the affidavit, the registrant's name may only be amended by court order.

Section 98. Section 382.017, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 382.017, F.S., for present text.)

382.017 Foreign births.—

(1) Upon request, the department shall prepare and register a certificate of foreign birth for an adoptee born in a foreign country who is not a citizen of the United States and whose judgment of adoption was entered by a court of competent jurisdiction of this state. The certificate shall be established upon receipt of the report or certified copy of the adoption decree, proof of the date and place of the adoptee's birth, and a request that the certificate be prepared from the court, the adopting parents, or the adoptee if of legal age. The certificate shall be labeled "Certificate of Foreign Birth" and shall show the true country and date of birth of the adoptee, and must include a statement that the certificate is not evidence of United States citizenship. After registering the certificate of foreign birth in the new name of the adoptee, the department shall place the adoption report or decree under seal, not to be broken except pursuant to court order.

(2) If the adoptee was born in a foreign country but was a citizen of the United States at the time of birth, the department shall not prepare a certificate of foreign birth but shall notify the adoptive parents, or the adoptee if of legal age, of the procedure for obtaining a revised birth certificate through the United States Department of State.

Section 99. Section 382.018, Florida Statutes, is renumbered as section 382.0195, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 382.018, F.S., for present text.)

382.0195 Court-issued delayed birth certificate.—

(1) In addition to the provisions of s. 382.019, any state resident or person born in this state who does not have a birth certificate may, at any time after birth, file a petition in the circuit court in the county of residence or in the alleged county of his or her birth, setting forth the date, place, and parentage of birth and petitioning the court to issue a delayed birth certificate. The petition must be on a form furnished by the department and must be accompanied by a certified statement from the state registrar of the alleged state of birth, stating that, based on the facts submitted by the petitioner, a birth certificate for the petitioner is not on file.

(2) Upon the filing of the petition, the court shall hold a hearing at which time such evidence may be presented as may be required by the court to establish the fact of the petitioner's birth and the date, place, and parentage of his or her birth. However, a certificate may not be granted based solely on the uncorroborated testimony of the petitioner.

(3) If the evidence is sufficient, the court shall issue a delayed birth certificate on a form furnished by the department. Documentation submitted by the petitioner in support of the petition shall be recorded on the delayed birth certificate.

(4) The original and court copies of the delayed birth certificate issued by the court shall be distributed as follows:

(a) One copy shall be filed in the circuit court as a permanent record.

(b) If the birth occurred in this state, one copy shall be delivered to the petitioner and the original shall be mailed to the department by the clerk of the court within 10 days after the delayed certificate is issued by the court.

(c) If the birth occurred outside this state, the original certificate plus one copy shall be delivered to the petitioner by the court.

(5) A delayed birth certificate issued by a court pursuant to this section and registered with the department may not be amended except by court order.

Section 100. Section 382.019, Florida Statutes, is amended to read:

382.019 *Delayed registration* ~~Filing of certificates of birth, death, or fetal death in cases where no certificate was filed at time of birth, death, or fetal death.—~~

(1) *Registration after 1 year is a delayed registration, and the department may, upon receipt of the fee required under s. 382.0255, and proof of the birth, death, or fetal death as prescribed by this section or rule, register a delayed certificate if the department does not already have a certificate of the birth, death, or fetal death on file.* ~~If at any time after the birth, death, or fetal death of any person within the state, a copy of the official record or portion thereof of said birth, death, or fetal death is necessary and, after search by the department or its representative, it should appear that no such certificate of birth, death, or fetal death was prepared or filed, the physician, midwife, or funeral director responsible for the report, or father, mother, older brother or sister, or other person knowing the facts may file with the department such certificate of birth, death, or fetal death, together with such sworn statements and affidavits and other evidence as may be required by rule of the department.~~

(2) The department may require such *supporting documents* ~~affidavits~~ to be presented and such proof to be filed as it *deems* ~~may deem advisable or~~ necessary *and sufficient* to establish the truth of the facts ~~endeavored~~ to be ~~made or~~ recorded by the certificate, ~~provided for in subsection (1)~~ and may withhold *registering* ~~filing of~~ the birth, death, or fetal death certificate ~~involved~~ until its requirements are *met* ~~complied with~~.

(3) Certificates *registered* ~~filed and accepted~~ under this section *are* ~~shall be~~ admissible as prima facie evidence of the facts recited therein with like force and effect as other vital ~~statistics~~ records ~~are~~ received or admitted in evidence. ~~The department may make and enforce appropriate rules to carry out this section and to prevent fraud and deception.~~

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

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

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

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

Section 101. Section 382.021, Florida Statutes, is amended to read:

382.021 Department to receive marriage licenses.—

~~(1) Upon the return of each marriage license to the issuing county court judge or clerk of the circuit court, as provided and issued under chapter 741, the issuing county court judge or clerk of the circuit court shall forthwith record the same, and shall,~~ On or before the 5th day of each month, *the county court judge or clerk of the circuit court shall* transmit all ~~the~~ original *marriage* licenses, with endorsements ~~thereon~~, received ~~by him or her~~ during the preceding calendar month, to the department. Any marriage licenses issued and not returned ~~to the issuing county court judge or clerk of the circuit court~~ or any marriage licenses returned *but* ~~to the issuing county court judge or clerk of the circuit court and~~ not recorded ~~by him or her so as to be transmitted to the department~~ shall be reported by the issuing county court judge or clerk of the circuit court to the department at the time of transmitting the recorded licenses on the forms to be prescribed and furnished by the department. If during any month no marriage licenses are issued or returned ~~to a county court judge or clerk of the circuit court~~, the county court judge or clerk of the circuit court shall report such fact to the department upon forms prescribed and furnished by the department.

~~(2) From and after October 1, 1987, marriage licenses shall be valid only for a period of 60 days after issuance, and no person shall perform any ceremony of marriage after the expiration date of such license. The county court judge or clerk of the circuit court shall recite on each marriage license the final date that such is so valid.~~

Section 102. Section 382.022, Florida Statutes, is amended to read:

382.022 ~~County court judges and clerks of the circuit courts to transmit~~ Marriage application fees ~~monthly~~.—*Upon the receipt of each application for the issuance of a marriage license, the county court judge or clerk of the circuit court shall, pursuant to s. 741.02, collect and receive a fee of $4 which shall be transmitted,* on or before the 10th day of each month, ~~each of the several county court judges and clerks of the circuit courts of the state shall transmit~~ to the department *to defray part of the cost of maintaining marriage records*~~, for deposit in the trust fund provided in s. 382.025(9), the fees collected by him or her under the provisions of s. 741.02 during the preceding calendar months~~.

Section 103. Section 382.023, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 382.023, F.S., for present text.)

382.023 Department to receive dissolution-of-marriage records; fees.—Clerks of the circuit courts shall collect for their services at the time of the filing of a final judgment of dissolution of marriage a fee of $7, of which $3 shall be retained by the circuit court as a part of the cost in the cause in which the judgment is granted. The remaining $4, together with a record of each and every judgment of dissolution of marriage granted by the court during the preceding calendar month, giving names of parties and such other data as required by forms prescribed by the department, shall be transmitted to the department, on or before the 10th day of each month, to defray part of the cost of maintaining the dissolution-of-marriage records.

Section 104. Section 382.025, Florida Statutes, 1996 Supplement, is amended to read:

382.025 Certified copies of vital records~~, birth records, and other records~~; *confidentiality; research* ~~copies as evidence; searches of records; fees; disposition of fees~~.—

(1) *BIRTH RECORDS.*—All birth records of this state shall be confidential and are exempt from the provisions of s. 119.07(1).

(a)~~(2)~~ Certified copies of the original birth certificate ~~and computer certifications and birth cards in such form as the department may designate~~ or *a* ~~any~~ new or *amended* ~~amendatory~~ certificate, or affidavits thereof, are confidential and exempt from the provisions of s. 119.07(1) and*, upon receipt of a request and payment of the fee prescribed in s. 382.0255,* shall be issued only as authorized by the department *and in the form prescribed by the department,* and only*:*

1. To the registrant, if of legal age;

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

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

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

5. To a law enforcement agency for *official purposes;* ~~the purpose of facilitating the prosecution of offenses under s. 794.011, s. 794.05, s. 800.04 and s. 827.04(4); or~~

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

7. Upon order of any court of competent jurisdiction.

(b)~~(3)~~ *To protect the integrity of vital records and prevent the fraudulent use of the birth certificates of deceased persons, the department shall match birth and death certificates and post the fact of death to the appropriate birth certificate. A certification of a birth certificate of a deceased registrant shall be marked "deceased."* ~~All such computer certificates of birth or birth cards, including those for persons born out of wedlock or of undetermined parentage or for persons for whom paternity has been determined or for adopted persons, shall be identical in form.~~

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

(2)~~(4)~~ *OTHER RECORDS.*—

(a) The department shall authorize the issuance of a certified copy ~~or computer certification~~ of all or part of any marriage, dissolution of marriage, or death or fetal death certificate, excluding that portion which is confidential ~~pursuant to s. 382.008(6)~~ and exempt from the provisions of s. 119.07(1) *as provided under s. 382.008,* to any person requesting it upon *receipt of a request and* payment of the fee prescribed by this section. A ~~copy or computer~~ certification of the death ~~certificate~~ or fetal death certificate *which includes*~~, including~~ the confidential portions~~,~~ shall be issued only*:*

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

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

3. Upon order of any court of competent jurisdiction.

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

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

~~(5) Any copy of any record or part thereof filed under the provisions of this act when properly certified by the department shall be prima facie evidence in all courts and cases of the facts therein stated.~~

~~(6) The department is entitled to fees as follows:~~

~~(a) Not less than $3 or more than $5 for the first calendar year of records searched for a vital record and not less than $1 or more than $2 for each additional calendar year of records searched, up to a maximum of $50. If the record is located, this fee entitles the applicant to one computer certification of the record or a photocopy or birth card if computer certification is not available. An additional fee of not less than $3 or more than $5 is required if a photocopy, short-form photocopy, or birth card is requested in place of or in addition to a computer certification.~~

~~(b) Not less than $10 or more than $20 for processing and filing a delayed certification of birth, death, or fetal death. This fee entitles the applicant to one certification of the record, if filed.~~

~~(c) Not less than $10 or more than $20 for processing and filing a change of name, a correction on a death record, or a correction on a birth record. This fee entitles the applicant to one certification of the corrected record.~~

~~(d) Not less than $10 or more than $20 for processing and filing a new birth certificate for reason of adoption or for reason of determination of paternity. This fee entitles the applicant to one certification of the new certificate.~~

~~(e) Not less than $2 or more than $4 for each certification of a vital record in excess of one certification for which a fee for search or a filing fee is paid, when ordered at the same time.~~

~~(f) Not less than $5 or more than $10 for processing and forwarding each exemplified copy of a vital record.~~

~~(g) Twenty-five dollars for a commemorative certificate of birth or marriage. Fees collected pursuant to this paragraph in excess of expenses shall be deposited by the department in the Maternal and Child Health Block Grant Trust Fund.~~

~~(h) Not less than $5 or more than $10 for each search of state census records.~~

~~(i) Not less than $5 or more than $10 for expedited processing of an initial certified copy or certified statement of a vital record.~~

~~(j) Not less than 5 cents or more than 10 cents for each vital record listed on computer tape or printout plus cost of preparation and handling or a fee consistent with a nationally negotiated or established schedule of charges.~~

~~(7) Until rules establishing fees under subsection (6) are promulgated by the department, the fees assessed pursuant to this subsection shall be the minimum fees cited. All fees are due and payable at the time that services are requested and are nonrefundable, except that, when a search is conducted and no vital record is found, any fees paid for additional copies shall be refunded.~~

(3)~~(8)~~ *RECORDS AND DATA DISTRIBUTION.*—The department may issue *vital* records or data to*:* ~~federal, state, local, or other public or private agencies, as specified in this subsection. Issuance of such records or data is exempt from the provisions of s. 119.07(1). The copies of records or data issued pursuant to this subsection shall remain the property of the department. The department shall govern what use may be made of these records and data.~~

(a) *A* ~~The~~ federal agency ~~responsible for national vital statistics may be furnished such copies or data from the system of vital statistics as are required for national statistics~~, if the agency shares in the cost of collecting, processing, and transmitting such data and if the data is only used by the federal agency for statistical purposes or for other purposes specifically authorized by the department.

~~(b) Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data from the system of vital statistics for statistical or administrative purposes upon such terms or conditions as may be prescribed by the department, but such copies or data may not be used for purposes other than those for which they are requested unless specifically authorized by the department.~~

(b)~~(c) The department may, by agreement, transmit copies of records and other reports to~~ An office of vital statistics for a jurisdiction outside this state*, pursuant to an agreement with the department,* when such records or other reports relate to residents of that jurisdiction or persons born in that jurisdiction. The agreement must require that the copies be used for statistical and administrative purposes only, and ~~the agreement~~ must provide for the retention and disposition of such copies.

(c) Other governmental agencies upon such terms or conditions as may be prescribed by the department.

(d) A research entity, if the entity seeks the records or data pursuant to a research protocol approved by the department and maintains the records or data in accordance with the approved protocol and a purchase and data-use agreement with the department. The department may deny a request for records or data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, or does not have scientific merit. The agreement must restrict the release of any information which would permit the identification of persons found in vital statistics records, limit the use of the records or data to the approved research protocol, and prohibit any other use of the records or data.

Records or data issued under this subsection are exempt from the provisions of s. 119.07(1) and copies of records or data issued pursuant to this subsection remain the property of the department.

~~(9) All fees prescribed herein shall be paid by the applicant. The department may waive any or all of the fees required in this section. The department shall keep a true and correct account of all fees required under this section and deposit such fees in a trust fund to be used by the department for the efficient administration of this chapter.~~

(4)~~(10)~~ *CERTIFIED COPIES OF ORIGINAL CERTIFICATES.*—*Only the state registrar and local registrars are authorized to* ~~No person shall prepare or~~ issue any certificate which purports to be *a certified copy of* an original~~, or a copy of an original,~~ certificate of *live* birth, death, or fetal death~~, except as authorized in this act or rules adopted hereunder~~. Except as provided in this section, preparing or issuing certificates is exempt from the provisions of s. 119.07(1).

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

~~(11) The fee charged for each request for a certified birth certificate or birth record as issued by the department or by the local registrar shall be subject to a nonrefundable additional fee of $4, due and payable at the time the request is made. The state and local registrars shall collect the additional fee and deposit it in the appropriate department trust funds. On a quarterly basis, the department shall transfer $2 of each additional fee collected by the state and local registrars to the General Revenue Fund and $1.50 to the Child Welfare Training Trust Fund created in s. 402.40. Fifty cents of the fee shall be available for appropriation to the department for administration of this chapter.~~

~~(12)(a) In addition to the original birth certificate and any other birth record or copy thereof, the State Registrar shall issue upon request and upon payment of an additional fee prescribed by this section a birth certificate representing that the birth of the person named thereon is recorded in the office of the registrar. The certificate issued under this paragraph shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the Governor. It shall have the same status as evidence as the original birth certificate. Funds derived from such fee in excess of departmental expenses shall be deposited by the department into the Maternal and Child Health Block Grant Trust Fund for use in the Regional Perinatal Intensive Care Centers (RPICC) Program to prevent child abuse and neglect.~~

~~(b) In addition to the original marriage license or copy thereof, the State Registrar shall issue upon request and upon payment of an additional fee prescribed by this section a marriage license representing that the marriage of the persons named thereon is recorded in the office of the registrar. The certificate issued under this paragraph shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the Governor. It shall have the same status as evidence as the original marriage license. Funds derived from such fee in excess of departmental expenses shall be deposited by the department into the Maternal and Child Health Block Grant Trust Fund for use in funding the Improved Pregnancy Outcome Program.~~

Section 105. Section 382.0255, Florida Statutes, is created to read:

382.0255 Fees.—

(1) The department is entitled to fees, as follows:

(a) Not less than $3 or more than $5 for the first calendar year of records searched or retrieved and a computer certification of the record, a photocopy or birth card if a computer certification is not available, or, if no record is located, a certified statement to that effect. An additional fee of not less than $3 or more than $5 if a photocopy is requested in place of or in addition to a computer certification. Additional fees of not less than $1 or more than $2, up to a maximum total of $50, shall be charged for additional calendar years of records searched or retrieved.

(b) Not less than $10 or more than $20 for processing and filing a delayed certification of birth, death, fetal death, or presumptive death. This fee entitles the applicant to one certification of the record if filed.

(c) Not less than $10 or more than $20 for processing and filing a change of name, an amendment to a death record, or an amendment to a birth record. This fee entitles the applicant to one certification of the corrected record.

(d) Not less than $10 or more than $20 for processing and filing a new birth certificate due to an adoption, affirmation of parental status, or determination of paternity. This fee entitles the applicant to one certification of the new certificate.

(e) Not less than $2 or more than $4 for each additional certification of the same vital record when ordered at the same time as the initial certification.

(f) Not less than $5 or more than $10 for processing and forwarding each exemplified copy of a vital record.

(g) Not less than $5 or more than $10 for an expedited processing of a vital record.

(h) Not less than 5 cents or more than 10 cents for each vital record listed on electronic media plus a reasonable charge for the cost of preparation, as defined by department rule.

(i) Twenty-five dollars for a commemorative certificate of birth or marriage. Fees collected pursuant to this paragraph in excess of expenses shall be available for use by the Regional Perinatal Intensive Care Centers (RPICC) Program to prevent child abuse and neglect. Funds derived from the issuance of commemorative marriage certificates shall be available for use by the Improved Pregnancy Outcome Program.

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

(3) Fees shall be established by rule. However, until rules are adopted, the fees assessed pursuant to this section shall be the minimum fees cited. The fees established by rule must be sufficient to meet the cost of providing the service. All fees shall be paid by the person requesting the record, are due and payable at the time services are requested, and are nonrefundable, except that, when a search is conducted and no vital record is found, any fees paid for additional certified copies shall be refunded. The department may waive all or part of the fees required under this section for any government entity.

(4) The department shall keep an account of all fees required under this chapter, and deposit such fees in a trust fund used by the department to pay for the efficient administration of this chapter and services provided. It is the intent of the Legislature that the total fees assessed under this chapter be in an amount sufficient to meet the cost of carrying out the provisions of this chapter.

Section 106. Section 382.026, Florida Statutes, is amended to read:

382.026 Penalties.—

(1) Any person who willfully *and knowingly makes any false statement in a certificate, record, or report required by this chapter, or in an application for an amendment thereof, or in an application for a certified copy of a vital record, or who willfully and knowingly supplies false information, intending that such information be used in the preparation of any such report, record, or certificate, or amendment thereof, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084* ~~makes or alters any certificate or record or certification therefrom provided for in this chapter, or who shall willfully furnish false or fraudulent information affecting any certificate or record required by this chapter, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083~~.

(2) Any person who, without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required by this chapter, or a certified copy of such certificate, record, or report, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who willfully and knowingly obtains, possesses, uses, sells, or furnishes to another, or attempts to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, or report required by this chapter, or any certified copy thereof so made, counterfeited, altered, amended, or mutilated, or which is false in whole or in part, or which relates to the birth of another person, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any employee of the department charged with responsibility for maintaining vital records who willfully or knowingly furnishes or possesses a certificate of live birth, death, or fetal death, or a certified copy of a certificate of birth, death, or fetal death, with the knowledge or intention that it be used for purposes of deception commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any person who, without lawful authority, possesses any certificate, record, or report required by this chapter or a copy or certified copy

of such certificate, record, or report, knowing same to have been stolen or otherwise unlawfully obtained, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who is authorized by this chapter to certify the cause of death of a person and who charges a fee for making such certification commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7)~~(2)~~ Any person who knowingly transports or accepts for transport, inters, or otherwise disposes of a dead body without an accompanying permit issued in accordance with the provisions of this chapter *commits*~~, is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.083.

(8)~~(3)~~ Except where a different penalty is provided for in this section, any person who violates any of the provisions of this chapter, or the rules ~~and regulations~~ of the department, or who neglects or refuses to perform any of the duties imposed upon him or her thereunder, *commits* ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in *s. 775.082 or* s. 775.083.

(9)~~(4)~~ In addition to any other sanction or penalty authorized by law, the department may impose a fine which may not exceed *$1,000* ~~$500~~ for each violation of *this chapter* ~~s. 382.006, s. 382.007, s. 382.008, or s. 382.013,~~ or rules adopted thereunder. ~~Notice of intent to impose such fine must be given by the department to the alleged violator.~~ Each day that a violation continues may constitute a separate violation. In determining the amount of any fine to be imposed for a violation, the department shall consider the following factors:

(a) The gravity of the violation or extent to which the provisions of the applicable statute or rule were violated.

(b) Any action taken by the alleged violator to correct the violation or assure that the violation will not reoccur.

(c) Any previous violation.

~~(5)~~ All fines collected under *this subsection* ~~subsections (1)-(4)~~ shall be deposited in *a* ~~the~~ trust fund *used by the department to pay for the efficient administration of this chapter and services* provided ~~for in s. 382.025(9)~~.

(10) The department shall adopt and enforce all rules to carry out the provisions of this section.

Section 107. Section 382.356, Florida Statutes, 1996 Supplement, is amended to read:

382.356 Protocol for sharing certain birth certificate information.—In order to facilitate the prosecution of offenses under s. 794.011, s. 794.05, s. 800.04, or s. 827.04(4), ~~the Office of Vital Statistics of~~ the Department of Health ~~and Rehabilitative Services~~, the Department of Revenue, and the Florida Prosecuting Attorneys Association shall develop a protocol for sharing birth certificate information for all children born to unmarried mothers who are less than 17 years of age at the time of the child's birth.

Section 108. Section 383.2161, Florida Statutes, is amended to read:

383.2161 Maternal and child health report.~~—Beginning in 1993,~~ The Department of Health ~~and Rehabilitative Services~~ annually shall compile and analyze the risk information collected by the Office of Vital Statistics and the district prenatal and infant care coalitions and shall prepare and submit to the Legislature by January 2 a report that includes, but is not limited to:

(1) The number of families identified as families at potential risk;

(2) The number of families that receive family outreach services;

(3) The increase in demand for services; and

(4) The unmet need for services for identified target groups.

Section 109. Paragraph (c) of subsection (5) of section 402.40, Florida Statutes, 1996 Supplement, is amended to read:

402.40 Child welfare training academies established; Child Welfare Standards and Training Council created; responsibilities of council; Child Welfare Training Trust Fund created.—

(5) CHILD WELFARE TRAINING TRUST FUND.—

(c) In addition to the funds generated by paragraph (b), the trust fund shall receive funds generated from an additional fee on birth certificates and dissolution of marriage filings, as specified in ss. *382.0255* ~~382.025~~ and 28.101, respectively, and may receive funds from any other public or private source.

Section 110. Section 460.414, Florida Statutes, is amended to read:

460.414 Chiropractic physicians subject to state and municipal *rules and* regulations.—All licensed chiropractic physicians shall observe and be subject to all state and municipal *rules and* regulations relating to the control of contagious and infectious diseases, sign death certificates *in accordance with chapter 382*, and comply with all laws pertaining to public health, reporting to the proper authority as other practitioners are required to do.

Section 111. Section 741.041, Florida Statutes, is amended to read:

741.041 Marriage license application valid for *60* ~~30~~ days.—Marriage *licenses shall be valid only for a period of 60 days after issuance, and no person shall perform any ceremony of marriage after the expiration date of such license. The county court judge or clerk of the circuit court shall recite on each marriage license the final date that the license is valid* ~~license applications shall be valid only for a period of 30 days after receipt by an applicant, and no clerk of the circuit court shall issue a license for the marriage of two people more than 30 days after the application was received by the applicant~~.

Section 112. Subsection (1) of section 742.10, Florida Statutes, is amended to read:

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

(1) This chapter provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock. When the establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, *or* dependency under workers' compensation or similar compensation programs, ~~or vital statistics,~~ or when an affidavit acknowledging paternity or a stipulation of paternity is executed by both parties and filed with the clerk of the court, or when a consenting affidavit as provided for in *s. 382.013 or s. 382.015* ~~s. 382.013(6)(b)~~ is executed by both parties, it shall constitute the establishment of paternity for purposes of this chapter. If no adjudicatory proceeding was held, a voluntary acknowledgment of paternity shall create a rebuttable presumption, as defined by s. 90.304, of paternity. *Except for consenting affidavits under seal pursuant to s. 382.015,* the *Office* ~~Bureau~~ of Vital Statistics shall provide certified copies of ~~consenting~~ affidavits to the Title IV-D agency upon request.

Section 113. Subsection (8) of section 742.16, Florida Statutes, 1996 Supplement, is amended to read:

742.16 Expedited affirmation of parental status for gestational surrogacy.—

(8) Within 30 days after entry of the order, the clerk of the court shall prepare a certified statement of the order for the state registrar of vital statistics on a form provided by the registrar. The court shall thereupon enter an order requiring the Department of Health ~~and Rehabilitative Services~~ to issue a new birth certificate naming the commissioning couple as parents and requiring the department to seal the original birth certificate.

Section 114. Subsections (1) and (2) and paragraphs (b) and (c) of subsection (7) of section 945.602, Florida Statutes, 1996 Supplement, are amended to read:

945.602 State of Florida Correctional Medical Authority; creation; members.—

(1) There is created ~~in the Department of Corrections~~ the State of Florida Correctional Medical Authority, *which for administrative purposes shall be assigned to the Department of Health*. The governing board of the authority shall be composed of nine persons appointed by the Governor subject to confirmation by the Senate. One member must be

a member of the Florida Hospital Association; one member must be a member of the Florida League of Hospitals; one member must be a member of the Association of *Community* ~~Voluntary~~ Hospitals *and Health Systems of Florida*; and one member must be a member of the Florida Medical Association. *The authority shall contract with the Department of Health for the provision of administrative support services, including purchasing, personnel, general services, and budgetary matters.* ~~The Department of Corrections shall provide administrative support and service to the authority.~~ The authority shall not be subject to control, supervision, or direction by the Department *of Health or the Department of Corrections*. The authority shall annually elect one member to serve as chairman. Members shall be appointed for terms of 4 years each. Each member is authorized to continue to serve upon the expiration of his term until his successor is duly appointed as provided in this section. Before entering upon his duties, each member of the authority shall take and subscribe to the oath or affirmation required by the State Constitution.

(2) A member of the authority may not be a current employee of the Department *of Corrections*. Not more than one member of the authority may be a former employee of the Department *of Corrections* and such member, if appointed, may not be appointed to a term of office which begins within 5 years after the date of his *or her* last employment *with* ~~by~~ the Department *of Corrections*.

(7)

(b) Neither the provisions of this section nor those of chapter 119, or of s. 154.207(7), shall apply to any health care provider under contract with the Department *of Corrections* except to the extent such provisions would apply to any similar *provider* ~~entity~~ not under contract with the Department *of Corrections*.

(c) Notwithstanding any general or special law, rule, regulation, or ordinance of any local agency to the contrary, service as a member of an authority by a trustee, director, officer, or employee of a health facility shall not in and of itself constitute a conflict of interest. However, any member of the authority who is employed by, or has received income from, a health facility under consideration by the authority or the Department *of Corrections* shall not vote on any matter related to such facility.

Section 115. Section 945.603, Florida Statutes, 1996 Supplement, is amended to read:

945.603 Powers and duties of authority.—The purpose of the authority is to assist in the delivery of health care services for inmates in the Department of Corrections by advising the Secretary *of Corrections* on the professional conduct of primary, convalescent, dental, and mental health care and the management of costs consistent with quality care, by advising the Governor and the Legislature on the status of the *Department of Corrections*' ~~department's~~ health care delivery system, and by assuring that adequate standards of physical and mental health care for inmates are maintained at all Department *of Corrections* institutions. For this purpose, the authority has the authority to:

(1) Review and advise the Secretary *of Corrections* on cost containment measures the Department *of Corrections* could implement.

(2) Review and make recommendations regarding health care for the delivery of health care services including, but not limited to, acute hospital-based services and facilities, primary and tertiary care services, ancillary and clinical services, dental services, mental health services, intake and screening services, medical transportation services, and the use of nurse practitioner and physician assistant personnel to act as physician extenders *as these relate to inmates in the Department of Corrections*.

(3) Develop and recommend to the Governor and the Legislature an annual budget for all or part of the operation of the *State of Florida* prison health care system.

(4) Review and advise the Secretary *of Corrections* on contracts between the Department *of Corrections* and third parties for quality management programs.

(5) Review and advise the Secretary *of Corrections* on minimum standards needed to ensure that an adequate physical and mental health care delivery system is maintained *by the Department of Corrections*.

(6) Review and advise the Secretary *of Corrections* on the sufficiency, adequacy, and effectiveness of the *Department of Corrections*' ~~department's~~ Office of Health Services' quality management program.

(7) Review and advise the Secretary *of Corrections* on the projected medical needs of the inmate population and the types of programs and resources required to meet such needs.

(8) Review and advise the Secretary *of Corrections* on the adequacy of preservice, inservice, and continuing medical education programs for all health care personnel and, if necessary, recommend changes to such programs *within the Department of Corrections*.

(9) Identify and recommend to the Secretary *of Corrections* the professional incentives required to attract and retain qualified professional health care staff *within the prison health care system*.

(10) Coordinate the development of prospective payment arrangements as described in s. 408.50 when appropriate for the acquisition of inmate health care services.

(11) Review the *Department of Corrections*' ~~department's~~ health services plan and advise the Secretary *of Corrections* on its implementation.

(12) Sue and be sued in its own name and plead and be impleaded.

(13) Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions under this act.

(14) Employ or contract with health care providers, medical personnel, management consultants, consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees, entities, or agents as may be necessary in its judgment *to carry out the mandates of the Correctional Medical Authority* and fix their compensation.

(15) Recommend to the Legislature such performance and financial audits of the Office of Health Services in the Department of Corrections as the authority considers advisable.

Section 116. Section 945.6031, Florida Statutes, 1996 Supplement, is amended to read:

945.6031 Required reports and surveys.—

(1) Not less than annually, the authority shall report to the Governor and the Legislature the status of the *Department of Corrections*' ~~department's~~ health care delivery system. The report must include, but need not be limited to:

(a) Recommendations regarding cost containment measures the Department *of Corrections* could implement; and

(b) Recommendations regarding performance and financial audits of the *Department of Corrections*' Office of Health Services.

(2) The authority shall conduct surveys of the physical and mental health care system at each correctional institution at least triennially and shall report the survey findings for each institution to the Secretary *of Corrections*.

(3) Deficiencies found by the authority to be life-threatening or otherwise serious shall be immediately reported to the Secretary *of Corrections*. The Department *of Corrections* shall take immediate action to correct life-threatening or otherwise serious deficiencies identified by the authority and within 3 calendar days file a written corrective action plan with the authority indicating the actions that will be taken to address the deficiencies. Within 60 calendar days following a survey, the authority shall submit a report to the Secretary *of Corrections* indicating deficiencies found at the institution.

(4) Within 30 calendar days after the receipt of a survey report from the authority, the Department *of Corrections* shall file a written corrective action plan with the authority, indicating the actions which will be taken to address deficiencies determined by the authority to exist at an

institution. Each plan shall set forth an estimate of the time and resources needed to correct identified deficiencies.

(5) The authority shall monitor the *Department of Corrections'* ~~department's~~ implementation of corrective actions which have been taken at each institution to address deficiencies related to the *Department of Corrections'* ~~department's~~ provision of physical and mental health care services found to exist by the authority.

(6) Failure of the Department *of Corrections* to file a corrective action plan or to timely implement the provisions of a corrective action plan correcting identified deficiencies may result in the initiation of the dispute resolution procedures by the authority pursuant to s. 945.6035.

Section 117. Subsections (1) and (2) of section 945.6032, Florida Statutes, 1996 Supplement, are amended to read:

945.6032 Quality management program requirements.—

(1) The authority shall appoint a medical review committee pursuant to s. 766.101 to provide oversight for the *Department of Corrections' inmate health care* ~~department's~~ quality management program. The authority shall also designate one of its members to serve on the *Department of Corrections'* ~~department's~~ medical review committee in order to ensure coordination between the department and the authority with regard to issues of quality management and to enhance the authority's oversight of the *Department of Corrections'* ~~department's~~ quality management system.

(2) The authority's medical review committee shall review amendments to the *Department of Corrections' inmate health care* ~~department's~~ quality management program prior to implementation by the department.

Section 118. *All powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Agency for Health Care Administration related to rural health networks and rural health network cooperative agreements as provided in sections 381.0406 and 381.04065, Florida Statutes, and local health councils as established in section 408.033, Florida Statutes, are transferred by a type two transfer, as defined in section 20.06, Florida Statutes, to the Department of Health. The Department of Health may organize, classify, and manage the positions transferred in a manner that will reduce duplication, achieve maximum efficiency, and ensure accountability.*

Section 119. *All powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Correctional Medical Authority are transferred by a type two transfer, as defined in section 20.06, Florida Statutes, to the Department of Health.*

Section 120. *The administrative rules of the agencies involved in this reorganization that are in effect immediately prior to the effective date of this act shall remain in effect until specifically changed in the manner provided by law.*

Section 121. *This act shall not affect the validity of any judicial or administrative proceeding pending on the effective date of this act, and any agency to which are transferred the powers, duties, and functions relating to the pending proceeding shall be substituted as a party in interest for that proceeding.*

Section 122. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 123. *Sections 110.1125, 381.81, 382.024, 387.01, 387.02, 387.03, 387.04, 387.05, 387.06, 387.07, 387.08, 387.09, 387.10, 402.37, 501.061, 501.065, 501.071, 501.081, 501.085, 501.091, 501.095, 501.101, 501.105, 501.111, 501.115, 501.121, and 501.124, Florida Statutes; paragraph (e) of subsection (1) of section 403.7045, Florida Statutes; section 381.698, Florida Statutes, as amended by chapter 95-148, Laws of Florida; section 382.014, Florida Statutes, as amended by chapters 96-215 and 96-406, Laws of Florida; section 382.027, Florida Statutes, as amended by chapters 95-148 and 96-406, Laws of Florida; and section 501.075, Florida Statutes, as amended by chapter 96-406, Laws of Florida, are repealed.*

Section 124. *Effective June 30, 1997, subsection (12) of section 766.1115, as created by section 1 of chapter 92-278, Laws of Florida, is repealed.*

Section 125. Except as otherwise provided in this act, this act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Department of Health; amending ss. 154.067, 395.1023, 415.501, F.S.; clarifying agency responsibilities with respect to certain child protection functions; amending s. 415.5055, F.S.; requiring an interagency agreement; providing specific agency responsibilities; requiring consultation between agencies for certain functions; providing for the transfer of certain funds; amending s. 20.19, F.S.; conforming provisions to changes made by the act; amending s. 20.43, F.S.; modifying the purposes of the Department of Health; renaming a division within the department; creating a new division; authorizing the department to expend funds for certain purposes; amending s. 110.131, F.S.; conforming provisions to changes made by the act; amending s. 154.04, F.S.; authorizing county health departments to establish peer review committees for certain purposes; amending s. 154.06, F.S.; removing requirement that county health department fees cover costs; amending s. 216.0172, F.S.; requiring the department to implement performance-based budgeting by a specified date; amending ss. 216.341, 232.032, 232.465, 240.4075, 381.0065, 381.0302, 381.0405, 381.0406, 381.04065, 392.52, 392.565, 395.401, 401.107, 401.111, 401.117, 401.23, 401.245, 401.265, 403.703, 404.051, 404.0614, 404.131, 404.20, 414.23, 414.38, 458.316, 468.301, 468.314, 514.011, F.S.; revising and conforming language and references relating to the public health functions of the department; deleting obsolete provisions; creating a committee to advise the Department of Health concerning medical care for children; amending s. 240.4076, F.S.; revising operation of the nursing scholarship loan program; creating s. 381.0021, F.S.; authorizing the Department of Health to establish Client Welfare Accounts; providing for the deposit of funds; providing for use of the funds; amending s. 381.0055, F.S.; deleting a provision relating to confidentiality of certain quality assurance information; amending s. 381.0062, F.S.; revising definitions; revising certain supervisory duties of the department; revising fees; revising requirements to obtain certain exemptions; amending s. 381.0101, F.S.; revising requirements relating to professional standards, continuing education, and certification of environmental health professionals; revising certification fees; providing for denial, suspension, or revocation of a certificate; providing for fines; amending s. 381.0203, F.S.; providing for a contraceptive distribution program; specifying eligibility requirements; providing for fees; providing for rules; amending s. 381.0407, F.S.; clarifying reimbursement to county health departments by Medicaid providers; amending s. 383.14, F.S.; conforming the membership of the Infant Screening Advisory Council; amending s. 383.3362, F.S., relating to Sudden Infant Death Syndrome; deleting requirement for visits by county public health nurses or social workers; deleting an advisory council; revising duties of the department; amending s. 385.202, F.S.; revising requirements relating to reporting and analysis of reports to the statewide cancer registry; amending s. 385.203, F.S.; deleting requirement for an annual diabetes state plan; amending s. 391.051, F.S.; revising the qualifications and designation of the director of Children's Medical Services; amending s. 392.62, F.S.; providing for forensic units in tuberculosis hospitals; amending s. 395.3025, F.S.; expanding the department's authority to examine records of licensed facilities; increasing a penalty for unauthorized disclosure of information; amending s. 401.252, F.S.; providing requirements for interfacility transport of certain infants; providing for rules for interfacility transport; amending s. 401.27, F.S.; providing for inactive status of emergency medical technician and paramedic certificates; providing for reactivation and renewal; providing a fee; amending and renumbering s. 402.105, F.S., relating to biomedical and social research; amending and renumbering s. 402.32, F.S., relating to the school health services program; amending and renumbering s. 402.321, F.S., relating to funding for school health services; amending s. 402.41, F.S., relating to educational materials and training in human immunodeficiency virus infection and acquired immune deficiency syndrome; amending and renumbering s. 402.475, F.S., relating to the osteoporosis prevention and education program; amending and renumbering s. 402.60, F.S., relating to insect sting emergency treatment; amending and renumbering s. 402.61, F.S., relating to regulation of tanning facilities; amending s. 404.031, F.S.; revising a definition; amending s. 404.056, F.S.; providing penalties for certain fraud, deception, or misrepresentation in performing radon measurements or

mitigation; amending s. 404.22, F.S.; reducing the frequency of inspections required for certain radiation machines; amending s. 408.033, F.S.; modifying local health planning council staffing requirements; requiring the transfer of specified funds; amending s. 408.701, F.S.; expanding the definition of "health care provider" for purposes of community health purchasing; amending s. 409.905, F.S.; expanding family planning services provided under the Medicaid program; amending s. 409.908, F.S.; authorizing a county health department to be reimbursed for certain Medicaid compensable services; deleting obsolete repeal provision; amending s. 414.026, F.S.; adding the Secretary of Health to the WAGES board; creating s. 414.391, F.S.; requiring development of an automated fingerprint imaging program for public assistance applicants and recipients by the Department of Children and Family Services, in conjunction with the Department of Labor and Employment Security; providing for rules relating to use of information; requiring a plan for implementation; providing for pilot implementation and evaluation; providing priority for use of funds from reducing fraud to expand the program; authorizing request for federal waivers; creating s. 414.392, F.S.; requiring applicants for public assistance to provide an automated fingerprint image before receiving any benefits; amending s. 468.3101, F.S.; providing additional grounds for disciplinary action against a radiologic technologist; providing penalties; amending s. 489.553, F.S.; revising eligibility requirements for septic tank contractors; amending s. 514.028, F.S.; providing for reimbursement for travel expenses for members of the advisory review board on swimming and bathing facilities; amending s. 627.4236, F.S.; transferring rulemaking authority relating to bone marrow transplant procedures to the Agency for Health Care Administration; amending s. 766.101, F.S.; including certain committees of a county health department, healthy start coalition, or certified rural health network within the definition of "medical review committee"; amending s. 766.314, F.S.; exempting developmental services and public health physicians from assessments that finance the Florida Birth-Related Neurological Injury Compensation Plan; amending ss. 28.101, 28.222, 63.062, 382.003, 382.004, 382.007, 382.011, 382.0135, 382.021, 382.022, 382.023, 382.356, 383.2161, 402.40, 460.414, 742.10, 742.16, F.S.; revising and conforming language and references relating to the department's responsibility for vital records and statistics; amending s. 63.165, F.S.; revising and expanding provisions relating to the state registry of adoption information; amending s. 68.07, F.S.; revising procedures relating to change of name; amending s. 382.002, F.S.; revising definitions; amending s. 382.005, F.S.; revising duties of local registrars; amending s. 382.006, F.S.; revising duties of funeral directors with respect to burial-transit permits; restricting issuance thereof if death occurred from a communicable disease; providing authority of certifications of death certificates issued in other states or countries; eliminating provisions relating to permits for disinterment and reinterment; amending s. 382.008, F.S., relating to death and fetal death certificates; providing for entry of aliases; requiring certain persons to provide medical information regarding a fetal death within a specified period; providing for extensions of time for certification of cause of death; providing for temporary death certificates; requiring certificates to contain information required for legal, social, and health research purposes; amending s. 382.012, F.S.; providing requirements for a petitioner seeking a presumptive death certificate; amending s. 382.013, F.S.; revising provisions and requirements relating to registration of a live birth, paternity, and the name of the child; amending s. 382.015, F.S.; revising provisions relating to new certificates of live birth; revising procedures for annulment of adoptions and determination of paternity; providing for filing of a new birth certificate upon receipt of an order of affirmation of parental status; providing for the form of original, new, and amended birth certificates; providing for rules; amending s. 382.016, F.S.; revising provisions relating to amendment of birth and death records; amending s. 382.017, F.S.; revising procedures relating to registration of birth certificates for adopted children of foreign birth; amending and renumbering s. 382.018, F.S.; revising procedures and requirements relating to issuance of delayed birth certificates; amending s. 382.019, F.S.; revising procedures and requirements relating to the delayed registration of a death or birth certificate; amending s. 382.025, F.S.; revising procedures and requirements relating to issuance of certified copies of birth and death records; providing requirements and restrictions for sharing vital records with a research entity; providing for rules; creating s. 382.0255, F.S.; providing fees for searching and processing vital records; revising and consolidating provisions relating thereto; amending s. 382.026, F.S.; revising and expanding penalties; providing for rules; amending s. 741.041, F.S.; conforming provisions relating to the period of validity of marriage licenses; amending ss. 945.602, 945.603, 945.6031, 945.6032, F.S.; conforming provisions to the changes made by the act; transferring certain powers, duties, functions, and assets of the Agency for Health Care Administration with respect to rural health networks and local health councils to the Department of Health; transferring certain powers, duties, functions, and assets of the Correctional Medical Authority to the Department of Health; providing for the continued effect of rules; providing for continuation of judicial and administrative proceedings; providing for severability; repealing s. 110.1125, F.S., relating to a requirement to provide information on human immunodeficiency virus infection and acquired immune deficiency syndrome to state employees; repealing s. 381.698, F.S., relating to "The Florida Blood Transfusion Act"; repealing s. 381.81, F.S., relating to the "Minority Health Improvement Act"; repealing s. 382.014, F.S., relating to contents, form, and disclosure of birth certificates; repealing s. 382.024, F.S., relating to departmental accounting of dissolution of marriage fees and charges; repealing s. 382.027, F.S., relating to voluntary registration of adoption information; repealing ss. 387.01, 387.02, 387.03, 387.04, 387.05, 387.06, 387.07, 387.08, 387.09, and 387.10, F.S., relating to permits for draining surface water or sewage into underground waters of the state, penalties for polluting water supplies or surface or underground waters, septic tank construction requirements, and injunction proceedings; repealing s. 402.37, F.S., relating to the medical manpower clearinghouse grant program; repealing s. 403.7045(1)(e), F.S., relating to activities regulated under the "Florida Hazardous Substances Law" exempted from environmental regulation; repealing ss. 501.061, 501.065, 501.071, 501.075, 501.081, 501.085, 501.091, 501.095, 501.101, 501.105, 501.111, 501.115, and 501.121, F.S., relating to the "Florida Hazardous Substances Law"; repealing s. 501.124, F.S., relating to art or craft material containing toxic substances and labeling requirements therefor; repealing s. 766.1115(12), F.S., as created by section 1 of ch. 92-278, Laws of Florida, relating to the scheduled repeal of the "Access to Health Care Act"; providing effective dates.

Senator Bankhead moved the following amendment to **Amendment 1**:

Amendment 1A (with title amendment)—On page 129, between lines 3 and 4, insert:

Section 65. Paragraphs (a) and (c) of subsection (3) of section 409.912, Florida Statutes, 1996 Supplement, are amended to read:

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

(3) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county public health unit, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III by July 1, *1998* ~~1997~~, and until then are exempt from the provisions of part I of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Department of Insurance that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225.

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641 by July 1, *1998* ~~1997~~. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (14) and (15).

(Renumber subsequent sections.)

And the title is amended as follows:

On page 205, line 16, after "provision;" insert: amending s. 409.912, F.S.; postponing licensing requirements for certain entities contracting to provide Medicaid services;

On motion by Senator Brown-Waite, further consideration of **HB 1357** with pending **Amendment 1** and **Amendment 1A** was deferred.

Consideration of **CS for CS for SB 698**, **CS for SB 1632**, **CS for SB 508** and **CS for SB 716** was deferred.

SENATOR CRIST PRESIDING

CS for CS for SB 2142—A bill to be entitled An act relating to health quality assurance; amending s. 112.0455, F.S., relating to the Drug-Free Workplace Act; providing background screening requirements and standards for laboratories that perform tests; authorizing the use of certain body hair for drug testing; amending ss. 381.026, 381.0261, 383.302, 383.305, 390.011, 390.015, 391.206, 393.063, 393.0657, 394.4787, 394.67, 394.875, 394.876, 395.002, 395.0163, 395.0193, 395.0197, 395.0199, 400.071, 400.411, 400.414, 400.417, 400.4174, 400.4176, 400.461, 400.462, 400.464, 400.471, 400.474, 400.484, 400.487, 400.497, 400.506, 400.509, 400.512, 400.555, 400.606, 400.619, 400.801, 400.805, 408.033, 483.101, 483.106, 483.30, F.S.; creating ss. 381.60225, 395.0055, 400.5572, F.S.; transferring, renumbering, and amending ss. 626.941, 626.942, 626.943, 626.944, 626.945, F.S.; providing background screening requirements and standards for organ procurement organizations and tissue and eye banks, birth centers, abortion clinics, prescribed pediatric extended care centers, facilities for the developmentally disabled, facilities for treating alcohol and drug abuse and for mental health services, crisis stabilization units and residential treatment facilities, hospitals, private review agents, nursing homes and related facilities, assisted living facilities, direct-care employees, home health agencies, nurse registries, providers of certain home services, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, clinical laboratories, and multiphasic health testing centers; amending grounds for denial and revocation of licensure or registration for such entities; allowing limited reporting of certain confidential information relating to the internal risk management programs of hospitals and ambulatory surgical centers; transferring duties pertaining to health care risk management from the Insurance Commissioner to the Director for Health Care Administration; amending fees and procedures relating to qualifications for health care risk managers; amending the Florida patient's Bill of Rights and Responsibilities; providing information about filing complaints with licensing agencies; limiting applicability of the Patient's Bill of Rights to health care facilities licensed under ch. 395, F.S., that provide emergency care and outpatient care; imposing a fine on facilities for willful and nonwillful violations of the obligation to inform patients of their rights; requiring certain outpatient facilities to submit construction plans to the Agency for Health Care Administration for review; amending provisions relating to who must make application for licensure and for a certificate of exemption on behalf of a clinical laboratory; amending s. 394.4787, F.S.; relating to certain specialty psychiatric hospitals; conforming a cross-reference; deleting the definition of the terms "adverse or untoward incident" and "injury"; revising provisions relating to licensed facility peer review disciplinary actions against practitioners; requiring reports to the Agency for Health Care Administration; providing penalties; revising provisions relating to internal risk management; defining the term "adverse incident"; requiring licensed facilities to make certain reports to the agency; providing an exemption from the Public Records Law; including minors in provisions relating to notification of sexual misconduct or abuse; requiring facility corrective-action plans; amending ss. 395.602, 395.701, 400.051, F.S., relating to rural hospitals, the Public Medical Assistance Trust Fund, and nursing homes; conforming cross-references; amending ss. 408.072, 409.905, 440.13, F.S., relating to hospital budget review, Medicaid services, and a worker's compensation definition, respectively; conforming cross-references and terms; amending ss. 458.331, 459.015, 468.505, F.S., relating to grounds for disciplinary action against allopathic physicians and osteopathic physicians and relating to restrictions on practice, service, or activities of allopathic physicians, osteopathic physicians, and other specified professionals; conforming provisions; repealing s. 455.239, F.S., relating to licensure requirements for designated health care services; amending ss. 641.55, 766.1115, F.S., relating to internal risk-management programs of health maintenance organizations and contract requirements for certain health care governmental contractors, respectively; conforming cross-references; transferring the health care risk manager licensure program from the Department of Insurance to the Agency for Health Care Administration; allocating positions to the Agency for Health Care Administration for specified purposes; providing appropriations from the Health Care Trust Fund; providing effective dates.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Forman and adopted:

Amendment 1—On page 111, line 9 through page 141, line 11, delete those lines and insert:

Section 37. Section 400.462, Florida Statutes, is amended to read:

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

(1) "Administrator" means a direct employee to whom the governing body has delegated the responsibility for day-to-day administration of the home health agency. The administrator must be a licensed physician, physician assistant, or registered nurse licensed to practice in this state or an individual with at least 1 year of supervisory or administrative experience in home health care or related health programs. An employee may be the administrator of a maximum of five licensed home health agency offices.

(2)~~(1)~~ "Certified nursing assistant" means any person who has been issued a certificate after fulfilling the requirements of s. 400.211. *A certified nursing assistant may provide home health aide services without any additional training requirements.*

(3) "Client" means an elderly, handicapped, or convalescent individual who receives home health aide services, companion services, or homemaker services in the client's home or place of residence.

(4)~~(2)~~ "Companion" ~~or "sitter"~~ means a person who cares for an elderly, handicapped, or convalescent individual and accompanies such individual on trips and outings and may prepare and serve meals to such individual. *A companion or sitter may not provide hands-on personal care to the client.*

(5)~~(3)~~ "Department" means the Department of *Children and Family* ~~Health and Rehabilitative~~ Services.

(6) "Director of nursing" means a registered nurse, and direct employee of the agency, who is a graduate of an approved school of nursing and is licensed in this state, who has at least 1 year of supervisory experience as a registered nurse and experience in a licensed home health agency, or a facility licensed under chapter 400, part II, part III, or part VI, and who is responsible, directly or through a designated, on-site, registered nurse, to oversee the professional nursing and home health aid delivery of services of the agency. An employee may be the director of nursing of a maximum of five licensed home health agency offices.

(7)~~(4)~~ "Home health agency" means an organization that provides home health services and staffing services for health care facilities.

(8)~~(5)~~ "Home health agency personnel" means persons who are employed by or under contract with a home health agency and enter the home or place of residence of patients at any time in the course of their employment or contract.

(9)~~(6)~~ "Home health services" means health and medical services and medical supplies furnished to an individual by home health agency personnel or by others under arrangements with the agency, on a visiting basis, in the individual's home or place of residence. The term includes, but is not limited to, the following:

(a) Nursing care.

(b) Physical, occupational, respiratory, or speech therapy.

(c) Home health aide services.

(d) Nutritional guidance.

(e) Medical supplies, restricted to drugs and biologicals prescribed by a physician.

(10) "Home health aide" means a person who provides hands-on personal care for which the person has received training, established by the Agency for Health Care Administration pursuant to s. 400.497(1).

(11)~~(7)~~ "Homemaker" means a person who performs household chores that include housekeeping, meal planning and preparation, shopping assistance, and routine household activities for an elderly, handicapped, or convalescent individual.

(12) "Home infusion therapy provider" means an organization that administers prescribed intravenous pharmacological and nutritional products to a patient in the patient's home or place of residence.

(13) "Infusion therapy" means the administration of intravenous treatment in the patient's home or place of residence by a licensed professional who is employed by, or under contract with, a home health agency and who has received advanced training and experience in IV infusion therapy.

(14)~~(8)~~ "Nurse registry" means any person that procures, offers, promises, or attempts to secure health-care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, *home health aides* ~~sitters~~, companions, or homemakers, who are compensated by fees as independent contractors, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to health care facilities licensed under chapter 395 or this chapter.

(15)~~(9)~~ "Patient" means any person who receives home health services in his or her home or place of residence.

(16) "Physician" means a person licensed under chapter 458, chapter 459, chapter 460 or chapter 461.

(17)~~(10)~~ "Screening" means the assessment of the background of home health agency personnel, nurse registry personnel, and persons registered under s. 400.509 and includes employment history checks, records checks of the department's central abuse hotline under chapter 415 relating to vulnerable adults, and statewide criminal records correspondence checks through the Department of Law Enforcement.

(18) "Skilled care" means health care delivered by a health care professional who is licensed under chapter 464, parts I, III, or V of chapter 468, or chapter 486, and either is employed by or under contract with a licensed home health agency or is referred by a licensed nurse registry.

(19)~~(11)~~ "Staffing services" means services provided to a health care facility on a temporary basis by licensed health care personnel, including certified nursing assistants *and home health aides who are employed by or work under the auspices of a licensed home health agency or are registered with a licensed nurse registry.*

Section 38. Section 400.464, Florida Statutes, is amended to read:

400.464 Home health agencies to be licensed; expiration of license; exemptions; unlawful acts; penalties.—

(1) Any home health agency must be licensed by the Agency for Health Care Administration to operate in this state. A license issued to a home health agency, unless sooner suspended or revoked, expires 1 year after its date of issuance. ~~However, any home health agency that is operated by the Federal Government is exempt from this part.~~

(2) If the licensed home health agency operates related offices, each related office outside the county where the main office is located must be separately licensed. The counties where the related offices are operating must be specified on the license in the main office.

~~(3) The furnishing of only home dialysis services, supplies, or equipment, or personal care services as provided by a community-care-for-the-elderly lead agency under s. 430.205, or personal care services provided through a community-care-for-disabled-adults program under s. 410.604, is exempt from this part. The personal care services exemptions apply only to community-care-for-the-elderly lead agencies and community-care-for-disabled-adults programs that directly provide only personal care services to their clients and do not provide other home health services.~~

~~(4) Any program offered through a county public health unit that makes home visits for the purpose of providing only environmental assessments, case management, health education, or personal care services is exempt from this part.~~

~~(5)(a) It is unlawful for any person to offer or advertise home health services to the public unless he or she has a valid license under this part. It is unlawful for any holder of a license issued under this part to advertise or indicate to the public that it holds a home health agency license other than the one it has been issued.~~

~~(b) A person who violates paragraph (a) is subject to an injunctive proceeding under s. 400.515. A violation of paragraph (a) is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act.~~

~~(c) A person who violates paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~Each day of continuing violation constitutes a separate offense.~~

(3)~~(6)~~ Any *home* infusion therapy provider shall be licensed as a home health agency. Any infusion therapy provider currently authorized to receive Medicare reimbursement under a DME - Part B Provider number for the provision of infusion therapy shall be licensed as a noncertified home health agency. Such a provider shall continue to receive that specified Medicare reimbursement without being certified so long as the reimbursement is limited to those items authorized pursuant to the DME - Part B Provider Agreement and the agency is licensed in compliance with the other provisions of this part.

(4)(a) A person may not provide, offer, or advertise home health services to the public unless that person has a valid license or is specifically exempted under this part. A person who offers or advertises to the public any service for which licensure or registration is required under this part must include in the advertisement the license number or registration number issued to the person by the Agency for Health Care Administration. The Agency for Health Care Administration shall assess a fine of not less than $100 to any licensee or registrant who fails to include the license or registration number when submitting an advertisement for publication, broadcast, or printing. It is unlawful for any holder of a license issued under this part to advertise or indicate to the public that it holds a home health agency or nurse registry license other than the one it has been issued.

(b) A person who violates paragraph (a) is subject to an injunctive proceeding under s. 400.515. A violation of paragraph (a) is a deceptive and unfair trade practice and constitutes a violation of the Florida Unfair and Deceptive Trade Practices Act.

(c) A person who violates paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continuing violation constitutes a separate offense.

(5) The following are exempt from the licensure requirements of this part:

(a) A home health agency operated by the Federal Government.

(b) The furnishing of only home dialysis services, supplies, or equipment, or personal care services as provided through a Department of Elderly Affairs program or contract, or personal care services provided through a community-care-for-disabled-adults program under s. 410.604. These personal care services exemptions apply only to services provided through a Department of Elderly Affairs program or contract and community-care-for-disabled-adults programs that directly provide only personal care services to their clients and do not provide other home health services.

(c) Any program offered through a county health department which makes home visits for the purpose of providing only environmental assessments, case management, health education, or personal care services.

(d) A health care professional, licensed under chapter 464, parts I, III, or V of chapter 468, or chapter 486, who is acting alone, in his or her individual capacity, to provide skilled care to patients in their homes.

(e) A home health aide, or certified nursing assistant, who acts alone, in his or her individual capacity and not as an organization, to provide hands-on care to patients in their homes.

(f) A physician assistant licensed under chapter 458 or chapter 459.

(g) Family members, friends, and neighbors who were personally known to the patient before the start of care for the patient, and who are not employed by or affiliated with a licensed home health agency or registered with a licensed nurse registry.

(h) The delivery of nursing home services, for which the nursing home is licensed under part II of this chapter, to serve its residents in its facility.

(i) The delivery of assisted living facility services, for which the assisted living facility is licensed under part III of this chapter, to serve its residents in its facility.

(j) The delivery of hospice services, for which the hospice is licensed under part VI of this chapter, to serve hospice patients admitted to its service.

(k) A not-for-profit, community-based agency providing early intervention services to infants and toddlers or services to persons with developmental disabilities as defined in s. 393.063(11).

Section 39. Section 400.471, Florida Statutes, is amended to read:

400.471 Application for license; fee; provisional license; temporary permit.—

(1) Application for an initial license or for renewal of an existing license must be made under oath to the Agency for Health Care Administration on forms furnished by it and must be accompanied by the appropriate license fee as provided in subsection *(8)* ~~(7)~~. The *Agency for Health Care Administration* ~~Agency~~ must take final action on an initial licensure application within *90* ~~60~~ days after receipt of all required documentation.

(2) The applicant must file with the application satisfactory proof that the home health agency is in compliance with this part and applicable rules, including:

(a) A listing of services to be provided, either directly by the applicant or through contractual arrangements with existing providers;

(b) The number and discipline of professional staff to be employed; and

(c) Proof of financial ability to operate.

(3) An applicant for initial licensure must demonstrate financial ability to operate by submitting a balance sheet and income and expense statement for the first 2 years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses. The applicant shall have demonstrated financial ability to operate if the assets, credit, and projected revenues meet or exceed projected liabilities and expenses. All documents required under this subsection must be prepared in accordance with generally accepted accounting principles and signed by a certified public accountant.

(4) Each applicant for licensure must comply with the following requirements:

(a) Upon receipt of a completed, signed, and dated application, the Agency for Health Care Administration shall require background screening of the applicant, in accordance with the level 2 standards for screening set forth in chapter 435. As used in this subsection, the term "applicant" means the facility administrator and the facility financial officer or similarly titled individual who is responsible for the financial operation of the licensed facility.

(b) The Agency for Health Care Administration may require background screening for a member of the board of directors of the licensee or an officer or an individual owning 5 percent or more of the licensee if the Agency for Health Care Administration reasonably suspects that such individual has been convicted of an offense prohibited under the level 2 standards for screening set forth in chapter 435.

(c) Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care or assisted living licensure requirements of this state is acceptable in fulfillment of paragraph (a). Proof of compliance with background screening which has been submitted within the previous 5 years to fulfill the requirements of the Department of Insurance pursuant to chapter 651 as part of an application for a certificate of authority to operate a continuing care retirement community is acceptable in fulfillment of the Department of Law Enforcement and Federal Bureau of Investigation background check.

(d) A provisional license may be granted to a potential licensee when each individual required by this section to undergo background screening has met the standards for the abuse registry background check and the Department of Law Enforcement background check, but the Agency for Health Care Administration has not yet received background screening results from the Federal Bureau of Investigation, or a disqualification exemption request has been submitted to the agency as set forth in chapter 435 but a response has not been issued. A standard license may be granted to the licensee upon the Agency for Health Care Administration's receipt of a report of the results of the Federal Bureau of Investigation background screening for each individual required by this section to undergo background screening which confirms that all standards have been met, or upon the granting of a disqualification exemption by the Agency for Health Care Administration as set forth in chapter 435. Any other person who is required to undergo level 2 background screening may serve in his or her capacity pending the Agency for Health Care Administration's receipt of the report from the Federal Bureau of Investigation; however, the person may not continue to serve if the report indicates any violation of background screening standards and a disqualification exemption has not been requested of and granted by the Agency for Health Care Administration as set forth in chapter 435.

(e) Each applicant must submit to the Agency for Health Care Administration, with its application, a description and explanation of any exclusions, permanent suspensions, or terminations of the applicant from the Medicare or Medicaid programs. Proof of compliance with disclosure of ownership and control interest requirements of the Medicaid or Medicare programs shall be accepted in lieu of this submission.

(f) Each applicant must submit to the Agency for Health Care Administration a description and explanation of any conviction of an offense prohibited under the level 2 standards of chapter 435 by a member of the board of directors of the applicant, its officers, or any individual owning 5 percent or more of the applicant. This requirement shall not apply to a director of a not-for-profit corporation or organization if the director serves solely in a voluntary capacity for the corporation or organization, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration for his or her services on the corporation or organization's board of directors, and has no financial interest and has no family members with a financial interest in the corporation or organization, provided that the director and the not-for-profit corporation or organization include in the application a statement affirming that the director's relationship to the corporation satisfies the requirements of this provision.

(g) A license may not be granted to any potential licensee if any applicant, administrator, or financial officer has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any offense prohibited under the level 2 standards for screening set forth in chapter 435, unless an exemption from disqualification has been granted by the Agency for Health Care Administration as set forth in chapter 435.

(h) The Agency for Health Care Administration may deny or revoke licensure to any potential licensee if any applicant:

1. Has falsely represented a material fact in the application required by paragraphs (e) and (f), or has omitted any material fact from the application required by paragraphs (e) and (f); or

2. Has had prior Medicaid or Medicare action taken against the applicant as set forth in paragraph (e).

(5)~~(4)~~ The home health agency must ~~also~~ obtain and maintain *the following* ~~liability~~ insurance *coverages, in an*~~. Proof of liability insurance, as defined in s. 624.605, must be submitted with the application. The Agency for Health Care Administration shall set the required amounts of liability insurance by rule, but the required~~ amount *of* ~~must~~

not ~~be~~ less than $250,000 per claim, *and the Agency for Health Care Administration shall submit proof of coverage with each annual licensure renewal application:*~~.~~

(a) Malpractice insurance, as defined in s. 624.605(1)(k);

(b) Liability insurance, as defined in s. 624.605(1)(b).

(6)~~(5)~~ *Ninety* ~~Sixty~~ days before the expiration date, an application for renewal must be submitted to the Agency for Health Care Administration under oath on forms furnished by it, and a license must be renewed if the applicant has met the requirements established under this part and applicable rules. The home health agency must file with the application satisfactory proof that it is in compliance with this part and applicable rules. *If there is evidence of financial instability,* the home health agency must submit satisfactory proof of its financial ability to comply with the requirements of this part.

(7)~~(6)~~ When transferring the ownership of a home health agency, the transferee must submit an application for a license at least *90* ~~60~~ days before the effective date of the transfer. If the home health agency is being leased, a copy of the lease agreement must be filed with the application.

(8)~~(7)~~ The license fee and annual renewal fee required of a home health agency is nonrefundable. The Agency for Health Care Administration shall set the fees in an amount that is sufficient to cover its costs in carrying out its responsibilities under this part, but not to exceed $1,000. However, state, county, or municipal governments applying for licenses under this part are exempt from the payment of license fees. All fees collected under this part must be deposited in the Health Care Trust Fund for the administration of this part.

(9)~~(8)~~ The license must be displayed in a conspicuous place in the administrative office of the home health agency and is valid only while in the possession of the person to which it is issued. The license may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily, and is valid only for the home health agency and location for which originally issued.

(10)~~(9)~~ A home health agency against whom a revocation or suspension proceeding is pending at the time of license renewal may be issued a provisional license effective until final disposition by the Agency for Health Care Administration of such proceedings. If judicial relief is sought from the final disposition, the court that has jurisdiction may issue a temporary permit for the duration of the judicial proceeding.

(11)~~(10)~~ The *Agency for Health Care Administration may* ~~department shall~~ not issue a license designated as certified to a home health agency *that* ~~which~~ fails to receive a certificate of need under ~~the provisions of~~ ss. 408.031-408.045.

(12) The Agency for Health Care Administration may not issue a license to an agency that has any unpaid fines assessed under this part.

Section 40. Section 400.474, Florida Statutes, is amended to read:

400.474 Denial, suspension, revocation of license; injunction; grounds.—

(1) The Agency for Health Care Administration may deny, revoke, or suspend a license, or impose an administrative fine in the manner provided in chapter 120, or initiate injunctive proceedings under s. 400.515.

(2) Any of the following actions by a home health agency ~~or its employee~~ is grounds for disciplinary action by the Agency for Health Care Administration:

(a) Violation of this part or of applicable rules.

(b) An intentional, reckless, or negligent act that materially affects the health or safety of a patient.

(3) The Agency for Health Care Administration may impose the following penalties for operating without a license upon an owner who has in the past operated or who currently operates a licensed home health agency:

(a) If a home health agency that is found to be operating without a license wishes to apply for a license, the home health agency may submit an application only after the Agency for Health Care Administration has verified that the home health agency no longer operates an unlicensed agency.

(b) Any person, partnership, or corporation that violates paragraph (a) and that previously operated a licensed home health agency or concurrently operates a licensed agency and an unlicensed agency commits a felony of the third degree, and, when an owner has an interest in more than one agency and fails to license any one of those agencies, the Agency for Health Care Administration must revoke the license of the home health agency and impose a moratorium on any or all of the licensed agencies until the unlicensed agency is licensed.

(c) If any home health agency meets the criteria in paragraph (a) or paragraph (b) and that agency has received any government reimbursement for services provided by an unlicensed agency, the Agency for Health Care Administration must make a fraud referral to the appropriate government reimbursement program.

(4) The Agency for Health Care Administration may deny, revoke, or suspend the license of a home health agency, or may impose on a home health agency administrative fines not to exceed the aggregate sum of $10,000, if:

(a) A home health agency fails to provide at least nursing services directly to patients for a period of 6 consecutive months.

(b) The Agency for Health Care Administration is unable to obtain entry to the home health agency to conduct a licensure survey, complaint investigation, surveillance visit, or monitoring visit.

Section 41. Section 400.484, Florida Statutes, is amended to read:

400.484 Right of inspection.—

(1) Any duly authorized officer or employee of the Agency for Health Care Administration may make such inspections and investigations as are necessary in order to determine the state of compliance with this part and with applicable rules. The right of inspection extends to any business that the Agency for Health Care Administration has reason to believe is being operated as a home health agency without a license, but such inspection of any such business may not be made without the permission of the owner or person in charge unless a warrant is first obtained from a circuit court. Any application for a license issued under this part or for license renewal constitutes permission for an appropriate inspection to verify the information submitted on or in connection with the application.

(2) The Agency for Health Care Administration shall impose fines for various classes of deficiencies in accordance with the following schedule:

(a) A class I deficiency is any act, omission, or practice that results in a patient's death, disablement, or permanent injury, or places a patient at imminent risk of death, disablement, or permanent injury. Upon finding a class I deficiency, the Agency for Health Care Administration must impose an administrative fine in the amount of $10,000 for each occurrence and each day that the deficiency exists. In addition, the Agency for Health Care Administration may immediately revoke the license, or impose a moratorium on the admission of new patients, until the factors causing the deficiency have been corrected.

(b) A class II deficiency is any act, omission, or practice that has a direct, adverse relationship to the health, safety, or security of a patient. Upon finding a class II deficiency, the Agency for Health Care Administration must impose an administrative fine in the amount of $5,000 for each occurrence and each day that the deficiency exists. In addition, the Agency for Health Care Administration may suspend the license, or impose a moratorium on the admission of new patients, until the factors causing the deficiency have been corrected.

(c) A class III deficiency is any act, omission, or practice that has an indirect, adverse relationship to the health, safety, or security of a patient. Upon finding an uncorrected or repeated class III deficiency, the Agency for Health Care Administration may impose an administrative fine not to exceed $1,000 for each occurrence and each day that the deficiency exists.

Section 42. Section 400.487, Florida Statutes, 1996 Supplement, is amended to read:

400.487 Patient assessment; establishment and review of plan of care; provision of services.—

(1) The home health agency providing *skilled* care ~~and treatment~~ must make an assessment of the patient's needs within 48 hours after the start of services.

(2) The attending physician for a patient *who is to receive skilled* ~~receiving~~ care ~~or treatment provided by a licensed nurse or by a physical, occupational, or speech therapist~~ must establish a plan of *treatment which contains applicable orders* ~~care for the patient on behalf of the home health agency that provides services to the patient~~. The original plan of treatment must be signed by the physician *within 21 days of the start of care* and reviewed, at least every 62 days or more frequently if the patient's illness requires, by the physician in consultation with home health agency personnel that provide services to the patient.

(3) Each patient has the right to be informed of and to participate in the planning of his or her care. Each patient must be provided, upon request, a copy of the plan of *treatment* ~~care~~ established *by the physician* and maintained for that patient by the home health agency.

~~(4) Home health services that are provided to a patient must be evaluated in the patient's home by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 or by a registered nurse licensed under chapter 464 as frequently as necessary to assure safe and adequate care, but not less frequently than once every 62 days.~~

(4)~~(5)~~ *In the case of nursing services delivered by* a home health agency *to a patient, the home health agency to which a patient has been admitted for care* must provide *the initial admission visit, all service evaluation visits, and the discharge visit by qualified personnel who are on the payroll of, and to whom an IRS payroll form W-2 will be issued by, the agency* ~~at least one home health service to patients for whom it has agreed to provide care~~. Services provided by others under contractual arrangements to a home health *agency* ~~agency's patients~~ must be monitored and *managed* ~~controlled~~ by the *admitting* home health agency.

(5)~~(6)~~ The *skilled care* ~~services~~ provided by a home health agency, directly or under contract, must be supervised and coordinated in accordance with the plan of *treatment* ~~care~~.

Section 43. Section 400.497, Florida Statutes, is amended to read:

400.497 Rules establishing minimum standards.—The Agency for Health Care Administration shall adopt, publish, and enforce rules to implement this part, including, as applicable, ss. 400.506 and 400.509, which ~~must~~ provide reasonable and fair minimum standards relating to:

~~(1) Scope of home health services to be provided.~~

(1)~~(2)~~ The qualifications, ~~and~~ minimum training requirements, *and supervision requirements* of all home health agency personnel, *including aides*.

(2)~~(3)~~ *Requirements for prospective employees* ~~Procedures for maintaining a record of the employment history of all home health agency personnel. A home health agency must require its personnel~~ to submit an employment history to the home health agency, and *verification of* ~~it must verify~~ the employment history unless through diligent efforts such verification is not possible. The Agency for Health Care Administration shall prescribe by rule the minimum requirements for establishing that diligent efforts have been made. ~~The administrator of a home health agency must review the employment history and references of home health agency personnel and applicants for employment. The Agency for Health Care Administration must review the employment history and references of each administrator of a home health agency.~~ There is no monetary liability on the part of, and no cause of action for damages arises against, a former employer of a prospective employee of or prospective independent contractor with a licensed home health agency who reasonably and in good faith communicates his or her honest opinions about the former employee's job performance. This subsection does not affect the official immunity of an officer or employee of a public corporation.

(3)~~(4)~~ Licensure application and renewal.

(4)~~(5)~~ The administration of the home health agency, *including requirements for onsite and electronic accessibility of supervisory personnel*.

(5)~~(6)~~ Procedures for administering drugs and biologicals.

(6)~~(7)~~ Procedures for maintaining *patients'* ~~patient~~ records.

(7)~~(8)~~ *Provision of* ~~Ensuring that the~~ home health services ~~provided~~ by a home health agency ~~are~~ in accordance with the plan of treatment established for each patient *for whom a plan of treatment is required*.

(8)~~(9)~~ Geographic service areas.

(9)~~(10)~~ Standards for contractual arrangements for the provision of home health services by providers not employed by the home health agency providing for the patient's care and treatment.

Section 44. Present subsections (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), (13), (14), (15), and (16) of section 400.506, Florida Statutes, are redesignated as subsections (3), (4), (5), (6), (7), (8), (9), (11), (12), (13), (14), (15), (16), and (17), respectively, present subsection (9) of that section is redesignated as subsection (10) and amended, and a new subsection (2) is added to that section, to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(2) Each applicant for licensure must comply with the following requirements:

(a) Upon receipt of a completed, signed, and dated application, the Agency for Health Care Administration shall require background screening, in accordance with the level 2 standards for screening set forth in chapter 435, of the managing employee, or other similarly titled individual who is responsible for the daily operation of the facility, and of the financial officer, or other similarly titled individual who is responsible for the financial operation of the facility, including billings for patient care and services. The applicant shall comply with the procedures for level 2 background screening as set forth in chapter 435.

(b) The Agency for Health Care Administration may require background screening of any other individual who is an applicant, if the Agency for Health Care Administration has a reasonable basis for believing that he or she has been convicted of a crime or committed any other offense prohibited under the level 2 standards for screening set forth in chapter 435.

(c) Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care or assisted living licensure requirements of this state is acceptable in fulfillment of paragraphs (a) and (b).

(d) The application must be accompanied by an affidavit, under penalty of perjury, providing the following information regarding any individual defined as the applicant:

1. The identity of the applicant. As used in this subsection, the term "applicant" means an individual applicant, or any officer, director, or agent, or any partner or shareholder having an ownership interest equal to a 5-percent or greater interest in the corporation, partnership or other business entity. As used in this subsection, the term "director" means any member of the official board of directors reported in the organization's annual corporate report to the Florida Department of State, or, if no such report is made, any member of the operating board of directors. The term "director" excludes members of separate, restricted boards that serve only in an advisory capacity to the operating board.

2. A description and explanation of any criminal offense or other offense committed by the applicant as specified under the level 2 standards for screening set forth in chapter 435. This requirement does not apply to a director of a not-for-profit corporation or organization if the director serves solely in a voluntary capacity for the corporation or organization, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration for his or her services on the corporation or organization's board of directors, and has no financial interest and has no family members with a financial interest in the corporation or organization, and if the director and the not-for-profit corporation or organization includes in the affidavit required by this section a statement affirming that the director's relationship to the corporation satisfies the requirements of this provision.

3. A description and explanation of any final actions imposed against the applicant by a healthcare or assisted living licensure agency of this

or any other state, including any prior moratorium or other temporary cessation of services, any final administrative fine equal to or greater than $500 imposed within the immediately preceding 5 years for violations of licensure standards relating to financial management or quality of care and services, or any denial, suspension, or revocation of a license.

4. A description and explanation of any exclusions, permanent suspensions, or terminations of the applicant from participation in the Medicaid or Medicare programs or any other governmental health care or governmental health insurance program.

5. Proof of compliance by the managing employee and financial officer with the level 2 background screening standards set forth in chapter 435.

(e) A provisional license may be granted to a potential licensee when each individual required by this section to undergo background screening has met the standards for the abuse registry background check and the Department of Law Enforcement background check, but the Agency for Health Care Administration has not yet received background screening results from the Federal Bureau of Investigation, or a disqualification exemption request has been submitted to the Agency for Health Care Administration as set forth in chapter 435 but a response has not been issued. A standard license may be granted to the licensee upon the Agency for Health Care Administration's receipt of a report of the results of the Federal Bureau of Investigation background screening for each individual required by this section to undergo background screening which confirms that all standards have been met, or upon the granting of a disqualification exemption by the Agency for Health Care Administration as set forth in chapter 435. Any other person who is required to undergo level 2 background screening may serve in his or her capacity pending the Agency for Health Care Administration's receipt of the report from the Federal Bureau of Investigation; however, the person may not continue to serve if the report indicates any violation of background screening standards and a disqualification exemption has not been requested of and granted by the Agency for Health Care Administration as set forth in chapter 435.

(f) A license may not be granted to any potential licensee if any applicant, managing employee, or financial officer has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any offense prohibited under the level 2 standards for screening set forth in chapter 435, unless an exemption from disqualification has been granted by the Agency for Health Care Administration as set forth in chapter 435.

(g) The Agency for Health Care Administration may deny or revoke licensure to any potential licensee if any applicant:

1. Has falsely represented a material fact in the application or accompanying affidavit required by paragraph (d), or has omitted any material fact from the application or accompanying affidavit required by paragraph (d); or

2. Has had prior licensure, Medicaid, Medicare, or other governmental healthcare or governmental health insurance action taken against the applicant as set forth in paragraph (d).

(h) Upon renewal of licensure, an application must be accompanied by an affidavit, under penalty of perjury, as set forth in paragraph (d).

(10)~~(9)~~(a) A nurse registry may refer for contract in private residences registered nurses and licensed practical nurses registered and licensed under chapter 464, certified nursing assistants certified under s. 400.211, *home health aides who present documented proof of successful completion of the training required by rule of the Agency for Health Care Administration,* and ~~sitters,~~ companions, or homemakers for the purposes of providing those services authorized under s. 400.509(1).

(b) A certified nursing assistant *or home health aide* may be referred for a contract to provide care to a patient in his or her home only if that patient is under a physician's care. A certified nursing assistant, *or home health aide,* referred for contract in a private residence shall be limited to assisting a patient with bathing, dressing, toileting, grooming, eating, physical transfer, and those normal daily routines the patient could perform for himself or herself were he or she physically capable. A certified nursing assistant *or home health aide* may not provide medical or other health care services that require specialized training and that may be performed only by licensed health care professionals. The nurse registry shall obtain the name and address of the attending physician and send written notification to the physician within 48 hours after a contract is concluded that a certified nursing assistant *or home health aide* will be providing care for that patient.

(c) A registered nurse shall make monthly visits to the patient's home to assess the patient's condition and quality of care being provided by the certified nursing assistant *or home health aide.* Any condition which in the professional judgment of the nurse requires further medical attention shall be reported to the attending physician and the nurse registry. The assessment shall become a part of the patient's file with the nurse registry and may be reviewed by the Agency for Health Care Administration during their survey procedure.

~~(d) In order to refer for contract in private residences a certified nursing assistant or any person specified in s. 400.509(1), the nurse registry and such person registered with the nurse registry must also be registered under s. 400.509. Any person registered as an independent contractor with a nurse registry for the purpose of providing services authorized under s. 400.509(1) on or before October 1, 1990, is exempt from registration under s. 400.509 so long as such person remains continuously registered with that nurse registry.~~

Section 45. Subsections (1) and (2) of section 400.509, Florida Statutes, are amended, present subsections (3), (6), (7), (8), (9), (10), (11), (12), and (13) of that section are redesignated as subsections (4), (7), (8), (9), (10), (11), (12), (13), and (14), respectively, subsections (4) and (5) of that section are redesignated as subsections (5) and (6), respectively, and amended, and a new subsection (3) is added to that section, to read:

400.509 Registration of particular service providers exempt from licensure; certificate of registration; regulation of registrants.—

(1) Any person *who* ~~that~~ provides domestic maid services, ~~sitter services,~~ companion services, or homemaker services and does not provide a home health service to a person is exempt from licensure under this part. However, any person *who* ~~that~~ provides ~~sitter services for adults,~~ companion services~~,~~ or homemaker services must register with the Agency for Health Care Administration.

(2) Registration consists of annually filing with the Agency for Health Care Administration, under oath, on forms provided by it, the following information:

(a) The name, address, date of birth, and social security number of the individual~~, or the name and address of the person,~~ providing the service.

(b) If the registrant is a firm or partnership, the name, address, date of birth, and social security number of every member.

(c) If the registrant is a corporation or association, its name and address, the name, address, date of birth, and social security number of each of its directors and officers, and the name and address of each person having at least a *5-percent* ~~10-percent~~ interest in the corporation or association.

(d) The name, address, date of birth, and social security number of each person employed or under contract.

(3) Each applicant for registration must comply with the following requirements:

(a) Upon receipt of a completed, signed, and dated application, the Agency for Health Care Administration shall require background screening, in accordance with the level 2 standards for screening set forth in chapter 435, of the individual providing the service, or, if the registrant is a firm or partnership, of the managing employee, or other similarly titled individual who is responsible for the operation of the entity, and of the financial officer, or other similarly titled individual who is responsible for the financial operation of the entity, including billings for client services. The applicant shall comply with the procedures for level 2 background screening as set forth in chapter 435.

(b) The Agency for Health Care Administration may require background screening of any other individual who is an applicant if the Agency for Health Care Administration has a reasonable basis for believing that he or she has been convicted of a crime or has committed any other offense prohibited under the level 2 standards for screening set forth in chapter 435.

(c) Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other healthcare or assisted living licensure requirements of this state is acceptable in fulfillment of paragraphs (a) and (b).

(d) The application must be accompanied by an affidavit, under penalty of perjury, providing the following information regarding any individual defined as the applicant:

1. The identity of the applicant. As used in this subsection, the term "applicant" means an individual applicant, or any officer, director, or agent, or any partner or shareholder having an ownership interest equal to a 5-percent or greater interest in the firm, partnership, or other business entity. As used in this subsection, the term "director" means any member of the official board of directors reported in the organization's annual corporate report to the Florida Department of State, or, if no such report is made, any member of the operating board of directors. The term "director" excludes members of separate, restricted boards that serve only in an advisory capacity to the operating board.

2. A description and explanation of any criminal offense or other offense committed by the applicant as specified under the level 2 standards for screening set forth in chapter 435. This requirement does not apply to a director of a not-for-profit corporation or organization if the director serves solely in a voluntary capacity for the corporation or organization, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration for his or her services on the corporation or organization's board of directors, and has no financial interest and has no family members with a financial interest in the corporation or organization, and if the director and the not-for-profit corporation or organization includes in the affidavit required by this section a statement affirming that the director's relationship to the corporation satisfies the requirements of this provision.

3. A description and explanation of any final actions imposed against the applicant by a healthcare or assisted living licensure agency of this or any other state, including any prior moratorium or other temporary cessation of services, any final administrative fine equal to or greater than $500 imposed within the immediately preceding 5 years for violations of licensure standards relating to financial management or quality of care and services, or any denial, suspension, or revocation of a license.

4. A description and explanation of any exclusions, permanent suspensions, or terminations of the applicant from participation in the Medicaid or Medicare programs or any other governmental health care or governmental health insurance program.

5. Proof of compliance by the individual registrant, or managing employee and financial officer of the firm, partnership or other business entity with the level 2 background screening standards set forth in chapter 435.

(e) A provisional registration may be granted to a potential registrant when each individual required by this section to undergo background screening has met the standards for the abuse registry background check and the Department of Law Enforcement background check, but the Agency for Health Care Administration has not yet received background screening results from the Federal Bureau of Investigation, or a disqualification exemption request has been submitted to the Agency for Health Care Administration as set forth in chapter 435 but a response has not been issued. A standard registration may be granted upon the Agency for Health Care Administration's receipt of a report of the results of the Federal Bureau of Investigation background screening for each individual required by this section to undergo background screening which confirms that all standards have been met, or upon the granting of a disqualification exemption by the Agency for Health Care Administration as set forth in chapter 435. Any other person who is required to undergo level 2 background screening may serve in his or her capacity pending the Agency for Health Care Administration's receipt of the report from the Federal Bureau of Investigation; however, the person may not continue to serve if the report indicates any violation of background screening standards and a disqualification exemption has not been requested of and granted by the Agency for Health Care Administration as set forth in chapter 435.

(f) A registration may not be granted if any applicant, managing employee, or financial officer has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any offense prohibited under the level 2 standards for screening set forth in chapter 435, unless an exemption from disqualification has been granted by the Agency for Health Care Administration as set forth in chapter 435.

(g) The Agency for Health Care Administration may deny or revoke registration to any applicant that:

Amendment 2 (with title amendment)—On page 157, between lines 24 and 25, insert:

Section 51. Subsection (1) of section 400.702, Florida Statutes, is amended to read:

400.702 Development of intermediate care facilities.—

(1) The Department of Health and Rehabilitative Services is directed to issue a request for proposals, pursuant to the provisions of chapter 287, for a pilot program of intermediate-level care facilities. The development of intermediate-level care facilities under this pilot program shall be limited to four projects in geographic locations distributed in the south, north, and central part of the state and shall not exceed a total of 120 beds in each location. None of the projects may accept residents prior to July 1, 1990. The intermediate-level care facilities shall:

(a) Provide care to residents whose condition requires intermediate care services, including 24-hour observation and care and the constant availability of medical and nursing treatment and care, but not to the degree of care and treatment provided in a hospital or that which meets the criteria for skilled nursing services.

~~(b) Accept only low-income residents who receive subsidized housing vouchers through the United States Department of Housing and Urban Development or other subsidized housing programs.~~

(b)~~(c)~~ Accept only low-income residents who are Medicaid *recipients or Medicaid eligible* recipients.

(c)~~(d)~~ Be exempt from all requirements to obtain a certificate of need pursuant to ss. 408.031-408.045; however, the beds so utilized will be counted in the total bed supply for determination of nursing home bed needs.

(d)~~(e)~~ Be licensed as a nursing home pursuant to part II and ss. 408.061, 408.08, and 408.20, except that the department is given the authority to waive any requirement that unnecessarily restricts the development of intermediate care facilities, provided such waiver does not contravene federal or state law. The department shall, however, ensure that the health and safety of residents of intermediate care facilities are adequately protected.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 4, line 18, after the semicolon (;) insert: amending s. 400.702, F.S.; deleting a requirement that certain intermediate-level care facilities accept only certain low-income residents who receive subsidized housing vouchers;

Amendment 3 (with title amendment)—On page 183, between lines 13 and 14, insert:

Section 64. *A physician who is licensed under chapter 458, Florida Statutes, or chapter 459, Florida Statutes, or a group practice consisting of two or more physicians who are licensed under chapter 458, Florida Statutes, or chapter 459, Florida Statutes, and are legally organized as a partnership, professional corporation, or similar association, who render cardiovascular services or procedures and the technical services for percutaneous transluminal coronary angioplasty procedures as defined and regulated by Rule 59C-1.032, Florida Administrative Code are exempt from the assessment on health care entities imposed under section 395.7015 or section 395.7015, Florida Statutes.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 4, line 11, following the semicolon (;) insert: exempting specified health care providers from certain assessments on health care entities;

The Committee on Ways and Means recommended the following amendment which was moved by Senator Forman and failed:

Amendment 4—On page 186, between lines 16 and 17, insert:

Section 70. *Conditions which limit a specialty psychiatric hospital from admitting and treating patients based on the psychiatric diagnosis or geographic origin of the patient shall not remain valid and enforceable for a period greater that ten years from the date when the agency first imposed such conditions on the certificate of need for the specialty psychiatric hospital regardless of whether such conditions resulted from a final agency action, a final judicial decree, or any such action or decree based upon a stipulation or settlement of the parties.*

(Renumber subsequent sections.)

MOTION

On motion by Senator Sullivan, the rules were waived to allow the following amendment to be considered:

Senator Sullivan moved the following amendment which was adopted:

Amendment 5—On page 21, line 24, after "*facilities*" insert: *, if requested,*

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 6 (with title amendment)—On page 186, between lines 16 and 17, insert:

Section 70. *(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 46l, Florida Statutes, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:*

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

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

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

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

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent l0 years.

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

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

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

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

(3) Each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under each respective licensing chapter and section 455.227(1)(k), Florida Statutes. For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

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

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

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

(b) An applicant for renewed licensure must submit a set of fingerprints for the initial renewal of his or her license after January 1, 2000, to the agency regulating that profession in accordance with procedures established under section 458.3l9, section 459.008, section 460.407, or section 461.007, Florida Statutes.

(c) The Department of Health shall submit the fingerprints provided by an applicant for initial licensure to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The department shall submit the fingerprints provided by an applicant for a renewed license to the Florida Department of Law

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

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

(a) Information regarding publications in peer-reviewed medical literature within the previous l0 years.

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

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

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

Section 71. *(1) Beginning July 1, 1999, the Department of Health shall compile the information submitted pursuant to section 1 into a practitioner profile of the applicant submitting the information, except that the Department of Health may develop a format to compile uniformly any information submitted under paragraph 1(4)(b).*

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

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

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

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

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

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

Section 72. *The Department of Health shall update each practitioner's practitioner profile periodically. An updated profile is subject to the same requirements as an original profile with respect to the period within which the practitioner may review the profile for the purpose of correcting factual inaccuracies.*

Section 73. *Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The department must develop, by the year 2000, a schedule and procedures for each practitioner within a health care profession regulated within the Division of Medical Quality Assurance to submit relevant information to be compiled into a profile to be made available to the public. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119, Florida Statutes, and Section 24(a), Article I of the State Constitution, so that the Department of Health may corroborate any information that physicians are required to report under section 1 of this act.*

Section 74. *Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, Florida Statutes, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under section 1.*

Section 75. *Information in superseded practitioner profiles must be maintained by the Department of Health, in accordance with general law and the rules of the Department of State.*

Section 76. Paragraph (g) is added to subsection (1) of section 458.311, Florida Statutes, 1996 Supplement, to read:

458.311 Licensure by examination; requirements; fees.—

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

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

Section 77. Subsection (1) of section 458.313, Florida Statutes, 1996 Supplement, is amended to read:

458.313 Licensure by endorsement; requirements; fees.—

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

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

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

(c) Shows evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year preceding the filing of an application for licensure.

Section 78. Subsection (1) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, evidence that the applicant has actively practiced medicine or has been on the active teaching faculty of an accredited medical school within the previous 4 years, and a fee not to exceed $500; provided, however, that if the licensee is either a resident physician, assistant resident physician, fellow, house physician, or intern in an approved postgraduate training program, as defined by the board by rule, the fee shall not exceed $100 per annum. If the licensee has not actively practiced medicine within the previous 4 years, the board shall require that the licensee successfully complete a board-approved clinical competency examination prior to renewal of the license. "Actively practiced medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, including physicians practicing administrative medicine. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 79. Subsection (1) of section 459.0055, Florida Statutes, 1996 Supplement, is amended to read:

459.0055 General licensure requirements.—

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

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

(b) Be at least 21 years of age;

(c) Be of good moral character;

(d) Have completed at least 3 years of preprofessional postsecondary education;

(e) Have not previously committed any act which would constitute a violation of this chapter, unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(f) Not be under investigation in any jurisdiction for an act which would constitute a violation of this chapter. If, upon completion of such investigation, it is determined that the applicant has committed an act which would constitute a violation of this chapter, the applicant shall be ineligible for licensure unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(g) Have not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction unless the board determines that the grounds on which such action was taken do not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. A licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician, shall be considered action against the osteopathic physician's license;

(h) Have met the criteria set forth in s. 459.006, s. 459.007, s. 459.0075, s. 459.0077, or s. 459.021, whichever is applicable;~~.~~

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

Section 80. Subsection (1) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

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

Section 81. Paragraph (g) is added to subsection (1) of section 460.406, Florida Statutes, 1996 Supplement, to read:

460.406 Licensure by examination.—

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

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

Section 82. Subsection (1) of section 460.407, Florida Statutes, is amended to read:

460.407 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed $500. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 83. Paragraph (f) is added to subsection (1) of section 461.006, Florida Statutes, to read:

461.006 Licensure by examination.—

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

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

Section 84. Subsection (1) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and a fee not to exceed $350 set by the board. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 85. Section 455.225, Florida Statutes, 1996 Supplement, is amended to read:

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

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

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

(2) The department and the Agency for Health Care Administration shall allocate sufficient and adequately trained staff to expeditiously

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

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

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department or the Agency for Health Care Administration, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department or the agency. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chairman. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department or the agency shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department or the agency, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department or the agency. The secretary may grant extensions of the 15-day and the 30-day time limits. ~~If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department or the agency may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists.~~ In lieu of a finding of probable cause, the probable cause panel, or the department or the agency when there is no board, may issue a letter of guidance to the subject. *If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the agency, for disciplinary cases under its jurisdiction, must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit.* If the probable cause panel finds that probable cause exists, it shall direct the department or the agency to file a formal complaint against the licensee. The department or the agency shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department or the agency shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department or the agency may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department or the agency shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department or the agency shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department or the agency within 1 year after the filing of a complaint. *The agency, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department or agency within 1 year after the filing of the complaint. Annually, the agency, for disciplinary cases under its jurisdiction if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the agency within 1 year after the filing of the complaint.* A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the Health Care Trust Fund or the Professional Regulation Trust Fund, as appropriate. All proceedings of the probable cause panel are exempt from s. 120.525.

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

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

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

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Secretary of Business and Professional Regulation or his designee or the Director of Health Care Administration or his designee, as appropriate, who shall issue the final summary order.

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

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

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

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

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

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

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

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

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

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

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

Section 86. Present subsections (8) and (9) of section 455.2285, Florida Statutes, are renumbered as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

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

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

Section 87. Subsection (5) of section 458.320, Florida Statutes, 1996 Supplement, is amended to read:

458.320 Financial responsibility.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 88. Subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, is amended to read:

459.0085 Financial responsibility.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 89. Section 455.2478, Florida Statutes, is created to read:

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

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

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

Section 90. Section 627.912, Florida Statutes, 1996 Supplement, is amended to read:

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

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

(a) A final judgment in any amount.

(b) A settlement in any amount.

(c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department and, if the insured party is licensed *under* ~~pursuant to~~ chapter 458, chapter 459, chapter 461, or chapter 466, with the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, no later than *30* ~~60~~ days following the occurrence of any event listed in paragraph (a), paragraph (b), or paragraph (c). The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~ shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply. The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, as part of the annual report required by s. 455.2285, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the *agency* ~~Department of Business and Professional Regulation~~ or the appropriate regulatory board.

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

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

(b) The insured's policy number.

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

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

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

(f) The date of suit, if filed.

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

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

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

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

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

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

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

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

2. The final diagnosis for which treatment was sought or rendered, including the patient's actual condition.

3. A description of the misdiagnosis made, if any, of the patient's actual condition.

4. The operation, diagnostic, or treatment procedure causing the injury.

5. A description of the principal injury giving rise to the claim.

6. The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future.

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

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

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

Section 91. *The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.*

Section 92. Subsection (1) of section 458.316, Florida Statutes, is amended to read:

458.316 Public health certificate.—

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

Section 93. Section 458.3165, Florida Statutes, is amended to read:

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

(1) Such certificate shall:

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

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

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

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

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

Section 94. Paragraph (a) of subsection (1) of section 458.317, Florida Statutes, is amended to read:

458.317 Limited licenses.—

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

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

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

(Renumber subsequent section.)

And the title is amended as follows:

On page 4, line 18, after the semicolon (;) insert: requiring physicians, osteopathic physicians, podiatrists, and chiropractors to furnish specified biographical and other data to the Department of Health; requiring the department to verify certain of the information and compile the information submitted and other public record information into a practitioner profile of each licensee and to make the profiles available to the public; providing for rules; providing duties of practitioners to update information and duties of the department to update profiles; providing for retention of information in superseded profiles; amending ss. 458.311, 458.313, 458.319, F.S.; requiring applicants for licensure or relicensure as physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 459.0055, 459.008, F.S.; requiring applicants for licensure or relicensure as osteopathic physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 460.406, 460.407, F.S.; requiring applicants for licensure or relicensure as chiropractors to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 461.006, 461.007, F.S.; requiring applicants for licensure or relicensure as podiatrists to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending ss. 458.320, 459.0085, F.S.; requiring the agency to issue an emergency order suspending the license of a physician or osteopathic physician for certain violations; amending s. 455.2285, F.S.; requiring additional information in the annual report by the department and by the agency; creating s. 455.2478, F.S.; providing that reports on professional liability actions and information relating to bankruptcy proceedings of specified health care practitioners which are in the possession of the Department of Health are public records; requiring the department to make such information available to persons who request it; amending s. 627.912, F.S.; providing for insurer reporting of professional liability claims and actions; revising the timeframe for reporting; providing penalties; providing for a toll-free telephone number for reporting complaints relating to medical care; providing applicability; amending ss. 458.316, 458.3165, 458.317, F.S.; conforming cross-references;

MOTION

On motion by Senator Sullivan, the rules were waived to allow the following amendment to be considered:

Senator Sullivan moved the following amendment:

Amendment 7 (with title amendment)—On page 4, line 21, insert:

Section 1. Subsection (3) of section 20.43, Florida Statutes, 1996 Supplement, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(a) Division of Administration.

(b) Division of Environmental Health.

(c) Division of Disease Control.

(d) Division of Family Services.

(e) Division of Children's Medical Services.

(f) ~~Effective July 1, 1997,~~ Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

1. Nursing assistants, as provided under s. 400.211.

2. Health care services pools, as provided under s. 402.48.

3. The Board of Acupuncture, created under chapter 457.

4. The Board of Medicine, created under chapter 458.

5. The Board of Osteopathic Medicine, created under chapter 459.

6. The Board of Chiropractic, created under chapter 460.

7. The Board of Podiatric Medicine, created under chapter 461.

8. Naturopathy, as provided under chapter 462.

9. The Board of Optometry, created under chapter 463.

10. The Board of Nursing, created under chapter 464.

11. The Board of Pharmacy, created under chapter 465.

12. The Board of Dentistry, created under chapter 466.

13. Midwifery, as provided under chapter 467.

14. The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

15. The Board of Nursing Home Administrators, created under part II of chapter 468.

16. Occupational therapy, as provided under part III of chapter 468.

17. Respiratory therapy, as provided under part V of chapter 468.

18. Dietetics and nutrition practice, as provided under part X of chapter 468.

19. Athletic trainers, as provided under part XIV of chapter 468.

20. Electrolysis, as provided under chapter 478.

21. The Board of Massage, created under chapter 480.

22. The Board of Clinical Laboratory Personnel, created under part IV of chapter 483.

23. Medical physicists, as provided under part V of chapter 483.

24. The Board of Opticianry, created under part I of chapter 484.

25. The Board of Hearing Aid Specialists, created under part II of chapter 484.

26. The Board of Physical Therapy Practice, created under chapter 486.

27. The Board of Psychology, created under chapter 490.

28. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

~~The department shall contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.~~

Section 2. Section 11 of chapter 96-403, Laws of Florida, is amended to read:

Section 11. Effective July 1, 1997, the regulation of nursing assistants, as provided under s. 400.211, Florida Statutes; health care services pools, as provided under s. 402.48, Florida Statutes; the Board of Acupuncture, created under chapter 457, Florida Statutes; the Board of Medicine, created under chapter 458, Florida Statutes; the Board of Osteopathic Medicine, created under chapter 459, Florida Statutes; the Board of Chiropractic, created under chapter 460, Florida Statutes; the Board of Podiatric Medicine, created under chapter 461, Florida Statutes; naturopathy, as provided under chapter 462, Florida Statutes; the Board of Optometry, created under chapter 463, Florida Statutes; the Board of Nursing, created under chapter 464, Florida Statutes; the Board of Pharmacy, created under chapter 465, Florida Statutes; the Board of Dentistry, created under chapter 466, Florida Statutes; midwifery, as provided under chapter 467, Florida Statutes; the Board of Speech-Language Pathology and Audiology, created under part I of chapter 468, Florida Statutes; the Board of Nursing Home Administrators, created under part II of chapter 468, Florida Statutes; occupational therapy, as provided under part III of chapter 468, Florida Statutes; respiratory therapy, as provided under part V of chapter 468, Florida Statutes; dietetics and nutrition practice, as provided under part X of chapter 468, Florida Statutes; electrolysis, as provided under chapter 478, Florida Statutes; the Board of Clinical Laboratory Personnel, created under part IV of chapter 483, Florida Statutes; medical physicists, as provided under part V of chapter 483, Florida Statutes; the Board of Opticianry, created under part I of chapter 484, Florida Statutes; the Board of Physical Therapy Practice, created under chapter 486, Florida Statutes; the Board of Psychology, created under chapter 490, Florida Statutes; and the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491, Florida Statutes, under the Division of Health Quality Assurance of the Agency for Health Care Administration, or under the agency, within the Department of Business and Professional Regulation, ~~including all licensing, examination, publication, administrative, and management information services, but not consumer complaint, investigative, or prosecutorial services, provided by the Agency for Health Care Administration,~~ is transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, and assigned to the Division of Medical Quality Assurance within the Department of Health, as created by this act.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 20.43, F.S.; changing the effective date for the establishment of the Division of Medical Quality Assurance; deleting duty of the Department of Health to contract with the Agency for Health Care Administration; amending s. 11, ch. 96-403, Laws of Florida; revising the list of functions transferred from the agency to the department;

Senator Gutman moved the following amendment to **Amendment 7**:

Amendment 7A (with title amendment)—On page 3, lines 17-21, delete those lines and insert: The department *may* ~~shall~~ contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

And the title is amended as follows:

On page 5, line 19, delete "deleting duty of" and insert: authorizing

Further consideration of **Amendment 7** and **Amendment 7A** was deferred.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 8 (with title amendment)—On page 185, between lines 21 and 22, insert:

Section 66. Section 458.351, Florida Statutes, is created to read:

458.351 Telemedicine; licensure required; exception.—In addition to any other provision of this chapter defining or otherwise regulating the practice of medicine, any physician, wherever located, who has primary authority over the care or diagnosis of a patient located in this state is practicing medicine in this state and shall be subject to licensure as required by this chapter. A physician lawfully licensed in another state or territory of the United States or in a foreign country who engages in consultation with a physician duly licensed in this state and does not exercise primary authority over the patient's care and diagnosis is exempt from licensure, as provided in s. 458.303(1)(b). In the case of electronic transmission of radiographic images, a physician who provides, through an ongoing regular arrangement, official authenticated interpretations of radiographic images to any health care practitioner or patient located in this state shall be regarded as exercising primary authority over the diagnosis of the involved patient and subject to licensure as required by this chapter.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 4, line 11, after the semicolon (;) insert: creating s. 458.351, F.S.; requiring licensure of any physician, wherever located, who has primary authority over the care or diagnosis of a patient located in this state; providing an exception; providing applicability with respect to transmission of radiographic images;

On motion by Senator Forman, further consideration of **CS for CS for SB 2142** with pending **Amendment 7** and **Amendment 7A** was deferred.

On motion by Senator Brown-Waite, the Senate resumed consideration of—

HB 1357—A bill to be entitled An act relating to the Department of Health; amending s. 20.43, F.S.; renaming certain divisions within the department; creating a Division of Local Health Planning, Education, and Workforce Development; authorizing certain use of state or federal funds to protect and improve public health; transferring powers and duties relating to rural health networks, local health councils, and the Statewide Health Council from the Agency for Health Care Administration to the department; authorizing certain budget flexibility; amending s. 154.04, F.S.; authorizing county health departments to establish peer review committees for certain purposes; amending s. 154.06, F.S.; removing requirement that county health department fees cover costs; amending ss. 110.131, 216.341, 232.465, 240.4075, 381.0065, 381.0302, 381.0405, 381.0055, 395.401, 401.107, 401.111, 401.117, 401.23, 401.245, 401.265, 403.703, 404.031, 404.051, 404.0614, 404.131, 404.20, 414.23, 414.38, 458.316, 468.301, 468.314, and 514.011, F.S.; revising and conforming language and references relating to the public health functions of the department; deleting obsolete language; amending s. 240.4076, F.S.; revising operation of the nursing scholarship loan program; amending s. 381.0101, F.S.; revising requirements relating to professional standards, continuing education, and certification of environmental health professionals; revising certification fees; providing for denial, suspension, or revocation of a certificate; providing for fines; amending s. 381.0203, F.S.; providing for a contraceptive distribution program; specifying eligibility requirements; providing for fees; providing for rules; amending ss. 381.0406 and 381.04065, F.S.; conforming transfer of rural health programs to the department; amending s. 381.0407, F.S.; clarifying reimbursement to county health departments by Medicaid providers; amending s. 383.3362, F.S., relating to Sudden Infant Death Syndrome; deleting requirement for visits by county public health nurses or social workers; deleting an advisory council; revising duties of the department; amending s. 385.202, F.S.; revising requirements relating to reporting and analysis of reports to the statewide cancer registry; amending s. 385.203, F.S.; clarifying relationship of the Diabetes Advisory Council to the Board of Regents; deleting requirement for an annual diabetes state plan; amending s. 392.52, F.S.; revising definitions; creating s. 392.551, F.S.; providing that parental consent is not required to examine a minor for tuberculosis; amending s. 392.565, F.S.; revising conditions for imposing an involuntary hold on a person for tuberculosis; amending s. 392.62, F.S.; providing for forensic units in tuberculosis hospitals; amending s. 395.3025, F.S.; expanding the department's authority to examine records of licensed facilities; increasing a penalty for unauthorized disclosure of information; amending s. 401.252, F.S.; providing requirements for interfacility transport of certain infants; providing for rules for interfacility transport; amending s. 401.27, F.S.; providing for inactive status of emergency medical technician and paramedic certificates; providing for reactivation and renewal; providing a fee; amending and renumbering s. 402.105, F.S., relating to

biomedical and social research; amending and renumbering s. 402.32, F.S., relating to the school health services program; amending and renumbering s. 402.321, F.S., relating to funding for school health services; amending s. 402.41, F.S., relating to educational materials and training in human immunodeficiency virus infection and acquired immune deficiency syndrome; amending and renumbering s. 402.475, F.S., relating to the osteoporosis prevention and education program; amending and renumbering s. 402.60, F.S., relating to insect sting emergency treatment; amending and renumbering s. 402.61, F.S, relating to regulation of tanning facilities; amending s. 404.056, F.S.; providing penalties for certain fraud, deception, or misrepresentation in performing radon measurements or mitigation; amending s. 404.22, F.S.; reducing the frequency of inspections required for certain radiation machines; amending s. 408.033, F.S.; providing for the transfer of funds to support the local health councils; amending s. 408.701, F.S.; expanding the definition of "health care provider" for purposes of community health purchasing; amending s. 409.905, F.S.; specifying family planning services provided under the Medicaid program; amending s. 409.908, F.S.; deleting obsolete repeal provision; amending s. 414.026, F.S.; adding the Secretary of Health to the State Board of Directors of the WAGES Program; amending s. 468.3101, F.S.; providing additional grounds for disciplinary action against a radiologic technologist; providing penalties; amending s. 489.553, F.S.; revising requirements for registration of septic tank contractors; amending s. 514.028, F.S.; providing for reimbursement for travel expenses for members of the advisory review board on swimming and bathing facilities; amending s. 627.4236, F.S.; transferring rulemaking authority relating to bone marrow transplant procedures to the Agency for Health Care Administration; amending s. 766.101, F.S.; including certain committees of a county health department, healthy start coalition, or certified rural health network within the definition of "medical review committee"; amending s. 766.314, F.S.; exempting public health physicians from assessments that finance the Florida Birth-Related Neurological Injury Compensation Plan; amending s. 945.602, F.S.; providing for assignment of the Correctional Medical Authority to the department for administrative purposes; transferring to the department powers and duties of the Correctional Medical Authority; amending ss. 28.101, 28.222, 63.062, 382.003, 382.004, 382.007, 382.011, 382.0135, 382.021, 382.022, 382.023, 382.356, 383.2161, 402.40, 460.414, 742.10, and 742.16, F.S.; revising and conforming language and references relating to the department's responsibility for vital records and statistics; amending s. 63.165, F.S.; consolidating provisions relating to the state registry of adoption information; amending s. 68.07, F.S.; revising procedures relating to change of name; amending s. 382.002, F.S.; revising definitions; amending s. 382.005, F.S.; revising duties of local registrars; amending s. 382.006, F.S.; revising duties of funeral directors with respect to burial-transit permits; restricting issuance thereof if death occurred from a communicable disease; providing authority of certifications of death certificates issued in other states or countries; eliminating provisions relating to permits for disinterment and reinterment; amending s. 382.008, F.S., relating to death and fetal death certificates; providing for entry of aliases; requiring certain persons to provide medical information regarding a fetal death within a specified period; providing for extensions of time for certification of cause of death; providing for temporary death certificates; requiring certificates to contain information required for legal, social, and health research purposes; amending s. 382.012, F.S.; providing requirements for a petitioner seeking a presumptive death certificate; amending s. 382.013, F.S.; revising provisions and requirements relating to registration of a live birth, paternity, and the name of the child; amending s. 382.015, F.S.; revising provisions relating to new certificates of live birth; revising procedures for annulment of adoptions and determination of paternity; providing for filing of a new birth certificate upon receipt of an order of affirmation of parental status; providing for the form of original, new, and amended birth certificates; providing for rules; amending s. 382.016, F.S.; revising provisions relating to amendment of birth and death records; amending s. 382.017, F.S.; revising procedures relating to registration of birth certificates for adopted children of foreign birth; amending and renumbering s. 382.018, F.S.; revising procedures and requirements relating to issuance of delayed birth certificates; amending s. 382.019, F.S.; revising procedures and requirements relating to the delayed registration of a death or birth certificate; amending s. 382.025, F.S.; revising procedures and requirements relating to issuance of certified copies of birth and death records; providing requirements and restrictions for sharing vital records with a research entity; providing for rules; creating s. 382.0255, F.S.; providing for fees for searching and processing vital records; revising and consolidating provisions relating thereto; amending s. 382.026, F.S.; revising and expanding penalties; providing for rules; amending s. 741.041, F.S.; conforming provisions relating to the period of validity of marriage licenses; repealing s. 110.1125, F.S., relating to a requirement to provide information on human immunodeficiency virus infection and acquired immune deficiency syndrome to state employees; repealing s. 381.698, F.S., relating to "The Florida Blood Transfusion Act"; repealing s. 381.81, F.S., relating to the "Minority Health Improvement Act"; repealing s. 382.014, F.S., relating to contents, form, and disclosure of birth certificates; repealing s. 382.024, F.S., relating to departmental accounting of dissolution of marriage fees and charges; repealing s. 382.027, F.S., relating to voluntary registration of adoption information; repealing ss. 387.01, 387.02, 387.03, 387.04, 387.05, 387.06, 387.07, 387.08, 387.09, and 387.10, F.S., relating to permits for draining surface water or sewage into underground waters of the state, penalties for polluting water supplies or surface or underground waters, septic tank construction requirements, and injunction proceedings; repealing s. 402.37, F.S., relating to the medical manpower clearinghouse grant program; repealing s. 403.7045(1)(e), F.S., relating to activities regulated under the "Florida Hazardous Substances Law" exempted from environmental regulation; repealing ss. 501.061, 501.065, 501.071, 501.075, 501.081, 501.085, 501.091, 501.095, 501.101, 501.105, 501.111, 501.115, and 501.121, F.S., relating to the "Florida Hazardous Substances Law"; repealing s. 501.124, F.S., relating to art or craft material containing toxic substances and labeling requirements therefor; repealing s. 766.1115(12), F.S., as created by section 1 of ch. 92-278, Laws of Florida, relating to the scheduled repeal of the "Access to Health Care Act"; providing an effective date.

—which was previously considered this day. Pending **Amendment 1A** by Senator Bankhead was withdrawn.

Senator Bankhead moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with title amendment)—On page 129, between lines 3 and 4, insert:

Section 65. Paragraphs (a) and (c) of subsection (3) of section 409.912, Florida Statutes, 1996 Supplement, are amended to read:

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

(3) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county public health unit, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III by *January 1, 1998* ~~July 1, 1997~~, and until then are exempt from the provisions of part I of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Department of Insurance that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225.

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641 by *January 1, 1998* ~~July 1, 1997~~. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (14) and (15).

(Renumber subsequent sections.)

And the title is amended as follows:

On page 205, line 16, after "provision;" insert: amending s. 409.912, F.S.; postponing licensing requirements for certain entities contracting to provide Medicaid services;

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with title amendment)—On page 201, between lines 6 and 7, insert:

Section 125. *(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 46l, Florida Statutes, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:*

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

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

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

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

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent l0 years.

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

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

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

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

(3) Each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under each respective licensing chapter and section 455.227(1)(k), Florida Statutes. For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

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

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

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

(b) An applicant for renewed licensure must submit a set of fingerprints for the initial renewal of his or her license after January 1, 2000, to the agency regulating that profession in accordance with procedures established under section 458.3l9, section 459.008, section 460.407, or section 461.007, Florida Statutes.

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

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

(a) Information regarding publications in peer-reviewed medical literature within the previous l0 years.

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

(c) Languages, other than English, used by the applicant to communicate with patients and identification of any translating service that may

be available at the place where the applicant primarily conducts his or her practice.

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

Section 126. *(1) Beginning July 1, 1999, the Department of Health shall compile the information submitted pursuant to section 1 into a practitioner profile of the applicant submitting the information, except that the Department of Health may develop a format to compile uniformly any information submitted under paragraph 1(4)(b).*

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

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

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

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

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

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

Section 127. *The Department of Health shall update each practitioner's practitioner profile periodically. An updated profile is subject to the same requirements as an original profile with respect to the period within which the practitioner may review the profile for the purpose of correcting factual inaccuracies.*

Section 128. *Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The department must develop, by the year 2000, a schedule and procedures for each practitioner within a health care profession regulated within the Division of Medical Quality Assurance to submit relevant information to be compiled into a profile to be made available to the public. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119, Florida Statutes, and Section 24(a), Article I of the State Constitution, so that the Department of Health may corroborate any information that physicians are required to report under section 1 of this act.*

Section 129. *Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, Florida Statutes, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under section 1.*

Section 130. *Information in superseded practitioner profiles must be maintained by the Department of Health, in accordance with general law and the rules of the Department of State.*

Section 131. Paragraph (g) is added to subsection (1) of section 458.311, Florida Statutes, 1996 Supplement, to read:

458.311 Licensure by examination; requirements; fees.—

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

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

Section 132. Subsection (1) of section 458.313, Florida Statutes, 1996 Supplement, is amended to read:

458.313 Licensure by endorsement; requirements; fees.—

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

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

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

(c) Shows evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year preceding the filing of an application for licensure.

Section 133. Subsection (1) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, evidence that the applicant has actively practiced medicine or has been on the active teaching faculty of an accredited medical school within the previous 4 years, and a fee not to exceed $500; provided, however, that if the licensee is either a resident physician, assistant resident physician, fellow, house physician, or intern in an approved postgraduate training program, as defined by the board by rule, the fee shall not exceed $100 per annum. If the licensee has not actively practiced medicine within the previous 4 years, the board shall require that the licensee successfully complete a board-approved clinical competency examination prior to renewal of the license. "Actively practiced medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, including physicians practicing administrative medicine. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 134. Subsection (1) of section 459.0055, Florida Statutes, 1996 Supplement, is amended to read:

459.0055 General licensure requirements.—

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

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

(b) Be at least 21 years of age;

(c) Be of good moral character;

(d) Have completed at least 3 years of preprofessional postsecondary education;

(e) Have not previously committed any act which would constitute a violation of this chapter, unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(f) Not be under investigation in any jurisdiction for an act which would constitute a violation of this chapter. If, upon completion of such investigation, it is determined that the applicant has committed an act which would constitute a violation of this chapter, the applicant shall be ineligible for licensure unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(g) Have not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction unless the board determines that the grounds on which such action was taken do not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. A licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician, shall be considered action against the osteopathic physician's license;

(h) Have met the criteria set forth in s. 459.006, s. 459.007, s. 459.0075, s. 459.0077, or s. 459.021, whichever is applicable;~~.~~

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

Section 135. Subsection (1) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

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

Section 136. Paragraph (g) is added to subsection (1) of section 460.406, Florida Statutes, 1996 Supplement, to read:

460.406 Licensure by examination.—

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

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

Section 137. Subsection (1) of section 460.407, Florida Statutes, is amended to read:

460.407 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed $500. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 138. Paragraph (f) is added to subsection (1) of section 461.006, Florida Statutes, to read:

461.006 Licensure by examination.—

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

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

Section 139. Subsection (1) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and a fee not to exceed $350 set by the board. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 140. Section 455.225, Florida Statutes, 1996 Supplement, is amended to read:

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

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

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

(2) The department and the Agency for Health Care Administration shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. *For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the agency, for disciplinary cases under its jurisdiction, should complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the agency, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure.* When its investigation is complete and legally sufficient, the department or the agency shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department or the agency. The report shall contain the investigative findings and the recommendations of the department or the agency concerning

the existence of probable cause. At any time after legal sufficiency is found, the department or the agency may dismiss any case, or any part thereof, if the department or the agency determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department or the agency shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department or the agency dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

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

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department or the Agency for Health Care Administration, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department or the agency. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chairman. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department or the agency shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department or the agency, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department or the agency. The secretary may grant extensions of the 15-day and the 30-day time limits. ~~If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department or the agency may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists.~~ In lieu of a finding of probable cause, the probable cause panel, or the department or the agency when there is no board, may issue a letter of guidance to the subject. *If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the agency, for disciplinary cases under its jurisdiction, must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit.* If the probable cause panel finds that probable cause exists, it shall direct the department or the agency to file a formal complaint against the licensee. The department or the agency shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department or the agency shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department or the agency may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department or the agency shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department or the agency shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department or the agency within 1 year after the filing of a complaint. *The agency, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department or agency within 1 year after the filing of the complaint. Annually, the agency, for disciplinary cases under its jurisdiction if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the agency within 1 year after the filing of the complaint.* A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the Health Care Trust Fund or the Professional Regulation Trust Fund, as appropriate. All proceedings of the probable cause panel are exempt from s. 120.525.

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

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

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

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Secretary of Business and Professional Regulation or his designee or the Director of Health Care Administration or his designee, as appropriate, who shall issue the final summary order.

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

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

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

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

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

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

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

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

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

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

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

Section 141. Present subsections (8) and (9) of section 455.2285, Florida Statutes, are renumbered as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

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

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

Section 142. Subsection (5) of section 458.320, Florida Statutes, 1996 Supplement, is amended to read:

458.320 Financial responsibility.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential

claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

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

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

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

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

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

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

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

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

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

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

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

Section 143. Subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, is amended to read:

459.0085 Financial responsibility.—

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

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

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

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

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

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

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

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

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

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

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

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

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

7. The licensee shall submit biennially to the department a certification stating compliance with the provisions of this paragraph. The li-

censee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

Section 144. Section 455.2478, Florida Statutes, is created to read:

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

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

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

Section 145. Section 627.912, Florida Statutes, 1996 Supplement, is amended to read:

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

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

(a) A final judgment in any amount.

(b) A settlement in any amount.

(c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department and, if the insured party is licensed *under* ~~pursuant to~~ chapter 458, chapter 459, chapter 461, or chapter 466, with the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, no later than *30* ~~60~~ days following the occurrence of any event listed in paragraph (a), paragraph (b), or paragraph (c). The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~ shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply.

The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, as part of the annual report required by s. 455.2285, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the *agency* ~~Department of Business and Professional Regulation~~ or the appropriate regulatory board.

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

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

(b) The insured's policy number.

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

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

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

(f) The date of suit, if filed.

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

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

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

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

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

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

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

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

2. The final diagnosis for which treatment was sought or rendered, including the patient's actual condition.

3. A description of the misdiagnosis made, if any, of the patient's actual condition.

4. The operation, diagnostic, or treatment procedure causing the injury.

5. A description of the principal injury giving rise to the claim.

6. The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future.

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

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

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

Section 146. *The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.*

Section 147. Subsection (1) of section 458.316, Florida Statutes, is amended to read:

458.316 Public health certificate.—

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

Section 148. Section 458.3165, Florida Statutes, is amended to read:

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

(1) Such certificate shall:

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

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

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

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

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

Section 149. Paragraph (a) of subsection (1) of section 458.317, Florida Statutes, is amended to read:

458.317 Limited licenses.—

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

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

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

(Renumber subsequent section.)

And the title is amended as follows:

On page 210, line 21, after the semicolon (;) insert: requiring physicians, osteopathic physicians, podiatrists, and chiropractors to furnish specified biographical and other data to the Department of Health; requiring the department to verify certain of the information and compile the information submitted and other public record information into a practitioner profile of each licensee and to make the profiles available to the public; providing for rules; providing duties of practitioners to update information and duties of the department to update profiles; providing for retention of information in superseded profiles; amending ss. 458.311, 458.313, 458.319, F.S.; requiring applicants for licensure or relicensure as physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 459.0055, 459.008, F.S.; requiring applicants for licensure or relicensure as osteopathic physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 460.406, 460.407, F.S.; requiring applicants for licensure or relicensure as chiropractors to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 461.006, 461.007, F.S.; requiring applicants for licensure or relicensure as podiatrists to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending ss. 458.320, 459.0085, F.S.; requiring the agency to issue an emergency order suspending the license of a physician or osteopathic physician for certain violations; amending s. 455.2285, F.S.; requiring additional information in the annual report by the department and by the agency; creating s. 455.2478, F.S.; providing that reports on professional liability actions and information relating to bankruptcy proceedings of specified health care practitioners which are in the possession of the Department of Health are public records; requiring the department to make such information available to persons who request it; amending s. 627.912, F.S.; providing for insurer reporting of professional liability claims and actions; revising the timeframe for reporting; providing penalties; providing for a toll-free telephone number for reporting complaints relating to medical care; providing applicability; amending ss. 458.316, 458.3165, 458.317, F.S.; conforming cross-references;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1357** as amended was placed on the calendar of Bills on Third Reading.

CS for CS for SB 1814—A bill to be entitled An act relating to regulation of health care professions; amending s. 402.48, F.S., relating to health care services pools; increasing the period of registration; updating a definition and a provision relating to meeting financial responsibility requirements; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration, the Department of Business and Professional Regulation, or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending s. 455.2285, F.S.; revising requirements for information that is disclosed in the annual report; amending s. 457.102, F.S.; revising definitions applicable to the regulation of acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; revising fees; conforming terminology; amending s. 457.107, F.S.; revising licensure renewal fees; conforming terminology; amending s. 457.1085, F.S.; revising requirements on the adoption of rules relating to infection control and on the use of acupuncture needles; amending ss. 457.103, 457.108, 457.109, and 457.116, F.S., to conform; amending s. 458.303, F.S.; eliminating references to physician's trained assistants; amending s. 458.305, F.S.; updating the definition of "department"; amending s. 458.307, F.S.; revising provisions relating to probable cause panels of the Board of Medicine; amending s. 455.206, F.S.; conforming a cross-reference; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a specified fellowship to partially satisfy the licensing requirements; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing persons in certain training programs to take the examination under certain circumstances; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing additional requirements prior to certification of eligibility for licensure; conforming a cross-reference; eliminating a provision authorizing licensure under a period of supervision; providing conditions for reactivation of certain licenses issued by endorsement; amending s. 458.317, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of medicine; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; revising recent-practice requirements; amending s. 458.320, F.S.; conforming a cross-reference; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 458.331, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing requirements for the prescribing of medicinal drugs; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee; amending ss. 458.347 and 459.022, F.S.; revising requirements for certification as a physician assistant; updating terminology; amending s. 458.3485, F.S.; requiring medical assistants to be under the direct supervision of a licensed physician; providing for rules; amending s. 459.003, F.S.; updating the definition of "department"; providing that certain terms are equivalent; amending s. 459.021, F.S.; revising terminology relating to osteopathic medicine; revising provisions relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; authorizing resident physicians to prescribe drugs appearing on schedules of controlled substances under certain circumstances; repealing s. 460.413(1)(bb) and (cc), F.S., relating to grounds for disciplinary action; amending s. 459.0075, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of osteopathic medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of osteopathic medicine; amending s. 459.0085, F.S.; conforming a cross-reference; requiring osteopathic physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; amending ss. 240.4067, 390.011, 395.0191, 408.035, 409.905, 415.102, 415.1034, 415.504, 440.106, 440.13, 440.134, 440.15, 456.31, 459.006, 462.01, 468.301, 468.302, 476.044, 477.0135, 483.291, 621.03, 627.351, 627.357, 627.6482, 725.01, 766.101, 766.103, 766.105, 766.110, 817.234, and 945.047, F.S.; conforming and correcting terminology relating to osteopathic medicine; amending s. 460.403, F.S.; updating the definition of "department"; amending s. 460.413, F.S.; repealing ss. 460.413(1)(bb) and 460.413(1)(cc), relating to grounds for disciplinary action; revising grounds for disciplinary action; providing penalties; providing criteria for determining the applicable penalty; providing certain evidentiary standards; providing authority and procedure to enjoin a chiropractor from providing medical services under certain circumstances; reenacting ss. 320.0848(9), 455.236(4)(g), and 766.111(2), F.S., relating to parking permits for disabled persons, prohibited referrals to home health agencies, and unnecessary diagnostic testing, to incorporate the amendment to s. 460.413, F.S., in references thereto; amending s. 460.4165, F.S.; revising a provision relating to the fee accompanying applications to supervise chiropractic physician's assistants; amending s. 461.003, F.S.; updating the definition of "department"; amending s. 461.013, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 461.018, F.S.; clarifying a provision relating to the limited practice of podiatry in designated areas of need; amending s. 464.003, F.S.; revising

a definition to update authority over regulation of nursing; amending ss. 464.004, 464.008, 464.009, 464.012, 464.013, and 464.014, F.S., to conform; amending s. 464.018, F.S.; revising grounds for disciplinary action; providing penalties; conforming terminology; amending s. 464.019, F.S., relating to approval of nursing programs; providing for a program review fee; conforming terminology; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; providing an exemption from regulation relating to certain nurses accompanying and caring for patients temporarily residing in this state; amending s. 465.003, F.S.; revising the definitions of the terms "pharmacy" and "department"; amending s. 465.004, F.S.; increasing the membership of the Board of Pharmacy; revising membership qualifications; amending s. 465.0125, F.S.; providing responsibilities of consultant pharmacists and doctors of pharmacy; providing for rules; amending s. 465.014, F.S.; revising tasks and duties delegated to a pharmacy technician; increasing the number of pharmacy technicians who may be supervised by a licensed pharmacist; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising grounds for disciplinary actions; providing penalties; amending s. 465.0196, F.S., relating to special pharmacy permits; conforming a cross-reference; amending s. 465.026, F.S.; revising provisions relating to the filling of prescriptions transferred by electronic or other means; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; amending s. 465.186, F.S.; providing for inclusion of certain products and over-the-counter proprietary drugs in the formulary of authorized medicinal drug products and dispensing procedures; amending s. 893.03, F.S.; adding butorphanol tartrate as a Schedule IV controlled substance; reenacting ss. 316.193(5), 327.35(5), 440.102(11)(b), 458.326(3), 817.563(1), 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.08(1)(b), 893.13(1)(a), (c), and (d), (2)(a), (4)(b), and (5)(b), F.S., relating to driving under the influence, boating under the influence, drug-free workplace program requirements, authorized treatment of intractable pain, sales of substances in lieu of controlled substances, counterfeit controlled substances, open house parties, definitions applicable to regulation of controlled substances, exceptions to required prescription for distribution at retail, and prohibited acts relating to controlled substances, respectively, to incorporate the amendment to s. 893.03, F.S., in references thereto; amending s. 466.003, F.S.; updating the definition of "department"; amending s. 466.006, F.S., relating to the examination of dentists; revising prerequisites for certain applicants to take the examination; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; amending s. 466.028, F.S.; revising grounds for disciplinary action; providing penalties; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1125, F.S.; updating the definition of "department"; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing requirements for cross-discipline licensure; amending s. 468.1185, F.S.; revising licensure requirements; conforming a reference; amending s. 468.1195, F.S.; revising continuing education requirements; providing for adoption of standards of approval of continuing education providers; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; conforming a reference; amending s. 468.1245, F.S.; revising provisions relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; creating s. 468.1296, F.S.; prohibiting sexual misconduct in the practice of speech-language pathology and audiology, for which there are penalties; amending s. 468.1655, F.S.; updating the definition of "department"; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.203, F.S.; revising definitions applicable to regulation of occupational therapy; amending s. 468.205, F.S.; replacing the Occupational Therapy Council with a Board of Occupational Therapy Practice; providing for qualifications, appointments, and terms of board members; providing for the filling of vacancies on the board; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; requiring documentation of continuing education for certain applicants; amending s. 468.211, F.S.; providing a restriction on the number of times an applicant may fail the examination and requiring remediation after a certain number; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S.; repealing s. 468.362, F.S., relating to continuing education; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; updating the definition of "department"; revising terminology; revising approval of educational programs; eliminating annual continuing education requirements for certain persons; providing penalties; amending s. 478.42, F.S.; updating the definition of "department"; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending s. 478.46, F.S.; revising requirements relating to issuance of temporary permits; conforming a cross-reference and terminology; amending s. 478.47, F.S.; revising requirements for licensure by endorsement; amending s. 478.52, F.S.; prohibiting the operation of unlicensed electrolysis facilities; providing penalties; amending s. 480.033, F.S.; revising the definition of "board"; updating the definition of "department"; amending s. 480.034, F.S.; eliminating an exemption from regulation applicable to certain skin treatments and weight-loss programs; amending s. 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.041, F.S.; eliminating provisional licensure to practice massage therapy; amending s. 480.0415, F.S.; authorizing an increase in the number of classroom hours of continuing education that may be required for renewal of a license to practice massage therapy; amending s. 480.042, F.S.; revising what examinations must measure; repealing s. 480.0425, F.S., relating to inactive status; amending s. 480.043, F.S.; revising provisions relating to the transfer of licenses; amending s. 480.044, F.S.; revising provisions relating to fees; amending s. 480.047, F.S.; prohibiting the practice of massage therapy without a license unless exempted from licensure; creating s. 480.0485, F.S.; prohibiting sexual misconduct in the practice of massage therapy, for which there are disciplinary actions; amending s. 20.43, F.S., relating to the Department of Health; conforming terminology; updating a reference; amending s. 381.81, F.S., to conform; amending s. 483.800, F.S.; revising policy and purpose relating to regulation of clinical laboratory personnel; amending s. 483.801, F.S.; providing a regulatory exemption relating to advanced registered nurse practitioners; amending s. 483.803, F.S.; updating the definition of "department"; providing definitions; amending s. 483.809, F.S.; revising licensing provisions; authorizing an alternative examination for public health laboratory scientists; creating s. 483.812, F.S.; providing for licensure of public health laboratory scientists; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; providing a period for a conditional license; amending s. 483.823, F.S.; revising provisions relating to qualifications of clinical laboratory personnel; amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 483.828, F.S.; providing penalties for specified violations; amending s. 483.901, F.S., the "Florida Medical Physicists Act"; providing that the Advisory Council of Medical Physicists is an advisory rather than a regulatory body; increasing the number and terms of council members; clarifying initial and other appointment provisions; revising provisions relating to council meetings; revising licensure requirements; clarifying that the required continuing education hours are to be satisfied biennially and that the organizations providing such education must be approved by the Department of Health; revising and providing grounds for disciplinary action; revising and providing criminal acts; providing an administrative fine; providing penalties; eliminating a provision authorizing a licensure exception; amending s. 484.041, F.S.; updating the definition of "department"; amending s. 484.042, F.S.; updating a reference, to conform; amending s. 484.051, F.S.; updating a reference, to conform; amending s. 486.021, F.S.; updating the definition of "department"; amending s. 486.023, F.S.; changing the membership of the Board of Physical Therapy Practice; amending ss. 486.031 and 486.081, F.S.; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending s. 486.041, F.S.; revising provisions relating to applying for a license as a physical therapist and to the fee therefor; amending s. 486.051, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist; amending s. 486.102, F.S.; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.103, F.S.; revising provisions relating to applying for a license as a physical therapist assistant and to the fee therefor; amending s. 486.104, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist assistant; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice

of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; providing for recovery of the actual costs of investigation and prosecution; amending s. 641.495, F.S.; requiring a health maintenance organization to designate as medical director a state-licensed physician or osteopathic physician; amending s. 468.1645, F.S.; revising provisions that exempt from licensure requirements administrators of nursing homes operated by and for persons who rely upon treatment by spiritual means through prayer; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendment which was adopted:

Amendment 1—On page 126, lines 20-26, delete those lines and insert: *pharmacist members one must be currently engaged in the practice of pharmacy in a community pharmacy, one must be currently engaged in the practice of pharmacy in a Class II institutional pharmacy or a Modified Class II institutional pharmacy, and five shall be pharmacists licensed in this state*

Senator Grant moved the following amendment:

Amendment 2 (with title amendment)—On page 245, between lines 27 and 28, insert:

Section 187. *(1) There is created within the Department of Health a Task Force on Exemptions from Licensure under section 468.505(1)(k), Florida Statutes. The Department of Health shall provide staff support for the task force. The task force shall consist of not more than 15 members nominated by the associations and entities named in this section and appointed by the Secretary of Health. Members of the task force shall not receive compensation, per diem, or reimbursement for travel expenses for service on the task force. Participation in the task force is optional and at the discretion of each identified group or entity. If all identified groups and entities participate, the task force shall include:*

(a) One representative from each of the following associations:

1. The Florida Dietetic Association.

2. The Florida Health Care Association.

3. The Florida Association of Homes for the Aging.

4. The Florida Assisted Living Association.

5. The Florida League of Health Systems.

6. The Association of Community Hospitals and Health Systems of Florida, Inc.

7. The Florida Hospital Association.

8. The Florida Medical Association.

9. The Florida Osteopathic Medical Association.

(b) One representative from each of the following entities:

1. The Department of Health.

2. The Dietetics and Nutrition Practice Council.

3. The Board of Medicine, which representative must be a member of the board who is licensed under chapter 458, Florida Statutes.

4. The Board of Osteopathic Medicine, which representative must be a member of the board who is licensed under chapter 459, Florida Statutes.

5. The Department of Elderly Affairs.

6. The Agency for Health Care Administration.

(2) The task force shall hold its first meeting no later than August 1, 1997, and shall report its findings to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the applicable legislative committees of substance not later than December 31, 1997. All task force meetings must be held in Tallahassee at the Department of Health in order to minimize costs to the state.

(3) The task force shall be charged with the responsibility to:

(a) Determine the number of licensed dietitians, the number of registered dietitians, and the number of dietitians who are neither licensed nor registered who are employed by or under contract with a hospital licensed under chapter 395, Florida Statutes, a nursing home or assisted living facility licensed under part II or part III of chapter 400, Florida Statutes, or a continuing care facility certified under chapter 651, Florida Statutes; and

(b) Assess the need and make recommendations for retaining the exemptions from licensure under section 468.505(1)(k), Florida Statutes, in light of the legislative purpose and intent of licensure as set forth in section 468.502, Florida Statutes, and review the quality of dietetic and nutrition services provided in the settings set forth in section 468.505(1)(k), Florida Statutes.

(4) The task force is dissolved effective January 1, 1998.

(Renumber subsequent section.)

And the title is amended as follows:

On page 15, line 5, after the semicolon (;) insert: creating a Task Force on Exemptions from Licensure under s. 468.505(1)(k), F.S., which exempts certain persons employed by a hospital, nursing home, assisted living facility, or continuing care facility; providing for membership and meetings of the task force, including place of meetings; requiring a report to certain legislative leaders; providing responsibilities of the task force; providing for dissolution of the task force;

On motion by Senator Jones, further consideration of **CS for CS for SB 1814** with pending **Amendment 2** was deferred.

THE PRESIDENT PRESIDING

On motion by Senator Rossin—

CS for SB 1836—A bill to be entitled An act relating to assisted living facilities; suspending provisions of s. 400-4075, F.S., and ch. 58A-5.029, F.A.C.; amending s. 400.402, F.S.; revising definitions; providing additional definitions; amending s. 400.407, F.S.; revising requirements for monitoring visits conducted by a representative of the Agency for Health Care Administration; revising requirements for admitting an individual to a facility that provides extended congregate care services; deleting an additional license fee assessed against facilities that provide limited mental health services; amending s. 400.4075, F.S.; revising requirements for a facility in obtaining a limited mental health license; requiring a facility that holds a limited mental health license to maintain a copy of the community living support plan and a cooperative agreement for each mental health resident and verify that such resident meets certain requirements; amending s. 400.426, F.S.; revising provisions to reflect the transfer of certain duties to the Department of Children and Family Services; providing that an assessment completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills certain requirements for a medical examination; requiring certain documentation for a mental health resident who resides in an assisted living facility that holds a limited mental health license; providing for an evaluation of a mental health resident in certain instances; amending s. 394.455, F.S.; revising provisions to reflect the transfer of duties to the Department of Children and Family Services; creating s. 394.4574, F.S.; providing requirements under the Baker Act for the Department of Children and Family Services with respect to a mental health resident who resides in an assisted living facility that holds a limited mental health license; Providing the department with certain responsibilities related to a mental health resident; amending s. 409.912, F.S.; requiring an entity that provides Medicaid prepaid health services to coordinate health care services with an assisted living facility in certain instances; requiring a workgroup to be established; requiring a report; providing an effective date.

—was read the second time by title.

The Committee on Health Care recommended the following amendment which was moved by Senator Rossin and failed:

Amendment 1—On page 22, line 15, delete "*s. 400.420*" and insert: *s. 400.402*

Senator Rossin moved the following amendment:

Amendment 2 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *The provisions of section 400.4075, Florida Statutes, 1996 Supplement, and Rule 58A-5.029, Florida Administrative Code, are hereby suspended and shall not be enforced by the Department of Elderly Affairs or the Agency for Health Care Administration until July 1, 1997.*

Section 2. Present subsections (9), (10), (11), (12), (13), (14), (16), (17), (18), (19), (21), (22), (23), (24), (25), and (26) of section 400.402, Florida Statutes, are renumbered as subsections (11), (12), (13), (14), (15), (16), (18), (19), (20), (21), (23), (24), (25), (26), (27), and (28), respectively, present subsection (15) is renumbered as subsection (17) and amended, present subsection (20) is renumbered as subsection (22) and amended, and new subsections (9) and (10) are added to that section, to read:

400.402 Definitions.—When used in this part, unless the context otherwise requires, the term:

(9) "Community living support plan" means a written document prepared by a mental health resident and the mental health case manager of that resident in consultation with the administrator of the facility or the administrator's designee. A copy must be provided to the administrator. The plan must include information about the supports, services, and special needs of the resident which enable the resident to live in the assisted living facility.

(10) "Cooperative agreement" means a written statement of understanding between a mental health care services provider and the administrator of the assisted living facility with a limited mental health license in which a mental health resident is living. The agreement specifies directions for accessing emergency and after-hours care for the mental health resident and a method by which the staff of the facility can recognize and respond to the signs and symptoms particular to that mental health resident that indicate the need for professional services. The cooperative agreement may be a component of the community living support plan.

(17)~~(15)~~ "Mental health resident" means an individual who *receives social security disability income due to a mental disorder as determined by the Social Security Administration or receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation.*~~:~~

~~(a) Is a member of a specified population group having priority for district alcohol, drug abuse, and mental health services as provided in s. 394.75(4); and~~

~~(b) Has been determined to be in need of primary care services as provided in s. 394.675(1)(a).~~

(22)~~(20)~~ "Service plan" means a written plan, developed and agreed upon by the resident and, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact, if any, and the administrator or designee representing the facility, which addresses the unique physical and psychosocial needs, abilities, and personal preferences of each resident receiving extended congregate care services ~~or mental health services~~. The plan shall include a brief written description, in easily understood language, of what services shall be provided, who shall provide the services, when the services shall be rendered, and the purposes and benefits of the services.

Section 3. Paragraph (b) of subsection (1) and subsections (3) and (4) of section 400.407, Florida Statutes, are amended to read:

400.407 License required; fee, display.—

(1)

(b)1. Any person found guilty of violating paragraph (a) who, upon notification by the agency, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person found to be in violation of paragraph (a) due to a change in s. 400.402(3), *(18), (24), or (25)* ~~(16), (22), or (23)~~ or a modification in department policy pertaining to personal services as provided for in s. 400.402~~(16)~~ and who, upon notification by the agency, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Except as provided for in subparagraph 2., any person who violates paragraph (a) who previously operated a licensed facility or concurrently operates a licensed facility and an unlicensed facility commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Any person who fails to obtain a license after agency notification may be fined for each day of noncompliance pursuant to s. 400.419(1)(b).

5. When an owner has an interest in more than one facility, and fails to license any one of these facilities, the agency may revoke the license or impose a moratorium on any or all of the licensed facilities until such time as the delinquent facility is licensed.

6. If the agency determines that an owner is operating or maintaining a facility without obtaining a license authorizing such operation and determines that a condition exists in the facility that poses a threat to the health, safety, or welfare of a resident of the facility, the owner commits neglect as defined in s. 415.102 and is subject to the same actions and penalties specified in ss. 400.414 and 400.419 for a negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(3) Any license granted by the agency *must* ~~shall~~ state the maximum resident capacity of the facility, the type of care for which the license is granted, the date the license is issued, the expiration date of the license, and any other information deemed necessary by the agency. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health ~~services~~.

(a) A standard license shall be issued to facilities providing one or more of the services identified in s. 400.402~~(16)~~. Such facilities may also employ or contract with a person licensed under chapter 464 to administer medications and perform other tasks as specified in s. 400.4255.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including acts performed pursuant to chapter 464 by persons licensed thereunder, and supportive services ~~which may be~~ defined by rule to persons who otherwise would be disqualified from continued residence in a facility licensed under this part.

1. In order for extended congregate care services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of a facility. Such designation may be made at the time of initial licensure or biennial relicensure, or upon request in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide extended congregate care services *must* ~~shall~~ have maintained a standard license and *may* ~~shall~~ not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations *that* ~~which~~ were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards resulting in a requirement to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium on admissions or initiation of injunctive proceedings.

2. Facilities *that* ~~which~~ are licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit such facilities at least *two* ~~three~~ times a year to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with ~~applicable provisions of~~ this part and with ~~related~~ rules *that relate to extended congregate care. One of these visits may be in conjunction with the regular biennial survey.* The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that biennially inspects such facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the biennial inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. Before such decision is made, the agency shall consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency *may* ~~shall~~ not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

3. Facilities *that* ~~which~~ are licensed to provide extended congregate care services shall:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment *that* ~~which~~ promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency, as necessary.

d. Adopt and follow policies and procedures *that* ~~which~~ maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place to the extent possible, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, either directly or through contract, the services of a person licensed pursuant to chapter 464.

h. In addition to the training mandated in s. 400.452, provide specialized training as defined by rule for facility staff.

4. Facilities licensed to provide extended congregate care services *are* ~~shall be~~ exempt from the criteria for continued residency as set forth in *rules adopted under* ~~rule pursuant to~~ s. 400.441~~(1)(h)~~. Facilities so licensed shall adopt their own requirements within guidelines for continued residency set forth by the department in rule. However, such facilities *may* ~~shall~~ not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services shall provide each resident with a written copy of facility policies governing admission and retention.

5. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility. ~~and either:~~

~~a. Transfers from a facility with a standard license; or~~

~~b. Transfers from another facility licensed to provide extended congregate care services.~~

6. Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination as provided in s. 400.426(4) and the facility must develop a preliminary service plan for the individual.

7. When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 400.428(1)(k).

8. Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

9. No later than January 1 of each year, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairmen of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The status report must include, but need not be limited to, the following information:

a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.

b. The number and characteristics of residents receiving such services.

c. The types of services rendered that could not be provided through a standard license.

d. An analysis of deficiencies cited during biennial inspections.

e. The number of residents who required extended congregate care services at admission and the source of admission.

f. Recommendations for statutory or regulatory changes.

g. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.

h. Such other information as the department considers appropriate.

(c) A limited nursing services license shall be issued to a facility *that* ~~which~~ provides services beyond those authorized in paragraph (a) and as specified in this paragraph.

1. In order for limited nursing services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided. Such designation may be made at the time of initial licensure or biennial relicensure, or upon request in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide limited nursing services shall have maintained a standard license and *may* ~~shall~~ not have been subject to administrative sanctions *that* ~~which~~ affect the health, safety, and welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.

2. Facilities *that* ~~which~~ are licensed to provide limited nursing services shall maintain a written progress report on each person who receives such nursing services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse representing the agency shall visit such facilities at least once a year to monitor residents who are receiving limited nursing services and to determine if the facility is in compliance with applicable provisions of this part and with related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall also serve as part of the team that biennially inspects such facility.

3. A person who receives limited nursing services under this part must meet the admission criteria established by the agency for assisted living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 400.428(1)(k), unless the facility is licensed to provide extended congregate care services.

(4)(a) The biennial license fee required of a facility is $240 per license, with an additional fee of $30 per resident based on the total licensed resident capacity of the facility, except that no additional fee will be assessed for beds designated for recipients of optional state supplementation payments provided for in s. 409.212. The total fee *may* ~~shall~~ not exceed $10,000, no part of which shall be returned to the facility. ~~Effective July 1, 1995,~~ The agency shall adjust the per bed license fee and the total licensure fee annually by not more than the change in the consumer price index based on the 12 months immediately preceding the increase.

(b) In addition to the total fee assessed under paragraph (a), the agency shall require facilities that are licensed to provide extended congregate care services under this part to pay an additional fee per licensed facility. The amount of the biennial fee shall be $400 per license, no part of which shall be returned to the facility. ~~Beginning July 1, 1990,~~ The agency may adjust the annual license fee once each year by not more than the average rate of inflation for the 12 months immediately preceding the increase.

(c) In addition to the total fee assessed under paragraph (a), the agency shall require facilities that are licensed to provide limited nursing services under this part to pay an additional fee per licensed facility. The amount of the biennial fee shall be $200 per license, with an additional fee of $10 per resident based on the total licensed resident capacity of the facility. The total biennial fee *may* ~~shall~~ not exceed $2,000, no part of which shall be returned to the facility. ~~Beginning July 1, 1990,~~ The agency may adjust the $200 biennial license fee and the maximum total license fee once each year by not more than the average rate of inflation for the 12 months immediately preceding the increase.

~~(d) In addition to the total fee assessed under paragraph (a), the agency shall require that facilities designated to provide limited mental health services under this part pay an additional fee per licensed facility. The biennial fee shall be $200 per facility with an additional fee of $10 per resident based on the capacity of the facility for limited mental health services. The total fee shall not exceed $1,000, no part of which shall be returned to the facility. Beginning July 1, 1990, the agency may adjust the $200 biennial license fee and the maximum total license fee once each year by not more than the average rate of inflation for the 12 months immediately preceding the increase.~~

Section 4. Section 400.4075, Florida Statutes, 1996 Supplement, is amended to read:

400.4075 Limited mental health license.—*An assisted living facility that serves three or more mental health residents must obtain a limited mental health license.*

(1) To obtain a limited mental health license, a facility must hold a standard license as an assisted living facility and must ensure that, within 6 months after receiving a limited mental health license, the facility administrator and the staff of the facility who are in direct contact with mental health residents must complete training of no less than 6 hours related to their duties. This training will be provided by or approved by the Department of Children and Family Services. ~~A limited mental health license shall be issued to facilities that provide services to mental health residents who meet the criteria of s. 400.402(15).~~

~~(1) In order for services to be provided to mental health residents in a facility licensed under this part, the agency shall first determine that all requirements established in law and rule are met and shall specifically designate, on the facility's license, that services may be provided to mental health residents, and shall designate the number of such residents who may receive services. Such designation may be made at the time of initial licensure or biennial relicensure, or if requested in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide services to such residents shall meet the licensing standards in this section and shall not have been subject to administrative sanctions which affect the health, safety, or welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.~~

(2) Facilities licensed to provide services to mental health residents shall provide appropriate supervision and staffing~~, as defined by rule,~~ to provide for the health, safety, and welfare of such residents.

(3) A facility that has a limited mental health license must:

(a) Have a copy of each mental health resident's community living support plan and the cooperative agreement with the mental health care services provider. The support plan and the agreement may be combined.

(b) Have documentation that is provided by the Department of Children and Family Services that each mental health resident has been assessed and determined to be able to live in the community in an assisted living facility with a limited mental health license.

(c) Make the community living support plan available for inspection by the resident, the resident's legal guardian, the resident's health care surrogate, and other individuals who have a lawful basis for reviewing this document.

(d) Assist the mental health resident in carrying out the activities identified in the individual's community living support plan.

(4) A facility with a limited mental health license may enter into a cooperative agreement with a private mental health provider. For purposes of the limited mental health license, the private mental health provider may act as the case manager.

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

(a) "Bribe" means any consideration corruptly given, received, promised, solicited, or offered to any individual with intent or purpose to influence the performance of any act or omission.

(b) "Kickback" means that part of the payment for items or services which is returned to the payor by the provider of such items or services with the intent or purpose to induce the payor to purchase the items or services from the provider.

(6)(a) Whoever furnishes items or services directly or indirectly to a mental health resident and solicits, offers, or receives any:

1. Kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment; or

2. Return of part of an amount given in payment for referring any such individual to another person for the furnishing of such items or services; or

(b) Whoever pays or receives any commission, bonus, kickback, or rebate, or engages in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for mental health residents referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by fine not exceeding $5,000, or both.

(c) This section may not be construed to prevent a physician from receiving a fee for professional consultation services.

~~(3) In addition to the training as provided in s. 400.452, staff in facilities that are authorized to provide services to mental health residents shall receive training, as defined by rule, on the special needs of such residents.~~

~~(4) Facilities designated to provide services to mental health residents may not have more than the maximum resident capacity for the facility.~~

~~(5) A mental health resident who receives services under this part shall meet the admission criteria established by the department for assisted living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 400.428(1)(k).~~

~~(6) An assisted living facility serving mental health residents under this part shall have on file for each mental health resident a written mental health plan. The plan shall be open and available for inspection by the resident, the resident's legal guardian, if any, the resident's health care surrogate, if any, and all other entities or individuals having lawful access to such records. The department shall establish standards regarding the format and content of such plans.~~

~~(7) Facilities licensed to provide services to mental health residents under this part shall be required to have a written agreement with the nearest publicly funded community facility as defined in s. 394.455 or a licensed mental health professional designated by the district alcohol, drug abuse, and mental health program office. The agreement shall specify the manner in which the clinical mental health services that are included in residents' mental health plans shall be accessed and delivered.~~

Section 5. Subsections (1), (4), (6), (7), and (8) of section 400.426, Florida Statutes, 1996 Supplement, are amended to read:

400.426 Appropriateness of placements; examinations of residents.—

(1) The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility. A determination shall be based upon an assessment of the strengths, needs, and preferences of the resident, the care and services offered or arranged for by the facility in accordance with facility policy, and any limitations in law or rule related to admission criteria or continued residency for the type of license held by the facility under this part. A resident may not be moved from one facility to another without consultation with and agreement from the resident or, if applicable, the resident's representative or designee or the resident's family, guardian, surrogate, or attorney in fact. In the case of a resident who has been placed by the department or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the administrator must notify the appropriate contact person in the applicable department.

(4) *If* ~~Where~~ possible, each resident shall have been examined by a licensed physician or a licensed nurse practitioner within 60 days before admission to the facility. The signed and completed medical examination report shall be submitted to the owner or administrator of the facility who shall *use* ~~utilize~~ the information contained therein to assist in the determination of the appropriateness of the resident's admission and continued stay in the facility. The medical examination report shall become a permanent part of the record of the resident at the facility and shall be made available to the agency during inspection or upon request. *An assessment that has been completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills the requirements for a medical examination under this subsection and s. 400.407(3)(b)6.*

(6) Any resident accepted in a facility and placed by the department or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall have been examined by medical personnel within 30 days before placement in the facility. The examination shall include an assessment of the appropriateness of placement in a facility. The findings *of this* ~~pursuant to such~~ examination shall be recorded on the examination form provided by the agency. The completed form shall accompany the resident and shall be submitted to the facility owner or administrator. *Additionally, in the case of a mental health resident, the Department of Children and Family Services must provide documentation that the individual has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse, or an individual who is supervised by one of these professionals, and determined to be appropriate to reside in an assisted living facility. The documentation must be in the facility within 30 days after the mental health resident has been admitted to the facility. An evaluation completed upon discharge from a state mental hospital meets the requirements of this subsection related to appropriateness for placement as a mental health resident providing it was completed within 90 days prior to admission to the facility.* ~~In addition, any resident placed by the department or the Department of Health and Rehabilitative Services who is a mental health resident shall also be evaluated by a mental health professional, as defined in s. 394.455(2), (4), (20), (22), or (23), to assess the resident's appropriateness for placement in a facility.~~ The applicable department shall provide to the facility administrator any information about the resident that would help the administrator meet his or her responsibilities under subsection (1). Further, department personnel shall explain to the facility operator any special needs of the resident and advise the operator whom to call should problems arise. The applicable department shall advise and assist the facility administrator where the special needs of residents who are recipients of optional state supplementation require such assistance.

(7) The Department of *Children and Family* ~~Health and Rehabilitative~~ Services may require an examination for supplemental security income and optional state supplementation recipients residing in facilities at any time and shall provide *the* ~~such~~ examination whenever a resident's condition requires it. Any facility administrator; personnel of the agency, the department, or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services; or long-term care ombudsman council member who believes a resident needs to be evaluated shall notify the resident's case manager, who shall take appropriate action. A report of the examination findings shall be provided to the resident's case manager and the facility administrator to help the administrator meet his or her responsibilities under subsection (1).

(8) If, at any time after admission to a facility, a resident appears to need care beyond that which the facility is licensed to provide, the agency shall require the resident to be physically examined by a licensed physician or licensed nurse practitioner. *This* ~~or evaluated by an appropriate mental health professional, as defined in s. 394.455(2), (4), (20), (22), or (23); such~~ examination shall, to the extent possible, be performed by the resident's preferred physician or nurse practitioner ~~or mental health professional~~ and shall be paid for by the resident with personal funds, except as provided in s. 400.418(1)(b). *Following this* ~~Pursuant to such~~ examination, the examining physician or licensed nurse practitioner shall complete and sign a medical form provided by the agency. The completed medical form shall be submitted to the agency within 30 days *after* ~~from~~ the date the facility owner or administrator is notified by the agency that the physical examination is required. After consultation with the physician or licensed nurse practitioner who performed the examination, a medical review team designated by the agency shall then determine whether the resident is appropriately residing in the facility. The medical review team shall base its decision on a comprehensive review of the resident's physical and functional status, including the resident's preferences, and not on an isolated health-related problem. *In the case of a mental health resident, if the resident appears to have needs in addition to those identified in the community living support plan, the agency may require an evaluation by a mental health professional, as determined by the Department of Children and Family Services.* A facility *may* ~~must~~ not be required to retain a resident who requires more services or care than the facility is able to provide in accordance with its policies and criteria for admission and continued residency. Members of the medical review team making the final determination *may* ~~shall~~ not include the agency personnel who initially questioned the appropriateness of a resident's placement. Such determination *is* ~~shall be~~ final and binding upon the facility and the resident. Any resident who is determined by the medical review team to be inappropriately residing in a facility shall be given 30 days' written notice to relocate by the owner or administrator, unless the resident's continued residence in the facility presents an imminent danger to the health, safety, or welfare of the resident or a substantial probability exists that death or serious physical harm would result to the resident if allowed to remain in the facility.

Section 6. Paragraph (k) of subsection (1) of section 400.628, Florida Statutes, is amended to read:

400.628 Residents' bill of rights.—

(1) A resident of an adult family-care home may not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the State Constitution, or the Constitution of the United States solely by reason of status as a resident of the home. Each resident has the right to:

(k) Be free from chemical and physical restraints ~~except as ordered by a physician~~.

Section 7. *The Department of Elderly Affairs, in conjunction with the Department of Health, the Agency for Health Care Administration, the Board of Nursing, the Board of Pharmacy, and the Department of Education and in cooperation with the Florida Health Care Association, the Florida Association of Homes for the Aged and the Florida Assisted Living Association, shall study and report to the Legislature, no later than January 1, 1998, concerning:*

(1) The need for certified medication technicians and the expected impact of the use of these technicians in assisted living facilities;

(2) A determination as to whether statutory revision is necessary to implement a program for medication technicians, and if so, recommended statutory language;

(3) A training course for certified medication technicians, and a plan for making this certification course available throughout the state; and

(4) A process for the certification of medication technicians, including the entity responsible for this certification.

Section 8. Subsections (8) and (28) of section 394.455, Florida Statutes, 1996 Supplement, are amended to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(8) "Department" means the Department of *Children and Family* ~~Health and Rehabilitative~~ Services.

(28) "Secretary" means the Secretary of *Children and Family* ~~Health and Rehabilitative~~ Services.

Section 9. Section 394.4574, Florida Statutes, is created to read:

394.4574 Department responsibilities for a mental health resident who resides in an assisted living facility that holds a limited mental health license.—

(1) The term "mental health resident," for purposes of this section, means an individual who receives social security disability income due to a mental disorder as determined by the Social Security Administration or receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation.

(2) The department must ensure that:

(a) A mental health resident has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse, or an individual who is supervised by one of these professionals, and determined to be appropriate to reside in an assisted living facility. The documentation must be provided to the administrator of the facility within 30 days after the mental health resident has been admitted to the facility. An evaluation completed upon discharge from a state mental hospital meets the requirements of this subsection related to appropriateness for placement as a mental health resident if it was completed within 90 days prior to admission to the facility.

(b) A cooperative agreement, as required in s. 400.4075, is developed between the mental health care services provider that serves a mental health resident, and the administrator of the assisted living facility with a limited mental health license in which the mental health resident is living. Any entity that provides Medicaid prepaid health plan services shall ensure the appropriate coordination of health care services with an assisted living facility in cases where a Medicaid recipient is both a member of the entity's prepaid health plan and a resident of the assisted living facility. If the entity is at risk for Medicaid targeted case management and behavioral health services, the entity shall inform the assisted living facility of the procedures to follow should an emergent condition arise.

(c) The community living support plan, as defined in s. 400.402, has been prepared by a mental health resident and a mental health case manager of that resident in consultation with the administrator of the facility or the administrator's designee. The plan must be provided to the administrator of the assisted living facility with a limited mental health license in which the mental health resident lives. The support plan and the agreement may be in one document.

(d) The assisted living facility with a limited mental health license is provided with documentation that the individual meets the definition of a mental health resident.

(e) The mental health services provider assigns a case manager to each mental health resident who lives in an assisted living facility with a limited mental health license. The case manager is responsible for coordinating the development of and implementation of the community living support plan defined in s. 400.402. The plan must be updated at least annually.

Section 10. Subsection (2) of section 409.212, Florida Statutes, is amended to read:

409.212 Optional supplementation.—

(2) The base rate of payment for optional state supplementation shall be established by the department within funds appropriated. Additional amounts may be provided for mental health residents in facilities designed to provide limited mental health services as provided for in *s. 400.4075* ~~s. 400.407(5)~~. The base rate of payment does not include the personal needs allowance.

Section 11. Subsection (34) is added to section 409.912, Florida Statutes, 1996 Supplement, to read:

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

(34) Any entity that provides Medicaid prepaid health plan services shall ensure the appropriate coordination of health care services with an assisted living facility in cases where a Medicaid recipient is both a member of the entity's prepaid health plan and a resident of the assisted living facility. If the entity is at risk for Medicaid targeted case management and behavioral health services, the entity shall inform the assisted living facility of the procedures to follow should an emergent condition arise.

Section 12. Subsection (2) of section 651.011, Florida Statutes, 1996 Supplement, is amended to read:

651.011 Definitions.—For the purposes of this chapter, the term:

(2) "Continuing care" or "care" means furnishing pursuant to an agreement shelter, food, and either nursing care or personal services as defined in s. 400.402~~(16)~~, whether such nursing care or personal services are provided in the facility or in another setting designated by the agreement for continuing care, to an individual not related by consanguinity or affinity to the provider furnishing such care, upon payment of an entrance fee. Other personal services provided shall be designated in the continuing care agreement. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party.

Section 13. Subsection (8) of section 651.118, Florida Statutes, 1996 Supplement, is amended to read:

651.118 Agency for Health Care Administration; certificates of need; sheltered beds; community beds.—

(8) A provider may petition the Agency for Health Care Administration to use a designated number of sheltered nursing home beds to provide extended congregate care as defined in s. 400.402~~(11)~~ if the beds are in a distinct area of the nursing home which can be adapted to meet the requirements for extended congregate care. The provider may subsequently use such beds as sheltered beds after notifying the agency of the intended change.

Section 14. *The Department of Children and Family Services, in cooperation with the Agency for Health Care Administration, shall establish a workgroup of interested parties, to include relevant state agencies, representatives of providers of mental health services, and owners and administrators of assisted living facilities, to develop criteria and recommend changes to the state contracting procurement process for the provision of state-funded substance abuse and mental health services to residents of assisted living facilities with a limited mental health license. Staff support will be provided by the Department of Children and Family*

Services. Participation in this workgroup will be at the expense of each individual except for representatives of state agencies, whose expenses must be covered by the agency for whom they work. The workgroup must report its findings and recommended changes to the Governor and the Legislature no later than January 1, 1998.

Section 15. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to assisted living; suspending provisions of s. 400.4075, F.S., and ch. 58A-5.029, F.A.C., relating to limited mental health licenses; amending s. 400.402, F.S.; revising definitions; providing additional definitions; amending s. 400.407, F.S.; correcting cross references; revising requirements for monitoring visits conducted by a representative of the Agency for Health Care Administration; revising requirements for admitting an individual to a facility that provides extended congregate care services; deleting an additional license fee assessed against facilities that provide limited mental health services; amending s. 400.4075, F.S.; revising requirements for a facility in obtaining a limited mental health license; requiring a facility that holds a limited mental health license to maintain a copy of the community living support plan and a cooperative agreement for each mental health resident and verify that such resident meets certain requirements; providing a criminal penalty for bribes and kickbacks; amending s. 400.426, F.S.; revising provisions to reflect the transfer of certain duties to the Department of Children and Family Services; providing that an assessment completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills certain requirements for a medical examination; requiring certain documentation for a mental health resident who resides in an assisted living facility that holds a limited mental health license; providing for an evaluation of a mental health resident in certain instances; amending s. 400.628, F.S.; prohibiting the use of restraints in adult family-care homes; requiring a study relating to certified medication technicians; requiring a report; amending s. 394.455, F.S.; revising definitions to reflect the transfer of duties to the Department of Children and Family Services; creating s. 394.4574, F.S.; providing requirements under the Baker Act for the Department of Children and Family Services with respect to a mental health resident who resides in an assisted living facility that holds a limited mental health license; providing certain department responsibilities related to a mental health resident; amending ss. 409.212, 651.011, and 651.118, F.S.; correcting cross references; amending s. 409.912, F.S.; requiring an entity that provides Medicaid prepaid health services to coordinate health care services with an assisted living facility in certain instances; requiring establishment of a workgroup on procurement of services for assisted living facilities with a limited mental health license; requiring a report; providing an effective date.

Senator Bankhead moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A—On page 15, line 9 through page 16, line 11, delete all of those lines

SENATOR HORNE PRESIDING

Senator Rossin moved the following amendment to **Amendment 2** which was adopted:

Amendment 2B (with title amendment)—On page 27, between lines 11 and 12, insert:

Section 15. Section 400.4178, Florida Statutes, is created to read:

400.4178 Special care for persons with Alzheimer's disease or other related disorders.—

(1) A facility which advertises that it provides special care for persons with Alzheimer's disease or other related disorders must meet the following standards of operation:

(a)1. If the facility has 17 or more residents, have an awake staff member on duty at all hours of the day and night; or

2. If the facility has fewer than 17 residents, have an awake staff member on duty at all hours of the day and night or have mechanisms in place to monitor and ensure the safety of the facility's residents.

(b) Offer activities specifically designed for persons who are cognitively impaired.

(c) Have a physical environment that provides for the safety and welfare of the facility's residents.

(d) Employ staff who have completed the training and continuing education required in subsection (2).

(2)(a) An individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, and who has regular contact with such residents, must complete up to 4 hours of initial dementia-specific training developed or approved by the department. The training shall be completed within 3 months after beginning employment and shall satisfy the core training requirements of s. 400.452(2)(g).

(b) A direct caregiver who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, and who provides direct care to such residents, must complete the required initial training and 4 additional hours of training developed or approved by the department. The training shall be completed within 9 months after beginning employment and shall satisfy the core training requirements of s. 400.452(2)(g).

(c) An individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with Alzheimer's disease or other related disorders, within 3 months after beginning employment.

(3) In addition to the training required under subsection (2), a direct caregiver must participate in a minimum of 4 contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training developed or approved by the department, in which the caregiver has not received previous training.

(4) Upon completing any training listed in subsection (2), the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The employee or direct caregiver must comply with other applicable continuing education requirements.

(5) The department, or its designee, shall approve the initial and continuing education courses and providers.

(6) The department shall keep a current list of providers who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with Alzheimer's disease or other related disorders.

(7) Any facility more than 90 percent of whose residents receive monthly optional supplementation payments is not required to pay for the training and education programs required under this section. A facility that has one or more such residents shall pay a reduced fee that is proportional to the percentage of such residents in the facility. A facility that does not have any residents who receive monthly optional supplementation payments must pay a reasonable fee, as established by the department, for such training and education programs.

(8) The department shall adopt rules to establish standards for trainers and training and to implement this section.

Section 16. Paragraph (g) is added to subsection (2) of section 400.452, Florida Statutes, to read:

400.452 Staff training and educational programs; core educational requirement.—

(2) The department shall also establish a core educational requirement to be used in these programs. Successful completion of the core educational requirement must include successful completion of a competency test. Programs must be provided by the department or by a pro-

vider approved by the department at least quarterly. The core educational requirement must cover at least the following topics:

(g) Alzheimer's disease and other related disorders.

(Renumber subsequent section.)

And the title is amended as follows:

On page 29, line 19, after the semicolon (;) insert: creating s. 400.4178, F.S.; providing standards for facilities that provide special care for persons with Alzheimer's disease and other related disorders; providing employee training requirements; providing continuing education requirements; providing for approval of education courses and providers; providing for fees; providing for rules; amending s. 400.452, F.S.; including education on Alzheimer's disease and related disorders in the core educational requirement for facility administrators and staff;

Senator Dyer moved the following amendment to **Amendment 2** which was adopted:

Amendment 2C (with title amendment)—On page 27, between lines 11 and 12, insert:

Section 15. Subsection (1) of section 430.502, Florida Statutes, is amended to read:

430.502 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(1) *There is established* ~~The Legislature shall fund~~:

(a) A memory disorder clinic at each of the three medical schools in this state;

(b) A memory disorder clinic at a major private nonprofit research-oriented teaching hospital, and may fund a memory disorder clinic at any of the other affiliated teaching hospitals;

(c) A memory disorder clinic at the Mayo Clinic in Jacksonville;

(d) A memory disorder clinic at the West Florida Regional Medical Center;

(e) The East Central Florida Memory Disorder Clinic at the Joint Center for Advanced Therapeutics and Biomedical Research of the Florida Institute of Technology and Holmes Regional Medical Center, Inc.; ~~and~~

(f) A memory disorder clinic at the Orlando Regional Healthcare System, Inc.; and

(g)~~(f)~~ A memory disorder center located in a public hospital that is operated by an independent special hospital taxing district that governs multiple hospitals and is located in a county with a population greater than 800,000 persons,

for the purpose of conducting research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. However, memory disorder clinics funded as of June 30, 1995, shall not receive decreased funding due solely to subsequent additions of memory disorder clinics in this subsection.

(Renumber subsequent section.)

And the title is amended as follows:

On page 29, line 19, after the second semicolon (;) insert: amending s. 430.502, F.S.; revising provisions relating to establishing memory disorder clinics; creating an additional clinic;

Senator Bankhead moved the following amendment to **Amendment 2** which was adopted:

Amendment 2D—In title, on page 28, lines 13 and 14, delete those lines and insert: requirements; amending s. 400.426,

Amendment 2 as amended was adopted.

Pursuant to Rule 4.19, **CS for SB 1836** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

On motion by Senator Hargrett, by two-thirds vote **CS for HB 95** was withdrawn from the Committees on Transportation; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Hargrett—

CS for HB 95—A bill to be entitled An act relating to records of the Department of Highway Safety and Motor Vehicles; amending s. 119.07, F.S.; providing an exemption from public records requirements, upon request by the subject, for personal identifying information in motor vehicle records; authorizing disclosure for specified uses; authorizing disclosure for any use with the consent of the subject; authorizing disclosure to certain entities for resale or redisclosure to persons authorized to receive such information and providing requirements with respect thereto; authorizing certain resale or redisclosure by authorized recipients of such information and requiring such persons to maintain records; providing for fees; authorizing the department to impose conditions upon requests for disclosure; amending s. 319.17, F.S., relating to indexes and records of motor vehicles and mobile homes, s. 319.25, F.S., relating to title records, s. 320.05, F.S., relating to registration records, and s. 322.20, F.S., relating to driver's license records, to conform; increasing the fees for providing certain transcripts or searching for certain records; providing a finding of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for CS for CS for SB's 2028 and 394** and read the second time by title.

Senator Hargrett moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (bb) is added to subsection (3) of section 119.07, Florida Statutes, 1996 Supplement, to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(3)

(bb) Upon a request made in a form designated by the Department of Highway Safety and Motor Vehicles, personal information contained in a motor vehicle record that identifies the requester is exempt from subsection (1) and s. 24(a), Art. I of the State Constitution except as provided in this paragraph. Personal information includes, but is not limited to, the requester's social security number, driver identification number, name, address, telephone number, and medical or disability information. For purposes of this paragraph, personal information does not include information relating to vehicular crashes, driving violations, and driver's status. Such request may be made only by the person who is the subject of the motor vehicle record. For purposes of this paragraph, "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles. Personal information contained in motor vehicle records exempted by an individual's request pursuant to this paragraph shall be released by the department for any of the following uses:

1. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and removal of nonowner records from the original owner records of motor vehicle manufacturers, to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

2. For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions.

3. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor

vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers.

4. For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

a. To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

b. If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

5. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or agency or before any self-regulatory body for:

a. Service of process by any certified process server, special process server, or other person authorized to serve process in this state.

b. Investigation in anticipation of litigation by an attorney licensed to practice law in this state or the agent of the attorney.

c. Investigation by any person in connection with any filed proceeding.

d. Execution or enforcement of judgments and orders.

e. Compliance with an order of any court.

6. For use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

7. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting.

8. For use in providing notice to the owners of towed or impounded vehicles.

9. For use by any licensed private investigative agency or licensed security service for any purpose permitted under this paragraph. Personal information obtained based on an exempt driver's record may not be provided to a client who cannot demonstrate a need based on a police report, court order, or a business or personal relationship with the subject of the investigation.

10. For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App. 2710 et seq.

11. For use in connection with the operation of private toll transportation facilities.

12. For bulk distribution for surveys, marketing, or solicitations when the department has implemented methods and procedures to ensure that:

a. Individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

b. The information will be used, rented, or sold solely for bulk distribution for survey, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have timely requested that they not be directed at them.

13. For any use if the requesting person demonstrates that he or she has obtained the written consent of the person who is the subject of the motor vehicle record.

14. For any other use specifically authorized by state law, if such use is related to the operation of a motor vehicle or public safety.

Personal information exempted from public disclosure according to this paragraph may be disclosed by the Department of Highway Safety and Motor Vehicles to an individual, firm, corporation, or similar business entity whose primary business interest is to resell or redisclose the personal information to persons who are authorized to receive such information. Prior to the department's disclosure of personal information, such individual, firm, corporation, or similar business entity must first enter into a contract with the department regarding the care, custody, and control of the personal information to ensure compliance with the federal Driver's Privacy Protection Act of 1994 and applicable state laws. An authorized recipient of personal information contained in a motor vehicle record, except a recipient under subparagraph 12., may contract with the Department of Highway Safety and Motor Vehicles to resell or redisclose the information for any use permitted under this paragraph. However, only authorized recipients of personal information under subparagraph 12. may resell or redisclose personal information pursuant to subparagraph 12. Any authorized recipient who resells or rediscloses personal information shall maintain, for a period of 5 years, records identifying each person or entity that receives the personal information and the permitted purpose for which it will be used. Such records shall be made available for inspection upon request by the department. The department shall adopt rules to carry out the purposes of this paragraph and the federal Driver's Privacy Protection Act of 1994, Title XXX, Pub. L. No. 103-322. Rules adopted by the department shall provide for the payment of applicable fees and, prior to the disclosure of personal information pursuant to this paragraph, shall require the meeting of conditions by the requesting person for the purposes of obtaining reasonable assurance concerning the identity of such requesting person, and, to the extent required, assurance that the use will be only as authorized or that the consent of the person who is the subject of the personal information has been obtained. Such conditions may include, but need not be limited to, the making and filing of a written application in such form and containing such information and certification requirements as the department requires.

Section 2. Subsection (3) of section 319.17, Florida Statutes, is amended to read:

319.17 Rules; forms; indexes and records.—

(3) The department shall maintain indexes of motor vehicles and mobile homes by name of owner, by title number, and by manufacturer's motor number or vehicle identification number. The department shall keep a permanent record of notices of liens and satisfactions thereof. Such indexes and records shall be open to the inspection of the public at all reasonable times*, except as provided in chapter 119.*

Section 3. Subsection (2) of section 319.25, Florida Statutes, is amended to read:

319.25 Cancellation of certificates.—

(2) The department is authorized, upon application of any person and payment of the proper fees, to prepare and furnish lists containing title information in such form as the department may authorize, to search the records of the department and make reports thereof, and to make photographic copies of the department records and attestations thereof*, except as provided in chapter 119.*

Section 4. Section 320.05, Florida Statutes, 1996 Supplement, is amended to read:

320.05 Records of the department; inspection procedure; lists and searches; fees.—

(1) Except as provided in s. 119.07(3), the department may release records as provided in this section.

(2)~~(1)~~ Upon receipt of an application for the registration of a motor vehicle or mobile home, as herein provided for, the department shall register the motor vehicle or mobile home under the distinctive number assigned to such motor vehicle or mobile home by the department, which registration record shall be open to the inspection of the public during business hours. Information on a motor vehicle registration may not be made available to a person unless the person requesting the information furnishes positive proof of identification. The agency that furnishes a motor vehicle registration record shall record the name and address of any person other than a representative of a law enforcement agency who requests and receives information from a motor vehicle registration record and shall also record the name and address of the person who is the subject of the inquiry or other information identifying the entity about

which information is requested. A record of each such inquiry must be maintained for a period of 6 months from the date upon which the information was released to the inquirer. Nothing in this section shall prohibit any financial institution, insurance company, motor vehicle dealer, licensee under chapter 493, attorney, or other agency which the department determines has the right to know from obtaining, for professional or business use only, information in such records from the department through any means of telecommunication pursuant to a code developed by the department providing all fees specified in subsection *(3)* ~~(2)~~ have been paid.

(3)~~(2)~~(a) The department is authorized, upon application of any person and payment of the proper fees, to prepare and furnish lists containing motor vehicle or vessel information in such form as the department may authorize, to search the records of the department and make reports thereof, and to make photographic copies of the department records and attestations thereof.

(b) Fees therefor shall be charged and collected as follows:

1. For providing lists of motor vehicle or vessel records for the entire state, or any part or parts thereof, divided according to counties, a sum computed at a rate of not less than 1 cent nor more than 5 cents per item.

2. For providing noncertified photographic copies of motor vehicle or vessel documents, $1 per page.

3. For providing noncertified photographic copies of micrographic records, $1 per page.

4. For providing certified copies of motor vehicle or vessel records, $3 per record.

5. For providing noncertified computer-generated printouts of motor vehicle or vessel records, 50 cents per record.

6. For providing certified computer-generated printouts of motor vehicle or vessel records, $3 per record.

7. For providing electronic access to motor vehicle, vessel, and mobile home registration data requested by tag, vehicle identification number, title number, or decal number, 50 cents per item.

8. For providing electronic access to driver's license status report by name, sex, and date of birth or by driver license number, 50 cents per item.

9. For providing lists of licensed mobile home dealers and manufacturers and recreational vehicle dealers and manufacturers, $15 per list.

10. For providing lists of licensed motor vehicle dealers, $25 per list.

11. For each copy of a videotape record, $15 per tape.

12. For each copy of the Division of Motor Vehicles Procedures Manual, $25.

(c) Fees collected pursuant to paragraph (b) shall be deposited into the Highway Safety Operating Trust Fund.

(d) The department shall furnish such information without charge to any court or governmental entity.

(e) When motor vehicle, vessel, or mobile home registration data is provided by electronic access through a tax collector's office, a fee for the electronic access is not required to be assessed. However, at the tax collector's discretion, a fee equal to or less than the fee charged by the department for such information may be assessed by the tax collector for the electronic access. Notwithstanding paragraph (c), any funds collected by the tax collector as a result of providing such access shall be retained by the tax collector.

(4)~~(3)~~ The department is authorized to reproduce such documents, records, and reports as required to meet the requirements of the law and the needs of the public, either by photographing, microphotographing, or reproducing on film the document, record, or report, or by using an electronic digitizing process capable of reproducing a true and correct image of the original source document. The photographs, microphotographs, or electronic digitized copy of any records made in compliance with the provisions of this section shall have the same force and effect as the originals thereof and shall be treated as originals for the purpose of their admissibility into evidence. Duly certified or authenticated reproductions of such photographs, microphotographs, or electronically digitized records shall be admitted into evidence equally with the original photographs, microphotographs, or electronically digitized records.

Section 5. Subsections (8), (9), (10), (11), (12), and (13) of section 322.20, Florida Statutes, 1996 Supplement, are renumbered as subsections (9), (10), (11), (12), (13), and (14), respectively, and amended, and a new subsection (8) is added to that section, to read:

322.20 Records of the department; fees; destruction of records.—

(8) Except as provided in s. 119.07(3), the department may release records as provided in this section.

(9)~~(8)~~ The department may, upon application, furnish to any person, from the records of the Division of Driver Licenses, a list of the names, addresses, and birth dates of the licensed drivers of the entire state or any portion thereof by age group. In addition, the department may furnish to the courts, for the purpose of establishing jury selection lists, the names, addresses, and birth dates of the persons of the entire state or any portion thereof by age group having identification cards issued by the department. Each person who requests such information shall pay a fee, set by the department, of 1 cent per name listed, except that the department shall furnish such information without charge to the courts for the purpose of jury selection or to any state agency or to any state attorney, sheriff, or chief of police. Such court, state agency, state attorney, or law enforcement agency may not sell, give away, or allow the copying of such information. Noncompliance with this prohibition shall authorize the department to charge the noncomplying court, state agency, state attorney, or law enforcement agency the appropriate fee for any subsequent lists requested. The department may adopt rules necessary to implement this subsection.

(10)~~(9)~~ The Division of Driver Licenses is authorized, upon application of any person and payment of the proper fees, to search and to assist such person in the search of the records of the department and make reports thereof and to make photographic copies of the departmental records and attestations thereof.

(11)~~(10)~~(a) The department is authorized to charge the following fees for the following services and documents:

1. For providing a transcript of any one individual's driver history record *or any portion thereof* for the past 3 years or for searching for such record when no record is found to be on file . . . . . *$2.10* ~~$2.00~~

2. For providing a transcript of any one individual's driver history record *or any portion thereof* for the past 7 years or for searching for such record when no record is found to be on file . . . . . *$3.10* ~~$3.00~~

3. For providing a certified copy of a transcript of the driver history record *or any portion thereof* for any one individual . . . . . *$3.10* ~~$3.00~~

4. For providing a certified photographic copy of a document, per page $1.00

5. For providing an exemplified record $15.00

6. For providing photocopies of documents, papers, letters, clearances, or license or insurance status reports, per page $0.50

7. For assisting persons in searching any one individual's driver record at a terminal located at the department's general headquarters in Tallahassee $2.00

(b) The department shall furnish such information without charge to any local, state, or federal law enforcement agency or court upon proof satisfactory to the department as to the purpose of the investigation.

(12)~~(11)~~ The fees collected under this section shall be placed in the Highway Safety Operating Trust Fund.

(13)~~(12)~~ The department is authorized in accordance with chapter 257 to destroy reports, records, documents, papers, and correspondence in the Division of Driver Licenses which are considered obsolete.

(14)~~(13)~~ The department is authorized to photograph, microphotograph, or reproduce on film such documents, records, and reports as it may select. The photographs or microphotographs in the form of film or print of any records made in compliance with the provisions of this section shall have the same force and effect as the originals thereof and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

Section 6. Subsection (15) is added to section 409.175, Florida Statutes, 1996 Supplement, to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.—

(15) The following information contained in the licensing file is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless otherwise ordered by the court: the home, business, work, childcare, or school addresses, floor plan of the home, telephone numbers, social security numbers, birthdates, neighbor references, and photographs of persons who are licensed under this section to be family foster parents and of their spouses, their minor children, and other adult household members, as well as identifying information in similar sensitive, personal information that is provided to the department by the foster parents, their spouses, their children, or other household members. This provision shall apply to all individuals who were foster parents and became adoptive parents. This subsection shall stand repealed October 2, 2002, unless reviewed and saved from repeal by the Legislature.

Section 7. *The Legislature finds that exempting from public records requirements personal information concerning persons who are licensed under section 409.175, Florida Statutes, to be family foster parents and their spouses, children, and other adult household members would reduce the risk that other individuals including parents or relatives could threaten, harass, or cause physical harm or other injury to foster children or their foster families. The Legislature finds that the availability to the public of personal and sensitive background information lessens the willingness of prospective caregivers to reveal sensitive information that is necessary in assessing the abilities of foster parents and making appropriate placements of children. The Legislature further finds that the availability to the public of such information has a negative effect on the recruitment and retention of foster parents.*

Section 8. *The Legislature finds that it is a public necessity that personal information in a person's motor vehicle record held by the Department of Highway Safety and Motor Vehicles be exempt from public disclosure. Limiting access to motor vehicle records will afford the public an added measure of protection by preventing individuals from obtaining for malicious purposes personal information contained in the state's motor vehicle records. Further, such an exemption will conform state law to the requirements of the federal Driver's Privacy Protection Act of 1994, which prohibits disclosure of such information of a sensitive, personal nature, with specified exceptions.*

Section 9. *If this act is adjudged to be unconstitutional on the ground that it relates to more than one subject, or for any other reason involving section 6 or 7 relating to s. 409.175, it is the intent of the Legislature that sections 6 and 7 be severed and that the remainder of the act become law.*

Section 10. This act shall take effect September 13, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public records requirements; amending s. 119.07, F.S.; providing an exemption from public records requirements, upon request by the subject, for personal identifying information in motor vehicle records; authorizing disclosure for specified uses; authorizing disclosure for any use with the consent of the subject; authorizing disclosure to certain entities for resale or redisclosure to persons authorized to receive such information and providing requirements with respect thereto; authorizing certain resale or redisclosure by authorized recipients of such information and requiring such persons to maintain records; providing for fees; authorizing the department to impose conditions upon requests for disclosure; amending s. 319.17, F.S., relating to indexes and records of motor vehicles and mobile homes, s. 319.25, F.S., relating to title records, and s. 320.05, F.S., relating to registration records; amending s. 322.20, F.S., to increase fees for services and documents and to conform; amending s. 409.175, F.S., exempting from s. 119.07(1), F.S., and from s. 24(a), Art. I of the State Constitution certain information contained in files that pertain to the licensure of family foster homes, residential child-caring agencies, and child-placing agencies; providing for repeal and for legislative review of the exemption; providing a rationale for the exemption; providing a finding of public necessity; providing severability; providing an effective date.

Senator Hargrett moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with title amendment)—On page 13, line 3 through page 14, line 26, delete sections 6, 7, 8, and 9 and insert:

Section 6. *The Legislature finds that it is a public necessity that personal information in a person's motor vehicle record held by the Department of Highway Safety and Motor Vehicles be exempt from public disclosure. Limiting access to motor vehicle records will afford the public an added measure of protection by preventing individuals from obtaining for malicious purposes personal information contained in the state's motor vehicle records. Further, such an exemption will conform state law to the requirements of the federal Driver's Privacy Protection Act of 1994, which prohibits disclosure of such information of a sensitive, personal nature, with specified exceptions.*

And the title is amended as follows:

On page 15, line 29 through page 16, line 8, delete those lines and insert: services and documents and to conform; providing a finding of public necessity; providing an

Amendment 1 as amended was adopted.

On motion by Senator Hargrett, by two-thirds vote **CS for HB 95** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Diaz-Balart	Jones	Rossin
Brown-Waite	Dudley	Kirkpatrick	Sullivan
Burt	Dyer	Klein	Thomas
Campbell	Forman	Kurth	Turner
Casas	Grant	Latvala	Williams
Childers	Gutman	Lee	
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Horne

On motion by Senator Rossin—

CS for SB 1288—A bill to be entitled An act relating to local government; amending s. 11.45, F.S.; revising provisions which provide requirements for annual financial audits of local governmental entities by independent certified public accountants; requiring the auditor to notify each member of the governing body of such an entity of certain deteriorating financial conditions; providing duties of the Auditor General upon identification of information in an audit report that indicates a local governmental entity may be in a state of financial emergency; amending s. 125.901, F.S.; correcting a reference; amending s. 165.041, F.S., relating to merger of local government entities, to conform; amending s. 189.403, F.S.; redefining "dependent special district" and defining "public facilities" under the Uniform Special District Accountability Act of 1989; providing that, for purposes of the ad valorem tax exemption for governmental units, special districts shall be treated as municipalities; providing for retroactive effect; amending s. 189.4031, F.S.; removing provisions relating to applicability to certain dependent special districts; requiring independent special district charters to contain certain information; amending s. 189.404, F.S.; deleting a requirement that the law creating an independent special district provide a method for dissolving the district; specifying that only the Legislature may create an independent special district, except as otherwise authorized by law;

requiring a status statement in a district charter; amending s. 189.4041, F.S.; providing requirements for creation of dependent special districts by county or municipal ordinance; amending s. 189.4042, F.S.; providing merger and dissolution requirements for special districts; repealing s. 189.4043, F.S., which provides special district dissolution procedures; amending s. 189.4044, F.S.; providing procedures and requirements for declaration that a district is inactive; amending s. 189.4045, F.S.; revising provisions relating to financial allocations upon merger or dissolution; amending s. 189.405, F.S.; revising election procedures and requirements for special districts; providing method of qualifying and providing for fees; amending s. 189.4051, F.S.; revising the special requirements and procedures for elections for districts with governing boards elected on a one-acre/one-vote basis; amending s. 189.412, F.S.; revising provisions relating to the duties of the Special District Information Program; removing the requirement for organization of a biennial conference; amending s. 189.415, F.S.; revising requirements relating to special districts' public facilities reports and providing for annual notice of changes thereto; amending s. 189.4155, F.S.; revising requirements relating to consistency of special district facilities with local government comprehensive plans and providing that such requirements do not apply to certain spoil disposal sites and ports; amending s. 189.416, F.S.; revising the time for designation of a registered office and agent; amending s. 189.417, F.S.; requiring publication of special district meeting schedules and revising requirements for filing such schedules; amending s. 189.421, F.S.; revising provisions relating to initiation of enforcement proceedings against districts that fail to file certain reports; amending s. 189.422, F.S.; revising provisions which authorize department action if a district is determined to be inactive or if failure to file reports is determined to be volitional; amending s. 189.425, F.S.; revising provisions relating to rulemaking authority; creating s. 189.428, F.S.; establishing an oversight review process for special districts and providing requirements with respect thereto; specifying who should carry out the review; providing review criteria; providing for a final report and providing requirements for a plan for merger or dissolution of a district under review; providing exemptions; requiring districts to submit a draft codified charter so that their special acts may be codified by the Legislature; amending s. 196.012, F.S.; revising provisions which specify when a governmental, municipal, or public purpose is deemed to be served by a lessee of government property for ad valorem tax exemption purposes; amending s. 196.199, F.S.; providing that all nonalienated or reversionary interests in governmental property which is subject to a leasehold or other possessory interest of a nongovernmental lessee shall be deemed to be used for a governmental, municipal, or public purpose or function; providing effective dates.

—was read the second time by title.

Amendments were considered to conform **CS for SB 1288** to **CS for HB 1683**.

Pending further consideration of **CS for SB 1288** as amended, on motion by Senator Rossin, by two-thirds vote **CS for HB 1683** was withdrawn from the Committees on Community Affairs; Rules and Calendar; and Ways and Means.

On motions by Senator Rossin, by two-thirds vote—

CS for HB 1683—A bill to be entitled An act relating to local government; amending s. 11.45, F.S.; revising provisions which provide requirements for annual financial audits of local governmental entities by independent certified public accountants; requiring the auditor to notify each member of the governing body of such an entity of certain deteriorating financial conditions; providing duties of the Auditor General upon identification of information in an audit report that indicates a local governmental entity may be in a state of financial emergency; amending s. 125.901, F.S.; correcting a reference; amending s. 165.041, F.S., relating to merger of local government entities, to conform; amending s. 189.403, F.S.; redefining "dependent special district" and defining "public facilities" under the Uniform Special District Accountability Act of 1989; providing that, for purposes of the ad valorem tax exemption for governmental units, special districts shall be treated as municipalities; providing for retroactive effect; amending s. 189.4031, F.S.; removing provisions relating to applicability to certain dependent special districts; requiring independent special district charters to contain certain information; amending s. 189.404, F.S.; deleting a requirement that the law creating an independent special district provide a method for dissolving the district; specifying that only the Legislature may create an independent special district, except as otherwise authorized by law; requiring a status statement in a district charter; amending s. 189.4041, F.S.; providing requirements for creation of dependent special districts by county or municipal ordinance; amending s. 189.4042, F.S.; providing merger and dissolution requirements for special districts; repealing s. 189.4043, F.S., which provides special district dissolution procedures; amending s. 189.4044, F.S.; providing procedures and requirements for declaration that a district is inactive; amending s. 189.4045, F.S.; revising provisions relating to financial allocations upon merger or dissolution; creating s. 189.4047, F.S.; providing for refund of special assessments levied by a dependent special district under certain conditions; providing for retroactive effect; amending s. 189.405, F.S.; revising election procedures and requirements for special districts; providing method of qualifying and providing for fees; amending s. 189.4051, F.S.; revising the special requirements and procedures for elections for districts with governing boards elected on a one-acre/one-vote basis; amending s. 189.412, F.S.; revising provisions relating to the duties of the Special District Information Program; removing the requirement for organization of a biennial conference; amending s. 189.415, F.S.; revising requirements relating to special districts' public facilities reports and providing for annual notice of changes thereto; amending s. 189.4155, F.S.; revising requirements relating to consistency of special district facilities with local government comprehensive plans and providing that such requirements do not apply to certain spoil disposal sites; providing that certain ports are deemed to be in compliance with said section; amending s. 189.416, F.S.; revising the time for designation of a registered office and agent; amending s. 189.417, F.S.; requiring publication of special district meeting schedules and revising requirements for filing such schedules; amending s. 189.421, F.S.; revising provisions relating to initiation of enforcement proceedings against districts that fail to file certain reports; amending s. 189.422, F.S.; revising provisions which authorize department action if a district is determined to be inactive or if failure to file reports is determined to be volitional; amending s. 189.425, F.S.; revising provisions relating to rulemaking authority; creating s. 189.428, F.S.; establishing an oversight review process for special districts and providing requirements with respect thereto; specifying who should carry out the review; providing review criteria; providing for a final report and providing requirements for a plan for merger or dissolution of a district under review; providing exemptions; requiring districts to submit a draft codified charter so that their special acts may be codified by the Legislature; amending s. 196.012, F.S.; revising provisions which specify when a governmental, municipal, or public purpose is deemed to be served by a lessee of government property for ad valorem tax exemption purposes; specifying additional activities that are deemed to serve such purposes; amending s. 200.069, F.S.; authorizing inclusion in the notice of proposed property taxes of a notice of adopted non-ad valorem assessments and providing requirements with respect thereto; providing effective dates.

—a companion measure, was substituted for **CS for SB 1288** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for HB 1683** was placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

CS for SB 508—A bill to be entitled An act relating to Medicaid provider agreements; amending s. 409.907, F.S.; requiring state and national criminal-history checks of those who apply to be providers; defining the term "applicant"; allowing the Agency for Health Care Administration to permit an applicant to become a provider pending the results of such checks, and to revoke permission in specified circumstances; providing exemptions from the background-screening requirements for certain providers and under certain circumstances; amending s. 409.920, F.S.; increasing the penalty for knowingly submitting false or misleading information to Medicaid for purposes of being accepted as a Medicaid provider; providing an effective date.

—was read the second time by title.

Senator Brown-Waite moved the following amendment:

Amendment 1 (with title amendment)—On page 2, line 7 through page 3, line 14, delete those lines and insert:

(8)(a) Each provider, or each principal of the provider if the provider is a corporation, partnership, association, or other entity, seeking to participate in the Medicaid program must submit a complete set of his or her

fingerprints to the agency for the purpose of conducting a criminal history record check. Principals of the provider include any officer, director, billing agent, managing employee, or affiliated person, or any partner or shareholder who has an ownership interest equal to 5 percent or more in the provider. This subsection shall not apply to:

1. A hospital licensed under chapter 395;

2. A nursing home licensed under chapter 400;

3. A hospice licensed under chapter 400.

(b) The agency shall submit the fingerprints to the Department of Law Enforcement. The department shall conduct a state criminal-background investigation and forward the fingerprints to the Federal Bureau of Investigation for a national criminal-history record check. The cost of the state and national criminal record check shall be borne by the provider.

(c) The agency may permit a provider to participate in the Medicaid program pending the results of the criminal record check. However, such permission is fully revocable if the record check reveals any crime-related history as provided in subsection (10).

(d) Proof of compliance with the requirements of level 2 screening under s. 435.04 conducted within 12 months prior to the date that the Medicaid provider application is submitted to the agency shall fulfill the requirements of this subsection. Proof of compliance with the requirements of level 1 screening under s. 435.03 conducted within 12 months prior to the date that the Medicaid provider application is submitted to the agency shall meet the requirement that the Department of Law Enforcement conduct a state criminal history record check.

(9)~~(8)~~ Upon receipt of a completed, signed, and dated application, and *completion of* ~~after~~ any necessary *background* investigation *and criminal history record check* ~~by the agency, which may include Florida Department of Law Enforcement background checks~~, the agency must either:

And the title is amended as follows:

On page 1, line 6, delete "defining the term 'applicant';"

Senator Gutman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 1, delete line 30 and insert:

3. A hospice licensed under chapter 400;

4. An assisted living facility licensed under chapter 400.

Senator Myers moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B—On page 1, between lines 30 and 31, insert:

4. A unit of local government, except that requirements of this subsection apply to nongovernmental providers and entities when contracting with the local government to provide Medicaid services. The actual cost of the state and national criminal history record checks must be borne by the nongovernmental provider or entity; or

Senator Bankhead moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with title amendment)—On page 1, line 27, after the period (.) insert: *However, a director of a not-for-profit corporation or organization is not a principal for purposes of a background investigation as required by this section if the director: serves solely in a voluntary capacity for the corporation or organization, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration from the not-for-profit corporation or organization for his or her service on the board of directors, has no financial interest in the not-for-profit corporation or organization, and has no family members with a financial interest in the not-for-profit corporation or organization; and if the director submits an affidavit, under penalty of perjury, to this effect to the agency and the not-for-profit corporation or organization submits an affidavit, under penalty of perjury, to this effect to the agency as part of the corporation's or organization's Medicaid provider agreement application. Notwithstanding the above, the agency may require a background check for any person reasonably suspected by the agency to have been convicted of a crime.*

And the title is amended as follows:

On page 3, line 2, insert: providing an exemption from a criminal history record check for directors of certain not-for-profit corporations or organizations;

Amendment 1 as amended was adopted.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 8, between lines 16 and 17, insert:

Section 3. *Subsection (31) of section 409.912, Florida Statutes, 1996 Supplement, is repealed.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 17, after the semicolon (;) insert: repealing s. 409.912(31), F.S., relating to Medicaid recipient selection of provider entities;

Pursuant to Rule 4.19, **CS for SB 508** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Forman, the Senate resumed consideration of—

CS for CS for SB 2142—A bill to be entitled An act relating to health quality assurance; amending s. 112.0455, F.S., relating to the Drug-Free Workplace Act; providing background screening requirements and standards for laboratories that perform tests; authorizing the use of certain body hair for drug testing; amending ss. 381.026, 381.0261, 383.302, 383.305, 390.011, 390.015, 391.206, 393.063, 393.0657, 394.4787, 394.67, 394.875, 394.876, 395.002, 395.0163, 395.0193, 395.0197, 395.0199, 400.071, 400.411, 400.414, 400.417, 400.4174, 400.4176, 400.461, 400.462, 400.464, 400.471, 400.474, 400.484, 400.487, 400.497, 400.506, 400.509, 400.512, 400.555, 400.606, 400.619, 400.801, 400.805, 408.033, 483.101, 483.106, 483.30, F.S.; creating ss. 381.60225, 395.0055, 400.5572, F.S.; transferring, renumbering, and amending ss. 626.941, 626.942, 626.943, 626.944, 626.945, F.S.; providing background screening requirements and standards for organ procurement organizations and tissue and eye banks, birth centers, abortion clinics, prescribed pediatric extended care centers, facilities for the developmentally disabled, facilities for treating alcohol and drug abuse and for mental health services, crisis stabilization units and residential treatment facilities, hospitals, private review agents, nursing homes and related facilities, assisted living facilities, direct-care employees, home health agencies, nurse registries, providers of certain home services, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, clinical laboratories, and multiphasic health testing centers; amending grounds for denial and revocation of licensure or registration for such entities; allowing limited reporting of certain confidential information relating to the internal risk management programs of hospitals and ambulatory surgical centers; transferring duties pertaining to health care risk management from the Insurance Commissioner to the Director for Health Care Administration; amending fees and procedures relating to qualifications for health care risk managers; amending the Florida patient's Bill of Rights and Responsibilities; providing information about filing complaints with licensing agencies; limiting applicability of the Patient's Bill of Rights to health care facilities licensed under ch. 395, F.S., that provide emergency care and outpatient care; imposing a fine on facilities for willful and nonwillful violations of the obligation to inform patients of their rights; requiring certain outpatient facilities to submit construction plans to the Agency for Health Care Administration for review; amending provisions relating to who must make application for licensure and for a certificate of exemption on behalf of a clinical laboratory; amending s. 394.4787, F.S.; relating to certain specialty psychiatric hospitals; conforming a cross-reference; deleting the definition of the terms "adverse or untoward incident" and "injury"; revising provisions relating to licensed facility peer review disciplinary actions against practitioners;

requiring reports to the Agency for Health Care Administration; providing penalties; revising provisions relating to internal risk management; defining the term "adverse incident"; requiring licensed facilities to make certain reports to the agency; providing an exemption from the Public Records Law; including minors in provisions relating to notification of sexual misconduct or abuse; requiring facility corrective-action plans; amending ss. 395.602, 395.701, 400.051, F.S., relating to rural hospitals, the Public Medical Assistance Trust Fund, and nursing homes; conforming cross-references; amending ss. 408.072, 409.905, 440.13, F.S., relating to hospital budget review, Medicaid services, and a worker's compensation definition, respectively; conforming cross-references and terms; amending ss. 458.331, 459.015, 468.505, F.S., relating to grounds for disciplinary action against allopathic physicians and osteopathic physicians and relating to restrictions on practice, service, or activities of allopathic physicians, osteopathic physicians, and other specified professionals; conforming provisions; repealing s. 455.239, F.S., relating to licensure requirements for designated health care services; amending ss. 641.55, 766.1115, F.S., relating to internal risk-management programs of health maintenance organizations and contract requirements for certain health care governmental contractors, respectively; conforming cross-references; transferring the health care risk manager licensure program from the Department of Insurance to the Agency for Health Care Administration; allocating positions to the Agency for Health Care Administration for specified purposes; providing appropriations from the Health Care Trust Fund; providing effective dates.

—which was previously considered and amended this day. Pending **Amendment 7A** by Senator Gutman was adopted.

Senator Myers moved the following amendment to **Amendment 7** which was adopted:

Amendment 7B (with title amendment)—On page 5, between lines 7 and 8, insert:

Section 3. Section 455.401, Florida Statutes, is created to read:

455.401 Intent.—It is the intent of the Legislature that all policymaking and rulemaking authority relating to health care practitioner regulation and the Division of Medical Quality Assurance belongs to the Department of Health, including consumer complaint, investigative, and prosecutorial services.

And the title is amended as follows:

On page 5, line 24, after the semicolon (;) insert: creating s. 455.401, F.S.; providing intent relating to health care practitioner regulation;

Amendment 7 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for SB 2142** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Burt—

CS for SB 918—A bill to be entitled An act relating to ad valorem taxation; amending s. 192.001, F.S.; defining the term "computer software" for purposes of imposing ad valorem taxes; specifying circumstances under which computer software constitutes personal property; amending s. 196.012, F.S.; redefining the term "educational institution," for purposes of the exemption of such institutions from ad valorem taxation, to include certain schools providing postgraduate dental education; providing for application of the act; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 3, between lines 6 and 7, insert:

Section 3. Section 196.195, Florida Statutes, is amended to read:

196.195 Determining profit or nonprofit status of applicant.—

(1) Applicants requesting exemption shall supply such fiscal and other records showing in reasonable detail the financial condition, record of operation, and exempt and nonexempt uses of the property, where appropriate, for the immediately preceding fiscal year as are requested by the property appraiser or the value adjustment board.

(2) In determining whether an applicant for a religious, literary, scientific, or charitable exemption under this chapter is a nonprofit or profitmaking venture or whether the property is used for a profitmaking purpose, the following criteria shall be applied:

(a) The reasonableness of any advances or payment directly or indirectly by way of salary, fee, loan, gift, bonus, gratuity, drawing account, commission, or otherwise (except for reimbursements of advances for reasonable out-of-pocket expenses incurred on behalf of the applicant) to any person, company, or other entity directly or indirectly controlled by the applicant or any officer, director, trustee, member, or stockholder of the applicant;

(b) The reasonableness of any guaranty of a loan to, or an obligation of, any officer, director, trustee, member, or stockholder of the applicant or any entity directly or indirectly controlled by such person, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the applicant;

(c) The reasonableness of any contractual arrangement by the applicant or any officer, director, trustee, member, or stockholder of the applicant regarding rendition of services, the provision of goods or supplies, the management of the applicant, the construction or renovation of the property of the applicant, the procurement of the real, personal, or intangible property of the applicant, or other similar financial interest in the affairs of the applicant;

(d) The reasonableness of payments made for salaries for the operation of the applicant or for services, supplies and materials used by the applicant, reserves for repair, replacement, and depreciation of the property of the applicant, payment of mortgages, liens, and encumbrances upon the property of the applicant, or other purposes; and

(e) The reasonableness of charges made by the applicant for any services rendered by it in relation to the value of those services, and, if such charges exceed the value of the services rendered, whether the excess is used to pay maintenance and operational expenses in furthering its exempt purpose or to provide services to persons unable to pay for the services.

(3) Each applicant must affirmatively show that no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.

(4) Notwithstanding the provisions of subsections (2) and (3), a corporation organized as nonprofit under chapter 617 which has a valid consumer certificate of exemption pursuant to s. 212.08(7)(o) and which has a valid exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code is nonprofit. Proof provided by a corporation of its status as described in this subsection shall be sufficient to establish the organization's nonprofit status and any corporation providing such proof is not required to provide any other information in order to establish its nonprofit status.

(5)~~(4)~~ No application for exemption may be granted for religious, literary, scientific, or charitable use of property until the applicant has been found by the property appraiser or, upon appeal, by the value adjustment board to be nonprofit as defined in this section.

Section 4. Paragraph (c) is added to subsection (1) of section 196.196, Florida Statutes, to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

(1) In the determination of whether an applicant is actually using all or a portion of its property predominantly for a charitable, religious, scientific, or literary purpose, the following criteria shall be applied:

(c) The extent to which the property is used to conduct activities which cause a corporation to qualify for a consumer certificate of exemption under s. 212.08(7)(o). Such activities shall be considered as part of the exempt purposes of the applicant.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: amending s. 196.195, F.S.; providing that certain corporations are nonprofit; amending s. 196.196, F.S.; providing criteria for determining if an applicant is using its property for a charitable, religious, scientific, or literary purpose;

Pursuant to Rule 4.19, **CS for SB 918** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Williams—

CS for SB 972—A bill to be entitled An act relating to vehicles used by state agencies; amending s. 20.055, F.S.; requiring agency inspectors general to report on employee use of state motor vehicles; amending s. 287.16, F.S., relating to the powers of the Division of Motor Pool of the Department of Management Services; authorizing the division to operate a centralized vehicle leasing program; providing for the deposit of lease payments; specifying the use of lease payments; requiring a report to be submitted biennially to agency inspectors general; amending s. 287.17, F.S.; providing definitions; providing criteria to be followed by an agency head in assigning a state-owned motor vehicle to an employee; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 1, line 21 through page 2, line 9, delete those lines and insert:

Section 1. *Each state agency's inspector general shall, by December 30, 1999, conduct or oversee a review of motor vehicle utilization. This review shall consist of two parts. The first part of the review shall determine the number of miles that each assigned motor vehicle has been driven on official state business in the past fiscal year. Commuting mileage shall be excluded from calculating vehicle use. The purpose of this review is to determine whether employees with assigned motor vehicles are driving the vehicles a sufficient number of miles to warrant continued vehicle assignment. The second part of the review shall identify employees who have driven personal vehicles extensively on state business in the past fiscal year. The purpose of this review is to determine whether it would be cost-effective to provide state motor vehicles to such employees. In making this determination, the inspector general shall use the break-even mileage criteria developed by the Department of Management Services. A copy of the review shall be presented to the Office of Program Policy Analysis and Government Accountability and to the agency head.*

And the title is amended as follows:

On page 1, lines 3-5, delete those lines and insert: agencies; requiring a report from agency inspectors general on employee use of state motor vehicles; amending s.

Amendment 2—On page 2, delete line 23 and insert:

(3) Effective July 1, 1998, to establish and operate a centralized state

Pursuant to Rule 4.19, **CS for SB 972** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 1548 and CS for SB 1434** was deferred.

On motion by Senator Dyer—

CS for SB's 1414 and 228—A bill to be entitled An act relating to the State University System; amending s. 110.131, F.S.; deleting a reporting requirement for the Board of Regents with respect to other-personal-services employees; amending s. 235.055, F.S.; deleting the authority of the Board of Regents to construct facilities on leased property and enter into certain leases; amending s. 235.195, F.S.; deleting a requirement that a certain portion of the cost of certain construction projects be included in a budget request; deleting a limitation upon the number of such construction projects allowed to an educational agency; amending s. 240.205, F.S.; revising provisions relating to Board of Regents' contracts and acquisition of property and services; amending s. 240.209, F.S., relating to duties of the Board of Regents; revising requirements for the board with respect to procurement and construction contracts; authorizing the Board of Regents to acquire and dispose of real property; providing procedures for appraisals and property acquisition; providing for personnel contracts; amending s. 240.2097, F.S.; deleting a requirement that the Board of Regents report to the Legislature on limited-access programs; revising requirements for student handbooks; amending s. 240.2111, F.S., relating to an employee recognition program; deleting requirement that the program be adopted by rule; amending s. 240.214, F.S.; revising accountability goals and reporting procedures for the State University System; amending s. 240.227, F.S.; providing responsibilities of university presidents; providing for the appointment of university presidents; revising duties of university presidents relating to acquisition of, and contracts for and management of, property and financial resources and approval and execution of general construction contracts; amending s. 240.241, F.S., relating to divisions of sponsored research at state universities; providing an exemption from certain contract requirements; amending s. 240.2605, F.S., relating to the Trust Fund for Major Gifts; deleting Board of Regents' rulemaking power; authorizing the Board of Regents Foundation to participate in the major gifts program; amending s. 240.274, F.S., relating to university libraries; deleting Board of Regents' rulemaking power; amending s. 240.2803, F.S.; revising the funds included within the definition of auxiliary enterprises; amending s. 240.281, F.S.; revising the authority for an institution to deposit certain funds outside the State Treasury; amending s. 243.151, F.S.; providing a procedure through which a university may construct facilities on leased property; amending s. 240.289, F.S.; authorizing the universities to accept credit card payments; prohibiting the imposition of a service fee or surcharge for credit card payments; amending s. 287.012, F.S., relating to purchasing and contractual services; providing responsibilities; amending s. 287.017, F.S.; revising the threshold amounts of purchasing categories; deleting applicability of certain rules to the State University System; amending ss. 240.207, 240.307, F.S.; adding members to the Board of Regents and the State Board of Community Colleges; repealing ss. 240.225, 240.247, 240.4988(4), F.S., and ss. 15 and 16 of ch. 94-232, Laws of Florida, relating to delegation of authority by the Department of Management Services to the State University System, eradication of salary discrimination, Board of Regents' rules for the Theodore R. and Vivian M. Johnson Scholarship Program, the title of ch. 239, F.S., and a directive to the Division of Statutory Revision; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—On page 22, line 23 through page 23, line 15, delete those lines and insert:

Section 13. Subsection (1) of section 240.2803, Florida Statutes, is amended to read:

240.2803 Auxiliary enterprises; contracts, grants, and donations; definitions.—As used in s. 19(f)(3), Art. III of the State Constitution, the term:

(1) "Auxiliary enterprises" includes activities that directly or indirectly provide a *product or* service, *or both,* to a university or its students, faculty, or staff and for which *a charge may be made but such charge, except for a fee that is a condition of the student enrollment and registration process, is not imposed by the Legislature* ~~is charged a fee related to, but not necessarily in an amount that will cover, the cost of the service~~. *These* ~~Auxiliary~~ enterprises are ~~generally~~ *the activities of a university and are as a unit generally* self-sufficient. *These enterprises* ~~operations, and~~ include *activities such as* housing, bookstores, student health services, continuing education programs, food services, college stores, vending machines, specialty shops, day care centers, golf courses, student activities programs, *data center operations,* financial aid programs, *and* intercollegiate athletics ~~programs, and other programs for which the funds are deposited outside the State Treasury~~. *Fees that are a condition of the student enrollment and registration process are state revenues for purposes of Article VII, Section 1(e) of the State Constitution.*

Senator Dyer moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 25, lines 15-24, delete those lines and insert:

240.289 Credit *and charge* card use in university system; authority.—The ~~several~~ universities in the State University System *may, notwithstanding* ~~are authorized, pursuant to~~ s. 215.322, ~~to~~ enter into agreements and accept credit *and charge* card payments as compensation for goods, services, tuition, and fees, in accordance with rules *adopted* ~~established~~ by the Board of Regents. *The rules must allow the universities to accept credit and charge card payment for matriculation or tuition, nonresident tuition, and fees. The universities may not collect a service fee or surcharge for credit and charge card payments.*

And the title is amended as follows:

On page 2, line 31, after "credit" insert: and charge

Senator Grant moved the following amendment which was adopted:

Amendment 3 (with title amendment)—On page 29, between lines 10 and 11, insert:

Section 21. Subsection (1) of section 240.235, Florida Statutes, is amended to read:

240.235 Fees.—

(1) Each university is authorized to establish separate activity and service, health, and athletic fees, *which are defined as state revenues and which must be established annually in the General Appropriations Act.* When duly established, the fees shall be collected as component parts of the registration and tuition fees and shall be retained by the university and paid into the separate activity and service, health, and athletic *fund accounts within the Educational and General Student and Other Fees Trust Fund* ~~funds~~.

(a)1. *Within the ranges established in the General Appropriations Act,* each university president shall establish a student activity and service fee on the main campus of the university. The university president may also establish a student activity and service fee on any branch campus or center. Any subsequent increase in the activity and service fee must be recommended by an activity and service fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the activity and service fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. *Within the ranges established in the General Appropriations Act,* the student activity and service fees shall be expended for lawful purposes to benefit the student body in general. This shall include, but shall not be limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the university without regard to race, sex, or religion. The fund may not benefit activities for which an admission fee is charged to students, except for student-government-association-sponsored concerts. *The president of each university must survey the student body at least once every 3 years to determine priorities for the use of activity and service fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by* ~~The allocation and expenditure of the fund shall be determined by the student government association of the university, except that~~ the president of the university, *who* may veto any line item or portion thereof within the budget when submitted by the student government association legislative body. The university president shall have *30* ~~15~~ school days from the date of presentation of the budget to act on the allocation and expenditure recommendations, which shall be deemed approved if no action is taken within the *30* ~~15~~ school days. If any line item or portion thereof within the budget is vetoed, the student government association legislative body shall within *30* ~~15~~ school days make new budget recommendations for expenditure of the vetoed portion of the fund. If the university president vetoes any line item or portion thereof within the new budget revisions, the university president may reallocate by line item that vetoed portion to bond obligations guaranteed by activity and service fees. *Funds may not be used for the construction, remodeling, or expansion of facilities, unless approved in the General Appropriations Act.* Unexpended funds and undisbursed funds remaining at the end of a fiscal year shall be carried over and remain in the student activity and service fund and be available for allocation and expenditure during the next fiscal year.

(b)*1. Within the range established in the General Appropriations Act,* each university president shall establish a student health fee on the main campus of the university. The university president may also establish a student health fee on any branch campus or center. Any ~~subsequent~~ increase in the health fee must be recommended by a health committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the health fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. Within the ranges established in the General Appropriations Act, the student health fee shall be expended for lawful purposes to benefit the student body in general. The benefit includes primary care for enrolled students, health and fitness services, and other health-related services. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of health fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the president, who may veto any line item or portion thereof. Funds may not be used for the construction, remodeling, or expansion of facilities unless approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of the fiscal year must be carried forward and remain in the health fee fund and be available for allocation and expenditure during the next fiscal year.

(c)*1.* Each university president shall establish a separate athletic fee on the main campus of the university. The university president may also establish a separate athletic fee on any branch campus or center. ~~The initial aggregate athletic fee at each university shall be equal to, but may be no greater than, the 1982-1983 per-credit-hour activity and service fee contributed to intercollegiate athletics, including women's athletics, as provided by s. 240.533. Concurrently with the establishment of the athletic fee, the activity and service fee shall experience a one-time reduction equal to the initial aggregate athletic fee.~~ Any ~~subsequent~~ increase in the athletic fee must be recommended by an athletic fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the Board of Regents. An increase in the athletic fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Regents is responsible for promulgating the rules and timetables necessary to implement this fee.

2. Within the ranges established in the General Appropriations Act, the student athletic fee shall be expended for lawful purposes to benefit the student body in general. The benefit includes operating support for athletic programs, scholarships, and academic support for student athletes. The president of each university must survey the student body at least once every 3 years to determine priorities for the use of athletic fee revenue. The survey results must be made public and must be transmitted to the student government association for consideration in preparing the fund budget. The student government association must annually prepare

and submit a budget for the allocation of fee revenue to the university president. The budget must be approved by the president, who may veto any line item or portion thereof. Funds may not be used for the construction, remodeling, or expansion of facilities unless approved in the General Appropriations Act. Unexpended funds and undisbursed funds remaining at the end of the fiscal year must be carried forward and remain in the athletic fee fund and be available for allocation and expenditure during the next fiscal year.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 12, after the semicolon (;) insert: amending s. 240.235, F.S.; defining fees; providing for fee ranges; providing budget procedures; restricting the use of fee revenue for certain purposes;

Senator Dyer moved the following amendments which were adopted:

Amendment 4 (with title amendment)—On page 29, between lines 10 and 11, insert:

Section 21. Present paragraphs (c), (d), (e), (f), (g), (h), (i), and (j) of subsection (10) of section 240.1201, Florida Statutes, 1996 Supplement, are redesignated as paragraphs (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and a new paragraph (c) is added to that subsection, to read:

240.1201 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition fees in public community colleges and universities.

(10) The following persons shall be classified as residents for tuition purposes:

(c) Active duty members of the Canadian military residing or stationed in this state and serving under the North American Air Defense (NORAD) agreement, and their spouses and dependent children, attending a public community college or university within 50 miles of the military establishment where they are stationed.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 12, after the semicolon (;) insert: amending s. 240.1201, F.S.; providing that certain members of the Canadian military are classified as residents for tuition purposes;

Amendment 5 (with title amendment)—On page 29, between lines 10 and 11, insert:

Section 21. Subsection (4) of section 240.147, Florida Statutes, is amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(4) Recommend to the State Board of Education contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education. In making recommendations, the commission shall consider the annual report submitted by the Board of Regents pursuant to s. 240.209(3)*(s)*~~(r)~~. Each program shall be reviewed, with the cooperation of the institution, every 5 years.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 12, after the semicolon (;) insert: amending s. 240.147, F.S.; correcting a cross-reference;

Amendment 6 (with title amendment)—On page 29, between lines 10 and 11, insert:

Section 21. Section 240.2475, Florida Statutes, is amended to read:

240.2475 State University System *employment* equity accountability program.—

(1) ~~No later than August 1, 1992,~~ Each state university shall *maintain an annual equity* ~~develop a~~ plan for *appropriate representation* ~~increasing the number~~ of women and minorities in senior-level administrative positions, *within tenure-track faculty, and within faculty granted tenure. Such plan shall be maintained until appropriate representation has been achieved. As used in this subsection, the term:*

(a) "Appropriate representation" means category employment representation that at least meets comparable national standards for at least two consecutive reporting periods.

(b) "Category" means major executive, administrative, and professional grouping, including senior-level administrative and professional positions, senior academic administrative-level positions, and tenure-track faculty ~~for increasing the number of women and minorities in ranked faculty positions, and for increasing the number of women and minorities granted tenure. The plan must include specific measurable goals and objectives, specific strategies for accomplishing these goals and objectives, a time period for accomplishing these goals and objectives, and comparative national standards. The plan shall be submitted to the Legislature on or before September 1, 1992~~.

(2)(a) By *April 1* ~~October 31~~ of each year, each state university president shall submit an *annual* equity ~~accountability~~ report to the Chancellor and the Board of Regents. *The equity report shall consist of a status update, an analysis, and a status report of selected personnel transactions. As used in this paragraph, the term, "selected personnel transactions" means new hires in, promotions into, tenure actions in, and terminations from a category. Each university shall provide the job classification title, gender, race, and appointment status of selected personnel transactions. The status update shall assess underrepresentation in each category. The status report shall consist of current category employment representation, comparable national standards, an evaluation of representation, and annual goals to address underrepresentation.* ~~which shows the number of administrative positions in the faculty and in the administrative and professional pay plans which were filled in the previous fiscal year. Administrative positions include faculty positions that, in whole or in part, are defined as academic administration under standard practice CM 87-17.1 and positions in the administrative and professional pay plans that are defined as administrative positions under the Board of Regents' classification of occupational groupings. The report must include the following information pertaining to the employees hired in those positions:~~

~~1. Job classification title;~~

~~2. Gender;~~

~~3. Ethnicity;~~

~~4. Appointment status pursuant to chapter 6C-5.105, Florida Administrative Code;~~

~~5. The salary at which the individual was hired;~~

~~6. Comparative information including, but not limited to, composite information regarding the total number of positions within the particular job title classification for the university by race, gender, and the average salary or salary range, where applicable, compared to the number of new hires;~~

~~7. Guidelines for ensuring a gender-balanced and ethnically balanced selection committee for each vacancy;~~

~~8. Steps taken to develop a diverse pool of candidates for each vacancy; and~~

~~9. An assessment of the university's accomplishment of annual goals and of long-range goals for hiring and promoting women and minorities in senior-level administrative positions.~~

(b) *After 1 year of implementation of a plan, and annually thereafter, for those categories in which prior year goals were not achieved, each university shall provide, in its annual equity report, a narrative explanation and a plan for achievement of equity. The plan shall include guidelines for ensuring balanced membership on selection committees and specific steps for developing a diverse pool of candidates for each vacancy in the category. The plan shall also include a systematic process by which those responsible for hiring are provided information and are evaluated regarding their responsibilities pursuant to this section.* ~~Each university's equity accountability report must also include the following information pertaining to candidates formally applying for tenure:~~

~~1. Rank;~~

~~2. Gender;~~

~~3. Ethnicity;~~

~~4. The salary at which the individual was hired; and~~

~~5. Comparative information including, but not limited to, composite information regarding the total number of positions within the particular classification for the university by race, gender, and the average salary or salary range, where applicable, compared to the number of new hires.~~

(c) *The equity report shall include an analysis and assessment of the university's accomplishment of annual goals, as specified in the university's affirmative action plan, for increasing the representation of women and minorities in tenure-earning and senior-level administrative positions.* ~~The report must also include:~~

~~1. The requirements for achieving tenure;~~

~~2. The gender and ethnic composition of the committees that review tenure recommendations at the department, college, and university levels;~~

~~3. Guidelines for ensuring the equitable distribution of assignments that would enhance tenure opportunities for women and minority faculty; and~~

~~4. Guidelines for obtaining feedback on the annual progress towards achievement of tenure by women and minorities.~~

(d) The equity report shall also include the current rank, race, and gender of faculty eligible for tenure in a category. In addition, each university shall report representation of the pool of tenure-eligible faculty at each stage of the transaction process, and provide certification that each eligible faculty member was apprised annually of progress toward tenure. Each university shall also report on the dissemination of standards for achieving tenure; racial and gender composition of committees reviewing recommendations at each transaction level; and dissemination of guidelines for equitable distribution of assignments.

(3)(a) A factor in the evaluation of university presidents, vice presidents, deans, and chairpersons shall be their annual progress in achieving the annual and long-range hiring and promotional goals and objectives, *as specified in the university's equity plan and affirmative action plan*. Annual budget allocations for positions and funding shall be based on this evaluation. *A summary of such evaluations* ~~Such evaluation~~ shall be submitted to the Chancellor and the Board of Regents *as part of the university's annual equity report*.

(b) ~~Beginning January 1994,~~ The Chancellor and the Board of Regents shall annually evaluate the performance of the university presidents in achieving the annual *equity* ~~and long-term~~ goals and objectives. *A summary of the results of such evaluations shall be included as part of the annual equity progress report submitted by the Board of Regents to the Legislature and the State Board of Education.*

(4) The Board of Regents shall submit an *annual* equity progress report to the *President of the Senate, the Speaker of the House of Representatives,* ~~Legislature~~ and the State Board of Education on or before *August* ~~December~~ 1 of each year.

(5) *Each university shall develop a budgetary incentive plan to support and ensure attainment of the goals developed pursuant to this section. The plan shall specify, at a minimum, how resources shall be allocated to support the achievement of goals and the implementation of strategies in a timely manner. After prior review and approval by the university president and the Board of Regents, the plan shall be submitted as part of the annual equity report submitted by each university to the Board of Regents.* ~~Effective July 1, 1993, positions that become vacant in the faculty or the administrative and professional pay plans at a university shall be transferred into a pool at that university to be allocated by the administration to departments to reward department managers for attaining equity goals. Each university president shall develop rules regarding the filling of vacant positions and the transferring of positions into the pool. Such rules must provide for a total cap on the vacant position pool at 10 percent of the number of vacant positions for the university as of the date of the preparation of the initial operating budget for each year. The rule must also provide that the number of positions to be transferred into the vacant position pool, at the departmental level, may not exceed 10 percent of the total number of authorized positions for the department as of the date of the preparation of the initial operating budget for each year. Subject to available funding, the Legislature shall provide an annual appropriation to be allocated to the department managers in recognition of the attainment of equity goals and objectives.~~

(6) Relevant components of each university's affirmative action plan may be used to satisfy the requirements of this section.

(7) Subject to available funding, the Legislature shall provide an annual appropriation to the Board of Regents to be allocated to the universities to further enhance equity initiatives and related priorities that support the mission of departments, divisions, or colleges in recognition of the attainment of equity goals and objectives.

Section 22. Section 240.3355, Florida Statutes, is amended to read:

240.3355 Community College System *employment* equity accountability program.—

(1) ~~No later than May 1, 1993,~~ Each community college *shall include in its* annual equity update ~~plan must include~~ a plan for increasing the *representation* ~~number~~ of women and minorities in senior-level administrative positions *and*~~, for increasing the number of women and minorities~~ in *full-time* ~~ranked~~ faculty positions, and for increasing the *representation* ~~number~~ of women and minorities who have attained continuing-contract status. *Positions shall be defined in the personnel data element directory of the Division of Community Colleges.* The plan must include specific measurable goals and objectives, specific strategies *and timelines* for accomplishing these goals and objectives, and *comparable national standards as provided by the Division of Community Colleges* ~~a time period for accomplishing these goals and objectives~~. The goals *and objectives* shall *be based on meeting or exceeding comparable national standards and shall* be reviewed and recommended by the State Board of Community Colleges as appropriate. *Such plans shall be maintained until appropriate representation has been achieved and maintained for at least 3 consecutive reporting years.*

(2)(a) On *or before* May 1 of each year, each community college president shall submit *an* ~~the~~ annual *employment accountability plan* ~~equity update~~ to the Executive Director of the State Board of Community Colleges. The *accountability plan* ~~equity update~~ must show *faculty and administrator employment data according to requirements specified on the federal Equal Employment Opportunity (EE0-6) report* ~~the number of deans, associates, assistant deans, vice presidents, associate and assistant presidents, provosts, legal counsel, and similar administrative positions which were filled in the previous 12-month period. Administrative positions include faculty positions that, in whole or in part, are defined as academic administration by rule and positions that are defined as administrative positions under the Community College System's classification of occupational groupings~~.

(b) The *plan* ~~report~~ must show the following information for those positions including, but not limited to:

1. Job classification title.~~;~~

2. Gender.~~;~~

3. Ethnicity.~~;~~

4. Appointment status.~~;~~

5. Salary information. *At each community college, salary information shall also include* ~~including~~ the salary *ranges in which new hires were employed compared to the salary ranges for employees with comparable experience and qualifications.* ~~at which the individual was hired compared to the salary range for the respective position and to other employees in the same job title classification;~~

6. Other comparative information including, but not limited to, composite information regarding the total number of positions within the particular job title classification for the community college by race, gender, and salary range compared to the number of new hires.~~;~~

7. *A statement certifying diversity and balance in* the gender and ethnic composition of the selection committee for each vacancy, *including a brief description of guidelines used for ensuring balanced and diverse membership on selection and review committees.*~~;~~

~~8. Steps taken to develop a diverse pool of candidates for each vacancy; and~~

(c)~~9.~~ *The annual employment accountability plan shall also include an analysis and* an assessment of the community college's *attainment* ~~accomplishment~~ of annual goals and of long-range goals for increasing the number of women and minorities in *faculty and* senior-level administrative positions, *and a corrective action plan for addressing underrepresentation.*

(d)~~(c)~~ Each community college's *employment* ~~equity~~ accountability *plan* ~~report~~ must also include:

1. The requirements for receiving a continuing contract.~~;~~

2. *A brief description of the process used to grant* ~~The gender and ethnic composition of the committees that review~~ continuing-contract *status.* ~~recommendations;~~

3. *A brief description of the process used to annually apprise each eligible faculty member of progress toward attainment of continuing-contract status.* ~~The enhancement of continuing-contract opportunities for women and minority faculty; and~~

~~4. Written documentation of feedback on the annual progress towards achievement of continuing-contract status by women and minorities.~~

(3) Community college presidents and the heads of each major administrative division shall be evaluated annually on the progress made toward meeting the goals and objectives of the *community college's employment accountability* ~~equity update~~ plan.

(a) The community college presidents, *or the president's designee,* shall annually evaluate each department chairperson, dean, *provost,* and vice president in achieving the annual and long-term goals and objectives. *A summary of the results of such evaluations shall be reported annually by the president of the community college to the board of trustees.* Annual budget allocations *by the board of trustees* for positions and funding must take into consideration *these evaluations* ~~this evaluation~~.

(b) ~~Beginning January 1994,~~ Community college district boards of trustees shall annually evaluate the performance of the community college presidents in achieving the annual and long-term goals and objectives. *A summary of the results of such evaluations shall be reported to the Executive Director of the State Board of Community Colleges as part of the community college's annual employment accountability plan, and to the Legislature and State Board of Education as part of the annual equity progress report submitted by the State Board of Community Colleges.*

(4)~~(c)~~ The State Board of Community Colleges shall submit an *annual* equity progress report to the *President of the Senate, the Speaker of the House of Representatives,* ~~Legislature~~ and the State Board of Education on or before *January* ~~December~~ 1 of each year.

(5) Each community college shall develop a budgetary incentive plan to support and ensure attainment of the goals developed pursuant to this section. The plan shall specify, at a minimum, how resources shall be allocated to support the achievement of goals and the implementation of strategies in a timely manner. After prior review and approval by the community college president and the State Board of Community Colleges, the plan shall be submitted as part of the annual employment accountability plan submitted by each community college to the State Board of Community Colleges.

(6)~~(4)~~ Subject to available funding, the Legislature shall provide an annual appropriation *to the State Board of Community Colleges* to be allocated to *community college presidents, faculty, and administrative personnel to further enhance equity initiatives and related priorities that support the mission of colleges and departments* ~~the department managers~~ in recognition of the attainment of the equity goals and objectives.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 12, after the semicolon (;) insert: amending s. 240.2475, F.S., relating to the State University System equity accountability program; requiring each state university to maintain an equity plan to increase the representation of women and minorities in faculty and administrative positions; providing for the submission of reports; requiring the development of a plan for achievement of equity; providing for administrative evaluations; requiring the development of a budgetary incentive plan; providing for an appropriation; amending s. 240.3355, F.S., relating to the State Community College System equity accountability program; requiring each community college to maintain a plan to increase the representation of women and minorities in faculty and administrative positions; providing contents of an employment accountability plan; requiring the development of a plan for corrective action; providing for administrative evaluations; providing for submission of reports; requiring the development of a budgetary incentive plan;

Senator Latvala moved the following amendment which failed:

Amendment 7—On page 7, line 21 through page 8, line 29, delete those lines and insert: ~~Notwithstanding the provisions of s.~~

Pursuant to Rule 4.19, **CS for SB's 1414 and 228** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Jones, the Senate resumed consideration of—

CS for CS for SB 1814—A bill to be entitled An act relating to regulation of health care professions; amending s. 402.48, F.S., relating to health care services pools; increasing the period of registration; updating a definition and a provision relating to meeting financial responsibility requirements; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration, the Department of Business and Professional Regulation, or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending s. 455.2285, F.S.; revising requirements for information that is disclosed in the annual report; amending s. 457.102, F.S.; revising definitions applicable to the regulation of acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; revising fees; conforming terminology; amending s. 457.107, F.S.; revising licensure renewal fees; conforming terminology; amending s. 457.1085, F.S.; revising requirements on the adoption of rules relating to infection control and on the use of acupuncture needles; amending ss. 457.103, 457.108, 457.109, and 457.116, F.S., to conform; amending s. 458.303, F.S.; eliminating references to physician's trained assistants; amending s. 458.305, F.S.; updating the definition of "department"; amending s. 458.307, F.S.; revising provisions relating to probable cause panels of the Board of Medicine; amending s. 455.206, F.S.; conforming a cross-reference; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a specified fellowship to partially satisfy the licensing requirements; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing persons in certain training programs to take the examination under certain circumstances; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing additional requirements prior to certification of eligibility for licensure; conforming a cross-reference; eliminating a provision authorizing licensure under a period of supervision; providing conditions for reactivation of certain licenses issued by endorsement; amending s. 458.317, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of medicine; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; revising recent-practice requirements; amending s. 458.320, F.S.; conforming a cross-reference; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 458.331, F.S.; revising and providing grounds for

disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing requirements for the prescribing of medicinal drugs; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee; amending ss. 458.347 and 459.022, F.S.; revising requirements for certification as a physician assistant; updating terminology; amending s. 458.3485, F.S.; requiring medical assistants to be under the direct supervision of a licensed physician; providing for rules; amending s. 459.003, F.S.; updating the definition of "department"; providing that certain terms are equivalent; amending s. 459.021, F.S.; revising terminology relating to osteopathic medicine; revising provisions relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; authorizing resident physicians to prescribe drugs appearing on schedules of controlled substances under certain circumstances; repealing s. 460.413(1)(bb) and (cc), F.S., relating to grounds for disciplinary action; amending s. 459.0075, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of osteopathic medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of osteopathic medicine; amending s. 459.0085, F.S.; conforming a cross-reference; requiring osteopathic physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; amending ss. 240.4067, 390.011, 395.0191, 408.035, 409.905, 415.102, 415.1034, 415.504, 440.106, 440.13, 440.134, 440.15, 456.31, 459.006, 462.01, 468.301, 468.302, 476.044, 477.0135, 483.291, 621.03, 627.351, 627.357, 627.6482, 725.01, 766.101, 766.103, 766.105, 766.110, 817.234, and 945.047, F.S.; conforming and correcting terminology relating to osteopathic medicine; amending s. 460.403, F.S.; updating the definition of "department"; amending s. 460.413, F.S.; repealing ss. 460.413(1)(bb) and 460.413(1)(cc), relating to grounds for disciplinary action; revising grounds for disciplinary action; providing penalties; providing criteria for determining the applicable penalty; providing certain evidentiary standards; providing authority and procedure to enjoin a chiropractor from providing medical services under certain circumstances; reenacting ss. 320.0848(9), 455.236(4)(g), and 766.111(2), F.S., relating to parking permits for disabled persons, prohibited referrals to home health agencies, and unnecessary diagnostic testing, to incorporate the amendment to s. 460.413, F.S., in references thereto; amending s. 460.4165, F.S.; revising a provision relating to the fee accompanying applications to supervise chiropractic physician's assistants; amending s. 461.003, F.S.; updating the definition of "department"; amending s. 461.013, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 461.018, F.S.; clarifying a provision relating to the limited practice of podiatry in designated areas of need; amending s. 464.003, F.S.; revising a definition to update authority over regulation of nursing; amending ss. 464.004, 464.008, 464.009, 464.012, 464.013, and 464.014, F.S., to conform; amending s. 464.018, F.S.; revising grounds for disciplinary action; providing penalties; conforming terminology; amending s. 464.019, F.S., relating to approval of nursing programs; providing for a program review fee; conforming terminology; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; providing an exemption from regulation relating to certain nurses accompanying and caring for patients temporarily residing in this state; amending s. 465.003, F.S.; revising the definitions of the terms "pharmacy" and "department"; amending s. 465.004, F.S.; increasing the membership of the Board of Pharmacy; revising membership qualifications; amending s. 465.0125, F.S.; providing responsibilities of consultant pharmacists and doctors of pharmacy; providing for rules; amending s. 465.014, F.S.; revising tasks and duties delegated to a pharmacy technician; increasing the number of pharmacy technicians who may be supervised by a licensed pharmacist; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising grounds for disciplinary actions; providing penalties; amending s. 465.0196, F.S., relating to special pharmacy permits; conforming a cross-reference; amending s. 465.026, F.S.; revising provisions relating to the filling of prescriptions transferred by electronic or other means; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; amending s. 465.186, F.S.; providing for inclusion of certain products and over-the-counter proprietary drugs in the formulary of authorized medicinal drug products and dispensing procedures; amending s. 893.03, F.S.; adding butorphanol tartrate as a Schedule IV controlled substance; reenacting ss. 316.193(5), 327.35(5), 440.102(11)(b), 458.326(3), 817.563(1), 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.08(1)(b), 893.13(1)(a), (c), and (d), (2)(a), (4)(b), and (5)(b), F.S., relating to driving under the influence, boating under the influence, drug-free workplace program requirements, authorized treatment of intractable pain, sales of substances in lieu of controlled substances, counterfeit controlled substances, open house parties, definitions applicable to regulation of controlled substances, exceptions to required prescription for distribution at retail, and prohibited acts relating to controlled substances, respectively, to incorporate the amendment to s. 893.03, F.S., in references thereto; amending s. 466.003, F.S.; updating the definition of "department"; amending s. 466.006, F.S., relating to the examination of dentists; revising prerequisites for certain applicants to take the examination; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; amending s. 466.028, F.S.; revising grounds for disciplinary action; providing penalties; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1125, F.S.; updating the definition of "department"; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing requirements for cross-discipline licensure; amending s. 468.1185, F.S.; revising licensure requirements; conforming a reference; amending s. 468.1195, F.S.; revising continuing education requirements; providing for adoption of standards of approval of continuing education providers; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; conforming a reference; amending s. 468.1245, F.S.; revising provisions relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; creating s. 468.1296, F.S.; prohibiting sexual misconduct in the practice of speech-language pathology and audiology, for which there are penalties; amending s. 468.1655, F.S.; updating the definition of "department"; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.203, F.S.; revising definitions applicable to regulation of occupational therapy; amending s. 468.205, F.S.; replacing the Occupational Therapy Council with a Board of Occupational Therapy Practice; providing for qualifications, appointments, and terms of board members; providing for the filling of vacancies on the board; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; requiring documentation of continuing education for certain applicants; amending s. 468.211, F.S.; providing a restriction on the number of times an applicant may fail the examination and requiring remediation after a certain number; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S.; repealing s. 468.362, F.S., relating to continuing education; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; updating the definition of "department"; revising terminology; revising approval of educational programs; eliminating annual continuing education requirements for certain persons; providing penalties; amending s. 478.42, F.S.; updating the definition of "department"; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending s. 478.46, F.S.; revising requirements relating to issuance of temporary permits; conforming a cross-reference and terminology; amending s. 478.47, F.S.; revising requirements for licensure by endorsement; amending s. 478.52, F.S.; prohibiting the operation of unlicensed electrolysis facilities; providing penalties; amending s. 480.033, F.S.; revising the defini-

tion of "board"; updating the definition of "department"; amending s. 480.034, F.S.; eliminating an exemption from regulation applicable to certain skin treatments and weight-loss programs; amending s. 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.041, F.S.; eliminating provisional licensure to practice massage therapy; amending s. 480.0415, F.S.; authorizing an increase in the number of classroom hours of continuing education that may be required for renewal of a license to practice massage therapy; amending s. 480.042, F.S.; revising what examinations must measure; repealing s. 480.0425, F.S., relating to inactive status; amending s. 480.043, F.S.; revising provisions relating to the transfer of licenses; amending s. 480.044, F.S.; revising provisions relating to fees; amending s. 480.047, F.S.; prohibiting the practice of massage therapy without a license unless exempted from licensure; creating s. 480.0485, F.S.; prohibiting sexual misconduct in the practice of massage therapy, for which there are disciplinary actions; amending s. 20.43, F.S., relating to the Department of Health; conforming terminology; updating a reference; amending s. 381.81, F.S., to conform; amending s. 483.800, F.S.; revising policy and purpose relating to regulation of clinical laboratory personnel; amending s. 483.801, F.S.; providing a regulatory exemption relating to advanced registered nurse practitioners; amending s. 483.803, F.S.; updating the definition of "department"; providing definitions; amending s. 483.809, F.S.; revising licensing provisions; authorizing an alternative examination for public health laboratory scientists; creating s. 483.812, F.S.; providing for licensure of public health laboratory scientists; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; providing a period for a conditional license; amending s. 483.823, F.S.; revising provisions relating to qualifications of clinical laboratory personnel; amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 483.828, F.S.; providing penalties for specified violations; amending s. 483.901, F.S., the "Florida Medical Physicists Act"; providing that the Advisory Council of Medical Physicists is an advisory rather than a regulatory body; increasing the number and terms of council members; clarifying initial and other appointment provisions; revising provisions relating to council meetings; revising licensure requirements; clarifying that the required continuing education hours are to be satisfied biennially and that the organizations providing such education must be approved by the Department of Health; revising and providing grounds for disciplinary action; revising and providing criminal acts; providing an administrative fine; providing penalties; eliminating a provision authorizing a licensure exception; amending s. 484.041, F.S.; updating the definition of "department"; amending s. 484.042, F.S.; updating a reference, to conform; amending s. 484.051, F.S.; updating a reference, to conform; amending s. 486.021, F.S.; updating the definition of "department"; amending s. 486.023, F.S.; changing the membership of the Board of Physical Therapy Practice; amending ss. 486.031 and 486.081, F.S.; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending s. 486.041, F.S.; revising provisions relating to applying for a license as a physical therapist and to the fee therefor; amending s. 486.051, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist; amending s. 486.102, F.S.; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.103, F.S.; revising provisions relating to applying for a license as a physical therapist assistant and to the fee therefor; amending s. 486.104, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist assistant; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; providing for recovery of the actual costs of investigation and prosecution; amending s. 641.495, F.S.; requiring a health maintenance organization to designate as medical director a state-licensed physician or osteopathic physician; amending s. 468.1645, F.S.; revising provisions that exempt from licensure requirements administrators of nursing homes operated by and for persons who rely upon treatment by spiritual means through prayer; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 2** by Senator Grant was withdrawn.

Pending further consideration of **CS for CS for SB 1814** as amended, on motion by Senator Jones, by two-thirds vote **HB 2013** was withdrawn from the Committees on Health Care; Governmental Reform and Oversight; and Ways and Means.

On motions by Senator Jones, by two-thirds vote—

HB 2013—A bill to be entitled An act relating to regulation of health care professions; amending s. 402.48, F.S., relating to health care services pools; increasing the period of registration; updating a definition and a provision relating to meeting financial responsibility requirements; amending s. 457.102, F.S.; revising definitions applicable to the regulation of acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; revising fees; conforming terminology; amending s. 457.107, F.S.; revising licensure renewal fees; conforming terminology; amending s. 457.1085, F.S.; revising requirements on the adoption of rules relating to infection control and on the use of acupuncture needles; amending ss. 457.103, 457.108, 457.109, and 457.116, F.S., to conform; amending s. 458.303, F.S.; eliminating references to physician's trained assistants; amending s. 458.305, F.S.; updating the definition of "department"; amending s. 458.307, F.S.; revising provisions relating to probable cause panels of the Board of Medicine; amending s. 455.206, F.S.; correcting a cross reference, to conform; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a specified fellowship to partially satisfy the licensing requirements; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing persons in certain training programs to take the examination under certain circumstances; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing additional requirements prior to certification of eligibility for licensure; correcting a cross reference; eliminating a provision authorizing licensure under a period of supervision; providing conditions for reactivation of certain licenses issued by endorsement; amending s. 458.317, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of medicine; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; revising recent-practice requirements; amending s. 458.320, F.S.; correcting a cross reference; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 458.331, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing requirements for the prescribing of medicinal drugs and controlled substances; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee; amending ss. 458.347 and 459.022, F.S.; revising requirements for certification as a physician assistant; updating terminology; amending s. 458.3485, F.S.; requiring medical assistants to be under the direct supervision of a licensed physician; creating ss. 458.351 and 459.025, F.S.; requiring serious incident reports; providing for rules; amending s. 459.003, F.S.; updating the definition of "department"; providing that certain terms are equivalent; amending s. 459.021, F.S.; revising terminology relating to osteopathic medicine; revising provisions relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing conditions under which resident physicians may prescribe medicinal drugs; amending s. 459.0075, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of osteopathic medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of osteopathic medicine; amending s. 459.0085, F.S.; correcting a cross reference; requiring osteopathic physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; amending ss.

240.4067, 390.011, 395.0191, 408.035, 409.905, 415.102, 415.1034, 415.504, 440.106, 440.13, 440.134, 440.15, 456.31, 459.006, 462.01, 468.301, 468.302, 476.044, 477.0135, 483.291, 621.03, 627.351, 627.357, 627.6482, 725.01, 766.101, 766.103, 766.105, 766.110, 817.234, and 945.047, F.S.; conforming and correcting terminology relating to osteopathic medicine; amending s. 460.403, F.S.; updating the definition of "department"; amending s. 460.413, F.S.; revising grounds for disciplinary action; providing penalties; providing criteria for determining the applicable penalty; providing certain evidentiary standards; providing authority and procedure to enjoin a chiropractor from providing medical services under certain circumstances; reenacting ss. 320.0848(9), 455.236(4)(g), and 766.111(2), F.S., relating to parking permits for disabled persons, prohibited referrals to home health agencies, and unnecessary diagnostic testing, to incorporate the amendment to s. 460.413, F.S., in references thereto; amending s. 460.4165, F.S.; revising a provision relating to the fee accompanying applications to supervise chiropractic physician's assistants; amending s. 461.003, F.S.; updating the definition of "department"; amending s. 461.013, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 461.018, F.S.; clarifying a provision relating to the limited practice of podiatry in designated areas of need; amending s. 464.003, F.S.; revising a definition to update authority over regulation of nursing; amending ss. 464.004, 464.008, 464.009, 464.012, 464.013, and 464.014, F.S., to conform; amending s. 464.018, F.S.; revising grounds for disciplinary action; providing penalties; conforming terminology; amending s. 464.019, F.S., relating to approval of nursing programs; providing for a program review fee; conforming terminology; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; providing an exemption from regulation relating to certain nurses accompanying and caring for patients temporarily residing in this state; amending s. 465.003, F.S.; updating the definition of "department"; amending s. 465.004, F.S.; increasing the membership of the Board of Pharmacy; revising membership qualifications; amending s. 465.014, F.S.; increasing the number of pharmacy technicians who may be supervised by a licensed pharmacist; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; amending s. 466.003, F.S.; updating the definition of "department"; amending s. 466.006, F.S., relating to the examination of dentists; revising prerequisites for certain applicants to take the examination; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; amending s. 466.028, F.S.; revising grounds for disciplinary action; providing penalties; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1125, F.S.; updating the definition of "department"; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing requirements for cross-discipline licensure; amending s. 468.1185, F.S.; revising licensure requirements; conforming a reference; amending s. 468.1195, F.S.; revising continuing education requirements; providing for adoption of standards of approval of continuing education providers; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; conforming a reference; amending s. 468.1245, F.S.; revising language relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; creating s. 468.1296, F.S.; prohibiting sexual misconduct in the practice of speech-language pathology and audiology, for which there are penalties; amending s. 468.1655, F.S.; updating the definition of "department"; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.203, F.S.; revising definitions applicable to regulation of occupational therapy; amending s. 468.205, F.S.; replacing the Occupational Therapy Council with a Board of Occupational Therapy Practice; providing for qualifications, appointments, and terms of board members; providing for the filling of vacancies on the board; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; requiring documentation of continuing education for certain applicants; amending s. 468.211, F.S.; providing a restriction on the number of times an applicant may fail the examination and requiring remediation after a certain number; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S., and transferring and amending s. 468.362, F.S.; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; updating the definition of "department"; revising terminology; revising approval of educational programs; eliminating annual continuing education requirements for certain persons; providing penalties; amending s. 478.42, F.S.; updating the definition of "department"; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending s. 478.46, F.S.; revising requirements relating to issuance of temporary permits; correcting a cross reference and terminology; amending s. 478.47, F.S.; revising requirements for licensure by endorsement; amending s. 478.52, F.S.; prohibiting the operation of unlicensed electrolysis facilities; providing penalties; amending s. 480.033, F.S.; revising the definition of "board"; updating the definition of "department"; amending s. 480.034, F.S.; eliminating an exemption from regulation applicable to certain skin treatments and weight-loss programs; amending s. 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.041, F.S.; eliminating provisional licensure to practice massage therapy; amending s. 480.0415, F.S.; authorizing an increase in the number of classroom hours of continuing education that may be required for renewal of a license to practice massage therapy; amending s. 480.042, F.S.; revising what examinations must measure; repealing s. 480.0425, F.S., relating to inactive status; amending s. 480.043, F.S.; revising provisions relating to the transfer of licenses; amending s. 480.044, F.S.; revising provisions relating to fees; amending s. 480.047, F.S.; prohibiting the practice of massage therapy without a license unless exempted from licensure; creating s. 480.0485, F.S.; prohibiting sexual misconduct in the practice of massage therapy, for which there are disciplinary actions; amending s. 20.43, F.S., relating to the Department of Health; conforming terminology; updating a reference; amending s. 381.81, F.S., to conform; amending s. 483.800, F.S.; revising policy and purpose relating to regulation of clinical laboratory personnel; amending s. 483.801, F.S.; providing a regulatory exemption relating to advanced registered nurse practitioners; amending s. 483.803, F.S.; updating the definition of "department"; providing definitions; amending s. 483.809, F.S.; revising licensing provisions; authorizing an alternative examination for public health laboratory scientists; creating s. 483.812, F.S.; providing for licensure of public health laboratory scientists; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; providing a period for a conditional license; amending s. 483.823, F.S.; revising provisions relating to qualifications of clinical laboratory personnel; amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 483.828, F.S.; providing penalties for specified violations; amending s. 483.901, F.S., the "Florida Medical Physicists Act"; providing that the Advisory Council of Medical Physicists is an advisory rather than a regulatory body; increasing the number and terms of council members; clarifying initial and other appointment provisions; revising provisions relating to council meetings; revising licensure requirements; clarifying that the required continuing education hours are to be satisfied biennially and that the organizations providing such education must be approved by the Department of Health; revising and providing grounds for disciplinary action; revising and providing criminal acts; providing an administrative fine; providing penalties; eliminating a provision authorizing a licensure exception; amending s. 484.041, F.S.; updating the definition of "department"; amending s. 484.042, F.S.; updating a reference, to conform; amending s. 484.051, F.S.; updating a reference, to conform; amending s. 486.021, F.S.; updating the definition of "department"; amending s. 486.023, F.S.; increasing the membership of the Board of Physical Therapy Practice; amending ss. 486.031 and 486.081, F.S.; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending s. 486.041, F.S.; revising provisions relating to applying for a license as a physical therapist and to the fee therefor; amending s. 486.051, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist; amending s. 486.102, F.S.; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.103, F.S.; revising provisions relating to applying for a license as a physical therapist assistant and to the fee therefor; amending s. 486.104, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist assistant;

creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; providing for recovery of the actual costs of investigation and prosecution; amending s. 641.495, F.S.; requiring a health maintenance organization to designate as medical director a state-licensed physician or osteopathic physician; amending s. 499.012, F.S.; clarifying and providing for additional wholesale distribution exceptions; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1814** as amended and by two-thirds vote read the second time by title.

Senator Jones moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

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

402.48 Health care services pools.—

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

(a) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

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

(8)

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

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

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

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

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department or the Agency for Health Care Administration, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department or the agency. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chairman. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department or the agency shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department or the agency, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department or the agency. The secretary may grant extensions of the 15-day and the 30-day time limits. ~~If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department or the agency may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists.~~ In lieu of a finding of probable cause, the probable cause panel, or the department or the agency when there is no board, may issue a letter of guidance to the subject. *If within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the agency, for disciplinary cases under its jurisdiction, must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit.* If the probable cause panel finds that probable cause exists, it shall direct the department or the agency to file a formal complaint against the licensee. The department or the agency shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department or the agency shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department or the agency may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department or the agency shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department or the agency shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department or the agency within 1 year after the filing of a complaint. *The agency, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department or agency within 1 year after the filing of the complaint. Annually, the agency, for disciplinary cases under its jurisdiction, if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the agency within 1 year after the filing of the complaint.* A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the Health Care Trust Fund or the Professional Regulation Trust Fund, as appropriate. All proceedings of the probable cause panel are exempt from s. 120.525.

(9)*(a)* The department or the Agency for Health Care Administration, as appropriate, shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has

been found, and the status of any civil action or administrative proceeding or appeal.

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

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

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

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

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

Section 3. Present subsections (8) and (9) of section 455.2285, Florida Statutes, are redesignated as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

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

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

Section 4. Section 457.102, Florida Statutes, is amended to read:

457.102 Definitions.—As used in this chapter:

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

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

(3) "Board" means the Board of Acupuncture.

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

(5) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 5. Subsection (1) of section 457.103, Florida Statutes, is amended to read:

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

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

Section 6. Section 457.105, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(c) Has successfully completed a board-approved national certification process, is actively licensed in a state *that* ~~which~~ has examination requirements that are substantially equivalent to or more stringent than those of this state, or passes an examination administered by the department, which examination tests the applicant's competency and knowledge of the practice of acupuncture. At the request of any applicant, oriental nomenclature for the points shall be used in the examination. The examination shall include a practical examination of the knowledge and skills required to practice acupuncture, covering diagnostic and treatment techniques and procedures; and

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

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

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

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

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

Section 7. Section 457.107, Florida Statutes, is amended to read:

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

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

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

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

Section 8. Section 457.108, Florida Statutes, is amended to read:

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

(1) A *license* ~~certificate~~ that has become inactive may be reactivated under this section upon application to the department. The board shall prescribe by rule continuing education requirements as a condition of reactivating a *license* ~~certificate~~. The continuing education requirements for reactivating a *license* ~~certificate~~ must not exceed 10 classroom hours for each year the *license* ~~certificate~~ was inactive, in addition to completion of the number of hours required for renewal on the date the *license* ~~certificate~~ became inactive.

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

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

Section 9. Section 457.1085, Florida Statutes, is amended to read:

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

Section 10. Section 457.109, Florida Statutes, is amended to read:

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

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

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

(b) Having a *license* ~~certificate~~ to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of *licensure* ~~certification~~, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of acupuncture or to the ability to practice acupuncture. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the *licensee* ~~certificateholder~~ knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, employing, or advising any *unlicensed* ~~uncertified~~ person to practice acupuncture contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a *licensed* ~~certified~~ acupuncturist.

(i) Making or filing a report which the *licensee* ~~certificateholder~~ knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a *licensed* ~~certified~~ acupuncturist.

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his acupuncturist.

(k) Making deceptive, untrue, or fraudulent representations in the practice of acupuncture or employing a trick or scheme in the practice of acupuncture when such scheme or trick fails to conform to the generally prevailing standards of treatment in the community.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep written medical records justifying the course of treatment of the patient.

(n) Exercising influence on the patient to exploit the patient for the financial gain of the *licensee* ~~certificateholder~~ or of a third party.

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or his designee that probable cause exists to believe that the *licensee* ~~certificateholder~~ is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the *licensee* ~~certificateholder~~ to submit to a mental or physical examination by a physician designated by the department. If the *licensee* ~~certificateholder~~ refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the *licensee* ~~certificateholder~~ resides or serves as an acupuncturist. The *licensee* ~~certificateholder~~ against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of acupuncture with reasonable skill and safety to patients.

In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

(p) Gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the *licensee* ~~certificateholder~~ knows or has reason to know that he is not competent to perform.

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

(s) Violating any provision of this chapter, a rule of the department, or a lawful order of the department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

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

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

(v) Failing to comply with state, county, or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious diseases.

(w) Failing to comply with any rule of the board relating to health and safety, including, but not limited to, the sterilization of needles and equipment and the disposal of potentially infectious materials.

(2) When the board finds any person guilty of any of the acts set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

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

(c) Restriction of practice.

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

(e) Issuance of a reprimand.

(f) Placement of the acupuncturist on probation for a period of time and subject to such conditions as the board may specify.

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

Section 11. Section 457.116, Florida Statutes, is amended to read:

457.116 Prohibited acts; penalty.—

(1) It is unlawful for any person to:

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

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

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

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

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

Section 12. Subsection (2) of section 458.303, Florida Statutes, is amended to read:

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

(2) Nothing in s. 458.301, s. 458.303, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347 shall be construed to prohibit any service rendered by a ~~physician's trained assistant, a~~ registered nurse~~,~~ or a licensed practical nurse, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a *medical assistant* ~~physician's trained assistant~~ in accordance with the provisions of *s. 458.3485* ~~this subsection~~.

Section 13. Subsection (2) of section 458.305, Florida Statutes, is amended to read:

458.305 Definitions.—As used in this chapter:

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

Section 14. Subsections (2) and (5) of section 458.307, Florida Statutes, are amended to read:

458.307 Board of Medicine.—

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

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

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

Section 15. Section 455.206, Florida Statutes, is amended to read:

455.206 Board members.—Notwithstanding any provision of law to the contrary, any person who otherwise meets the requirements of law for board membership and who is connected in any way with any medical college, dental college, or community college may be appointed to any board so long as that connection does not result in a relationship wherein such college represents the person's principal source of income. However, this section shall not apply to the physicians required by s. 458.307(2)~~(a)~~ to be on the faculty of a medical school in this state or on the full-time staff of a teaching hospital in this state.

Section 16. Paragraph (f) of subsection (1) and subsection (2) of section 458.311, Florida Statutes, 1996 Supplement, are amended, and subsection (10) is added to said section, to read:

458.311 Licensure by examination; requirements; fees.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 17. Section 458.313, Florida Statutes, 1996 Supplement, is amended to read:

458.313 Licensure by endorsement; requirements; fees.—

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

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

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

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

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

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

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

~~(4) If the applicant has not actively practiced medicine or been on the active teaching faculty of an accredited medical school within the previous 4 years, the board shall certify the applicant to the department for licensure by endorsement subject to the condition that the applicant work under the supervision of another physician for a period, not to exceed 1 year, as determined by the board based on its determination of~~

~~the licensee's ability to practice medicine. The supervising physician shall have had no probable cause findings against him within the previous 3 years.~~

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

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

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

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

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

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

(c) Certification to the department of an application for licensure, certification, or registration with placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

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

Section 18. Paragraphs (a) and (b) of subsection (1) of section 458.317, Florida Statutes, are amended to read:

458.317 Limited licenses.—

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

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

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

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

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

Section 19. Subsection (1) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

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

Section 20. Paragraphs (a) and (g) of subsection (5) of section 458.320, Florida Statutes, 1996 Supplement, are amended to read:

458.320 Financial responsibility.—

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

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

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

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

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

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

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

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

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

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

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

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

Section 21. Paragraphs (m), (cc), and (ii) of subsection (1) of section 458.331, Florida Statutes, 1996 Supplement, are amended, and paragraph (ll) is added to said subsection, to read:

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

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

(m) Failing to keep *legible, as defined by department rule in consultation with the board,* ~~written~~ medical records *that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify* ~~justifying~~ the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome ~~in children~~ characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(ii) Failing to report to the *department* ~~Division of Medical Quality Assurance~~ any *licensee* ~~physician licensed~~ under this chapter or ~~osteopathic physician licensed~~ under chapter 459 who the physician *or physician assistant* knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the physician *or physician assistant* also provides services.

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

Section 22. Section 458.3312, Florida Statutes, is created to read:

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

Section 23. Section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; *prescribing of medicinal drugs;* penalty.—

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

(a) Is at least 21 years of age.

(b) Has not committed any act or offense within or without the state which would constitute the basis for refusal to certify an application for licensure pursuant to s. 458.331.

(c) Is a graduate of a medical school or college as specified in s. 458.311(1)(f).

(2) The board shall not certify to the department for registration any applicant who is under investigation in any state or jurisdiction for an act which would constitute the basis for imposing a disciplinary penalty specified in s. 458.331(2)(b) until such time as the investigation is completed, at which time the provisions of s. 458.331 shall apply.

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

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

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

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

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

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

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

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

Section 24. Subsection (2) of section 458.346, Florida Statutes, is amended to read:

458.346 Public Sector Physician Advisory Committee.—

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

Section 25. Section 458.347, Florida Statutes, 1996 Supplement, is amended to read:

458.347 Physician assistants.—

(1) LEGISLATIVE INTENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(a) The boards shall adopt, by rule, the general principles that supervising physicians must use in developing the scope of practice of a physician assistant under direct supervision and under indirect supervision. These principles shall recognize the diversity of both specialty and practice settings in which physician assistants are used.

(b) This chapter does not prevent third-party payors from reimbursing employers of physician assistants for covered services rendered by certified physician assistants.

(c) Certified physician assistants may not be denied clinical hospital privileges, except for cause, so long as the supervising physician is a staff member in good standing.

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

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

1. A physician assistant must clearly identify to the patient that he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the *department* ~~agency~~ of his intent to delegate, on *a department-approved* ~~an agency-approved~~ form, before delegating such authority and with each certification renewal application filed by the physician assistant.

3. The physician assistant must file with the *department* ~~agency~~, before commencing to prescribe, evidence that he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the *department* ~~agency~~, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the *department* ~~agency~~ a signed affidavit that he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each certification renewal application.

6. The *department* ~~agency~~ shall issue certification and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. The prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(f)1. There is created a five-member committee appointed by the Director of Health Care Administration. The committee must be composed of one fully certified physician assistant certified pursuant to this section or s. *459.022* ~~458.022~~, two physicians licensed pursuant to this chapter, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to chapter 459, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 459. The committee shall establish a formulary of medicinal drugs for which a fully certified physician assistant may prescribe. The formulary may not include controlled substances as defined in chapter 893, antineoplastics, antipsychotics, radiopharmaceuticals, general anesthetics or radiographic contrast materials, or any parenteral preparations except insulin and epinephrine.

2. Only the committee shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

3. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the *department* ~~agency~~ shall mail a copy of such formulary to each fully certified physician assistant and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

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

(6) PROGRAM APPROVAL.—

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

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

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

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

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

1. Is at least 18 years of age.

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

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

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

b. A sworn statement of any prior felony convictions.

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

d. Two letters of recommendation.

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

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

b. Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board of Medicine as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(1), (3), (4), and (5), with

the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates.

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

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

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

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

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

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

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

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

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

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

(g) The Board of Medicine may impose any of the penalties specified in ss. 455.227 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 455.

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

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

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

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

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

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

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

(c) The council shall:

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

2. Develop all rules regulating the use of physician assistants by physicians under this chapter and chapter 459, except for rules relating to the formulary developed under paragraph (4)(f). The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of certified physician assistants.

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

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

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

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

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

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

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

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

Section 26. Subsections (1) and (2) of section 458.3485, Florida Statutes, are amended to read:

458.3485 Medical assistant.—

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

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

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

1. Performing aseptic procedures.

2. Taking vital signs.

3. Preparing patients for the physician's care.

4. *Performing* venipunctures and nonintravenous injections.

5. Observing and reporting patients' signs or symptoms.

(b) Administering basic first aid.

(c) Assisting with patient examinations or treatments.

(d) Operating office medical equipment.

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

(f) Administering medication as directed by the physician.

(g) Performing basic laboratory procedures.

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

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

Section 27. Subsection (2) of section 459.003, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

459.003 Definitions.—As used in this chapter:

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

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

Section 28. Subsections (1) and (3) and paragraph (b) of subsection (5) of section 459.021, Florida Statutes, are amended, and subsections (8) and (9) are added to that section, to read:

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

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

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

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

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

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

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

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

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

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

Section 29. Subsection (1) of section 459.0075, Florida Statutes, is amended to read:

459.0075 Limited licenses.—

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

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

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

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

Section 30. Paragraphs (a) and (g) of subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, are amended to read:

459.0085 Financial responsibility.—

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

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

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

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

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

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

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

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

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

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

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

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

Section 31. Paragraphs (o), (gg), and (ll) of subsection (1) of section 459.015, Florida Statutes, 1996 Supplement, are amended, and paragraph (nn) is added to said subsection, to read:

459.015 Grounds for disciplinary action by the board.—

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

(o) Failing to keep *legible, as defined by department rule in consultation with the board,* ~~written~~ medical records *that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify* ~~justifying~~ the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(gg) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome ~~in children~~ characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(ll) Failing to report to the *department* ~~Division of Medical Quality Assurance~~ any *licensee* ~~physician licensed~~ under chapter 458 or ~~osteopathic physician licensed~~ under this chapter who the osteopathic physician *or physician assistant* knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the osteopathic physician *or physician assistant* also provides services.

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

Section 32. Section 459.0152, Florida Statutes, is created to read:

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

Section 33. Section 459.022, Florida Statutes, 1996 Supplement, is amended to read:

459.022 Physician assistants.—

(1) LEGISLATIVE INTENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(a) The boards shall adopt, by rule, the general principles that supervising physicians must use in developing the scope of practice of a physician assistant under direct supervision and under indirect supervision. These principles shall recognize the diversity of both specialty and practice settings in which physician assistants are used.

(b) This chapter does not prevent third-party payors from reimbursing employers of physician assistants for covered services rendered by certified physician assistants.

(c) Certified physician assistants may not be denied clinical hospital privileges, except for cause, so long as the supervising physician is a staff member in good standing.

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

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

1. A physician assistant must clearly identify to the patient that he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the *department* ~~agency~~ of his intent to delegate, on *a department-approved* ~~an agency-approved~~ form, before delegating such authority and with each certification renewal application filed by the physician assistant.

3. The physician assistant must file with the *department* ~~agency~~, before commencing to prescribe, evidence that he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the *department* ~~agency~~, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the *department* ~~agency~~ a signed affidavit that he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each certification renewal application.

6. The *department* ~~agency~~ shall issue certification and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. The prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review and

sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(f)1. There is created a five-member committee appointed by the Director of Health Care Administration. The committee must be composed of one fully certified physician assistant certified pursuant to this section or s. 458.347, two physicians licensed pursuant to chapter 458, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to this chapter, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 458. The committee shall establish a formulary of medicinal drugs for which a fully certified physician assistant may prescribe. The formulary may not include controlled substances as defined in chapter 893, antineoplastics, antipsychotics, radiopharmaceuticals, general anesthetics or radiographic contrast materials, or any parenteral preparations except insulin and epinephrine.

2. Only the committee shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

3. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the *department* ~~agency~~ shall mail a copy of such formulary to each fully certified physician assistant and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

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

(6) PROGRAM APPROVAL.—

(a) The boards shall approve programs, based on recommendations by the council, for the education and training of physician assistants which meet standards established by rule of the boards. *The council may recommend only those physician assistant programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Programs or its successor organization.*

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

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

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

1. Is at least 18 years of age.

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

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

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

b. A sworn statement of any prior felony convictions.

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

d. Two letters of recommendation.

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

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

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

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

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

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

(f) The Board of Osteopathic Medicine may impose any of the penalties specified in ss. 455.227 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 455.

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

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

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

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

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

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

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

(c) The council shall:

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

2. Develop all rules regulating the use of physician assistants by physicians under chapter 458 and this chapter, except for rules relating to the formulary developed under s. 458.347(4)(f). The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of certified physician assistants.

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

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

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

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

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

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

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

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

Section 34. Subsection (1) of section 240.4067, Florida Statutes, is amended to read:

240.4067 Medical Education Reimbursement and Loan Repayment Program.—

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

Section 35. Subsection (5) of section 390.011, Florida Statutes, is amended to read:

390.011 Definitions.—As used in this act:

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

Section 36. Subsection (1) of section 395.0191, Florida Statutes, is amended to read:

395.0191 Staff membership and clinical privileges.—

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

Section 37. Paragraph (g) of subsection (1) of section 408.035, Florida Statutes, is amended to read:

408.035 Review criteria.—

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

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

Section 38. Subsection (9) of section 409.905, Florida Statutes, 1996 Supplement, is amended to read:

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

(9) PHYSICIAN SERVICES.—The agency shall pay for covered services and procedures rendered to a recipient by, or under the personal supervision of, a person licensed under state law to practice medicine or *osteopathic medicine* ~~osteopathy~~. These services may be furnished in the physician's office, the Medicaid recipient's home, a hospital, a nursing facility, or elsewhere, but shall be medically necessary for the treatment

of an injury, illness, or disease within the scope of the practice of medicine or *osteopathic medicine* ~~osteopathy~~ as defined by state law. The agency shall not pay for services that are clinically unproven, experimental, or for purely cosmetic purposes.

Section 39. Subsection (33) of section 415.102, Florida Statutes, is amended to read:

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

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

Section 40. Paragraph (a) of subsection (1) of section 415.1034, Florida Statutes, is amended to read:

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

(1) MANDATORY REPORTING.—

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

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

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

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

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

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

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

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

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

Section 41. Paragraph (a) of subsection (1) of section 415.504, Florida Statutes, 1996 Supplement, is amended to read:

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

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

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

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

Section 42. Subsection (2) of section 440.106, Florida Statutes, is amended to read:

440.106 Civil remedies; administrative penalties.—

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

Section 43. Paragraph (r) of subsection (1) of section 440.13, Florida Statutes, 1996 Supplement, is amended to read:

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

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

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

Section 44. Paragraphs (i) and (k) of subsection (1) of section 440.134, Florida Statutes, are amended to read:

440.134 Workers' compensation managed care arrangement.—

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

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

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

Section 45. Paragraph (a) of subsection (3) of section 440.15, Florida Statutes, 1996 Supplement, is amended to read:

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

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

(a) Impairment benefits.—

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

2. The three-member panel, in cooperation with the division, shall establish and use a uniform permanent impairment rating schedule. This schedule must be based on medically or scientifically demonstrable findings as well as the systems and criteria set forth in the American Medical Association's Guides to the Evaluation of Permanent Impairment; the Snellen Charts, published by American Medical Association Committee for Eye Injuries; and the Minnesota Department of Labor and Industry Disability Schedules. The schedule should be based upon objective findings. The schedule shall be more comprehensive than the AMA Guides to the Evaluation of Permanent Impairment and shall expand the areas already addressed and address additional areas not currently contained in the guides. On August 1, 1979, and pending the adoption, by rule, of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971, 1988, by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof. For injuries after July 1, 1990, pending the adoption by division rule of a uniform disability rating schedule, the

Minnesota Department of Labor and Industry Disability Schedule shall be used unless that schedule does not address an injury. In such case, the Guides to the Evaluation of Permanent Impairment by the American Medical Association shall be used. Determination of permanent impairment under this schedule must be made by a physician licensed under chapter 458, a doctor of *osteopathic medicine* ~~osteopathy~~ licensed under chapters 458 and 459, a chiropractor licensed under chapter 460, a podiatrist licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, as appropriate considering the nature of the injury. No other persons are authorized to render opinions regarding the existence of or the extent of permanent impairment.

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

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

b. The death of the employee.

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

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

Section 46. Subsection (2) of section 456.31, Florida Statutes, is amended to read:

456.31 Legislative intent.—

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

Section 47. Subsection (1) of section 459.006, Florida Statutes, is amended to read:

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

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

Section 48. Subsection (1) of section 462.01, Florida Statutes, is amended to read:

462.01 Definitions.—As used in this chapter:

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

Section 49. Subsection (10) of section 468.301, Florida Statutes, is amended to read:

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

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

Section 50. Paragraph (a) of subsection (6) of section 468.302, Florida Statutes, 1996 Supplement, is amended to read:

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

(6) Requirement for certification does not apply to:

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

Section 51. Section 476.044, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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

Section 52. Paragraph (a) of subsection (1) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

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

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

Section 53. Paragraph (a) of subsection (8) of section 483.291, Florida Statutes, is amended to read:

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

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

(a) Prior experience of not less than 6 months as a medical assistant in the office of a licensed medical doctor or *osteopathic physician* ~~osteopath~~ or in a hospital, an ambulatory surgical center, a home health agency, or a health maintenance organization.

Section 54. Subsection (1) of section 621.03, Florida Statutes, is amended to read:

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

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

Section 55. Paragraph (h) of subsection (4) of section 627.351, Florida Statutes, 1996 Supplement, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(h) As used in this subsection:

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

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

3. "Health care facility" means any hospital licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, ambulatory surgical center licensed under chapter 395, or other medical facility as defined in subparagraph 2.

Section 56. Paragraph (b) of subsection (1) of section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

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

(b) "Health care provider" means any:

1. Hospital licensed under chapter 395.

2. Physician licensed, or physician assistant certified, under chapter 458.

3. *Osteopathic physician* ~~Osteopath~~ licensed under chapter 459.

4. Podiatrist licensed under chapter 461.

5. Health maintenance organization certificated under part I of chapter 641.

6. Ambulatory surgical center licensed under chapter 395.

7. Chiropractor licensed under chapter 460.

8. Psychologist licensed under chapter 490.

9. Optometrist licensed under chapter 463.

10. Dentist licensed under chapter 466.

11. Pharmacist licensed under chapter 465.

12. Registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under chapter 464.

13. Other medical facility.

14. Professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9., 10., 11., and 12. for professional activity.

Section 57. Subsection (10) of section 627.6482, Florida Statutes, is amended to read:

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

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

Section 58. Section 725.01, Florida Statutes, is amended to read:

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

Section 59. Paragraph (b) of subsection (1) of section 766.101, Florida Statutes, 1996 Supplement, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

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

Section 60. Subsection (3) of section 766.103, Florida Statutes, is amended to read:

766.103 Florida Medical Consent Law.—

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

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

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

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

Section 61. Paragraphs (b) and (i) of subsection (1) and paragraph (e) of subsection (2) of section 766.105, Florida Statutes, 1996 Supplement, are amended to read:

766.105 Florida Patient's Compensation Fund.—

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

(b) The term "health care provider" means any:

1. Hospital licensed under chapter 395.

2. Physician licensed, or physician assistant certified, under chapter 458.

3. *Osteopathic physician* ~~Osteopath~~ licensed under chapter 459.

4. Podiatrist licensed under chapter 461.

5. Health maintenance organization certificated under part I of chapter 641.

6. Ambulatory surgical center licensed under chapter 395.

7. "Other medical facility" as defined in paragraph (c).

8. Professional association, partnership, corporation, joint venture, or other association by the individuals set forth in subparagraphs 2., 3., and 4. for professional activity.

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

(2) COVERAGE.—

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

Section 62. Subsection (2) of section 766.110, Florida Statutes, is amended to read:

766.110 Liability of health care facilities.—

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

Section 63. Subsection (2) of section 817.234, Florida Statutes, is amended to read:

817.234 False and fraudulent insurance claims.—

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

set forth in chapter 460, or other appropriate licensing authority shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, *osteopathic physician* ~~osteopath~~, chiropractor, or practitioner.

Section 64. Subsection (1) of section 945.047, Florida Statutes, is amended to read:

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

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

Section 65. Subsection (1) of section 460.403, Florida Statutes, 1996 Supplement, is amended to read:

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

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

Section 66. Paragraphs (bb) and (cc) of subsection (1) of section 460.413, Florida Statutes, 1996 Supplement, are repealed, paragraphs (q) and (gg) of subsection (1) and subsection (2) of that section are amended, and subsections (6) and (7) are added to that section, to read:

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

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

(q) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. *In enforcing this paragraph, upon a finding by the secretary of the department, or his or her designee, or the probable cause panel of the board that probable cause exists to believe that the licensee is unable to practice the profession because of reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. The record of proceedings to obtain a compelled mental or physical examination shall not be used against a licensee in any other proceedings.* A chiropractic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of chiropractic with reasonable skill and safety to patients.

(gg) Failing to report to the *department* ~~Division of Medical Quality Assurance~~ any *licensee* ~~physician licensed~~ under chapter 458 or ~~osteopathic physician licensed~~ under chapter 459 who the chiropractic physician *or chiropractic physician's assistant* knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the chiropractic physician *or chiropractic physician's assistant* also provides services.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

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

(e) Issuance of a reprimand.

(f) Placement of the chiropractic physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the chiropractic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another chiropractic physician.

(g) Imposition of costs of the investigation and prosecution.

(h) Requirement that the chiropractic physician undergo remedial education.

(i) Issuance of a letter of concern.

(j) Corrective action.

(k) Refund of fees billed to and collected from the patient or a third party.

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

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

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

Section 67. For the purpose of incorporating the amendment to section 460.413, Florida Statutes, 1996 Supplement, in a reference thereto, subsection (9) of section 320.0848, Florida Statutes, is reenacted to read:

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

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

Section 68. For the purpose of incorporating the amendment to section 460.413, Florida Statutes, 1996 Supplement, in a reference thereto, paragraph (g) of subsection (4) of section 455.236, Florida Statutes, is reenacted to read:

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

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

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

the Department of Health and Rehabilitative Services pursuant to s. 395.0185(2).

Section 69. For the purpose of incorporating the amendment to section 460.413, Florida Statutes, 1996 Supplement, in a reference thereto, subsection (2) of section 766.111, Florida Statutes, is reenacted to read:

766.111 Engaging in unnecessary diagnostic testing; penalties.—

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

Section 70. Paragraph (a) of subsection (8) of section 460.4165, Florida Statutes, is amended to read:

460.4165 Chiropractic physician's assistants.—

(8) FEES.—

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

Section 71. Subsection (1) of section 461.003, Florida Statutes, is amended to read:

461.003 Definitions.—As used in this chapter:

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

Section 72. Paragraph (aa) of subsection (1) of section 461.013, Florida Statutes, is amended to read:

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

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

(aa) Failing to report to the *department* ~~Division of Medical Quality Assurance~~ any *licensee* ~~physician licensed~~ under chapter 458 or ~~osteopathic physician licensed under~~ chapter 459 who the podiatrist knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the podiatrist also provides services.

Section 73. Section 461.018, Florida Statutes, 1996 Supplement, is amended to read:

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

Section 74. Subsection (1) and paragraph (c) of subsection (3) of section 464.003, Florida Statutes, 1996 Supplement, are amended to read:

464.003 Definitions.—As used in this chapter:

(1) "*Department* ~~Agency~~" means the *Department of* ~~Agency for~~ Health ~~Care Administration~~.

(3)

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

Section 75. Subsection (1) of section 464.004, Florida Statutes, 1996 Supplement, is amended to read:

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

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

Section 76. Subsection (1) of section 464.008, Florida Statutes, 1996 Supplement, is amended to read:

464.008 Licensure by examination.—

(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the *department* ~~agency~~ to take the licensure examination. The *department* ~~agency~~ shall examine each applicant who:

(a) Has completed the application form and remitted a fee set by the board not to exceed $150 and has remitted an examination fee set by the board not to exceed $75 plus the actual per applicant cost to the *department* ~~agency~~ for purchase of the examination from the National Council of State Boards of Nursing or a similar national organization.

(b) Has provided sufficient information on or after October 1, 1989, which must be submitted by the *department* ~~agency~~ for a statewide criminal records correspondence check through the Department of Law Enforcement.

(c) Is in good mental and physical health, is a recipient of a high school diploma or the equivalent, and has completed the requirements for graduation from an approved program for the preparation of registered nurses or licensed practical nurses, whichever is applicable. Courses successfully completed in a professional nursing program which are at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.

(d) Has the ability to communicate in the English language, which may be determined by an examination given by the *department* ~~agency~~.

Section 77. Subsections (1) and (3) of section 464.009, Florida Statutes, 1996 Supplement, are amended to read:

464.009 Licensure by endorsement.—

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

(a) Holds a valid license to practice professional or practical nursing in another state of the United States, provided that, when the applicant secured his original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time; or

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the *department* ~~agency~~.

(3) The *department* ~~agency~~ shall not issue a license by endorsement to any applicant who is under investigation in another state for an act which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

Section 78. Subsections (1) and (5) of section 464.012, Florida Statutes, 1996 Supplement, are amended to read:

464.012 Certification of advanced registered nurse practitioners; fees.—

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

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

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

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

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

Section 79. Subsections (1) and (2) of section 464.013, Florida Statutes, 1996 Supplement, are amended to read:

464.013 Renewal of license or certificate.—

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

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

Section 80. Subsection (2) of section 464.014, Florida Statutes, 1996 Supplement, is amended to read:

464.014 Inactive status.—

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

Section 81. Paragraphs (a), (c), (j), (k), (l), and (m) of subsection (1) and paragraph (a) of subsection (2) of section 464.018, Florida Statutes, 1996 Supplement, are amended to read:

464.018 Disciplinary actions.—

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

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the *department* ~~agency~~ or the board.

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

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the *department* ~~agency~~ shall have, upon a finding of the *secretary* ~~director~~ or *the secretary's* ~~his~~ designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the *department* ~~agency~~. If the licensee refuses to comply with such order, the *department's* ~~agency's~~ order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The *department* ~~agency~~ shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the *department* ~~agency~~ any person who the licensee knows is in violation of this chapter or of the rules of the *department* ~~agency~~ or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this chapter, a rule of the board or the *department* ~~agency~~, or a lawful order of the board or *department* ~~agency~~ previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the *department* ~~agency~~.

(m) Failing to report to the *department* ~~Division of Health Quality Assurance~~ any *licensee* ~~physician licensed~~ under chapter 458 or ~~osteopathic physician licensed~~ under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the *department* ~~agency~~ an application for licensure.

Section 82. Subsections (1), (3), and (4) of section 464.019, Florida Statutes, 1996 Supplement, are amended to read:

464.019 Approval of nursing programs.—

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

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

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

Section 83. Section 464.0205, Florida Statutes, is created to read:

464.0205 Retired volunteer nurse certificate.—

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer nurse certificate by providing:

(a) A complete application.

(b) An application and processing fee of $25.

(c) Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

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

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

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

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

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

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

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

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

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

(a) Administer controlled substances.

(b) Supervise other nurses.

(c) Receive monetary compensation.

(6) A retired volunteer nurse certified under this section may practice only in board-approved settings in public agencies or institutions or in nonprofit agencies or institutions meeting the requirements of s. 501(c)(3) of the Internal Revenue Code, which agencies or institutions are located in areas of critical nursing need as determined by the board. Determination of underserved areas shall be made by the board after consultation with the Department of Health, the Department of Children and Family Services, the Agency for Health Care Administration, and the Department of Elderly Affairs; however, such determination shall include, but not be limited to, health manpower shortage areas designated by the United States Department of Health and Human Services. The sponsoring agencies desiring to use certified retired volunteer nurses shall submit to the board verification of their status under s. 501(c)(3) of the Internal Revenue Code, the sites at which such volunteer nurses would work, the duties and scope of practice intended for such volunteer nurses, and the training or skills validation for such volunteer nurses.

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

Section 84. Subsection (12) is added to section 464.022, Florida Statutes, to read:

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

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

Section 85. Subsections (4) and (10) of section 465.003, Florida Statutes, are amended to read:

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

(4) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

(10)*(a)* "Pharmacy" includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, and a special pharmacy.

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

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

3.~~(c)~~ The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.

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

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

Section 86. Subsections (1) and (2) of section 465.004, Florida Statutes, are amended to read:

465.004 Board of Pharmacy.—

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

(2) *Seven* ~~Five~~ members of the board must be licensed pharmacists who are residents of this state and who have been engaged in the practice of the profession of pharmacy in this state for at least 4 years *and, to the extent practicable, represent the various pharmacy practice settings. Of the pharmacist members, one must be on the full-time faculty of a pharmacy school in this state, one must be currently engaged in the practice of pharmacy in a community pharmacy, one must be currently engaged in the practice of pharmacy in a Class II institutional pharmacy or a Modified Class II institutional pharmacy, and four shall be pharmacists licensed in this state irrespective of practice setting.* The remaining

two members must be residents of the state who have never been licensed as pharmacists and who are in no way connected with the practice of the profession of pharmacy. No person may be appointed as a *consumer* ~~lay~~ member who is in any way connected with a drug manufacturer or wholesaler. At least one member of the board must be 60 years of age or older.

Section 87. Section 465.0125, Florida Statutes, is amended to read:

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

(1) The department shall issue or renew a consultant pharmacist license upon receipt of an initial or renewal application which conforms to the requirements for consultant pharmacist initial licensure or renewal as promulgated by the board by rule and a fee set by the board not to exceed $250. The consultant pharmacist shall be responsible for maintaining all drug records required by law and for establishing drug handling procedures for the safe handling and storage of drugs. The consultant pharmacist may also be responsible for ordering and evaluating any laboratory or clinical testing when, in the judgment of the consultant pharmacist, such activity is necessary for the proper performance of the consultant pharmacist's responsibilities. Such laboratory or clinical testing may be ordered only with regard to patients residing in a nursing home facility, and then only when authorized by the medical director of the nursing home facility. The consultant pharmacist must have completed such additional training and demonstrate such additional qualifications in the practice of institutional pharmacy as shall be required by the board ~~of Pharmacy~~ in addition to licensure as a registered pharmacist. ~~The board shall promulgate rules necessary to implement and administer this section.~~

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

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

Section 88. Section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—No person other than a licensed pharmacist or pharmacy intern may engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to nonlicensed pharmacy technicians those duties, tasks, and functions which do not fall within the purview of s. 465.003(12). All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his *or her* supervision. *A pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests.* No licensed pharmacist shall supervise more than one pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than *three* ~~two~~ pharmacy technicians.

Section 89. Subsection (1) of section 465.0156, Florida Statutes, is amended to read:

465.0156 Registration of nonresident pharmacies.—

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

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

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

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

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

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

Section 90. Paragraph (o) of subsection (1) and paragraph (e) of subsection (2) of section 465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.—

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

(o) Failing to report to the *department* ~~Division of Medical Quality Assurance~~ any *licensee* ~~physician licensed~~ under chapter 458 or ~~osteopathic physician licensed~~ under chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the pharmacist also provides services.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

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

Section 91. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a pharmacy which does not fall within the definitions set forth in s. 465.003(10)(a)*1.*, *2.*~~(b)~~, and *3.*~~(c)~~ shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties.

Section 92. Section 465.026, Florida Statutes, is amended to read:

465.026 Filling of certain prescriptions.—Nothing contained in this chapter shall be construed to prohibit a pharmacist licensed in this state

from filling or refilling a valid prescription which is on file in a pharmacy located in this state or in another state and has been transferred from one pharmacy to another by any means, including *any electronic means* ~~transfer by way of electronic data processing equipment~~, under the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

(5) Electronic transfers of prescriptions are permitted regardless of whether the transferor or transferee pharmacy is open for business.

(6)~~(5)~~ The transfer of a prescription for medicinal drugs listed in Schedules III, IV, and V appearing in chapter 893 for the purpose of refill dispensing is permissible, ~~between pharmacies on a one-time basis~~ subject to the requirements of this section and federal law. Compliance with federal law shall be deemed compliance with the requirements of this section.

Section 93. Section 465.035, Florida Statutes, is amended to read:

465.035 Dispensing of *medicinal* ~~medical~~ drugs pursuant to facsimile of prescription.—

(1) Notwithstanding any other provision of this chapter, it is lawful for a pharmacy to dispense medicinal drugs, *including controlled substances authorized under subsection (2),* based on reception of an electronic facsimile of the original prescription if all of the following conditions are met:

(a) In the course of the transaction the pharmacy complies with laws and administrative rules relating to pharmacies and pharmacists.

(b) Except in the case of the transmission of a prescription by a person authorized by law to prescribe medicinal drugs:

1. The facsimile system making the transmission provides the pharmacy receiving the transmission with audio communication via telephonic, electronic, or similar means with the person presenting the prescription.

2. At the time of the delivery of the medicinal drugs, the pharmacy has in its possession the original prescription for the medicinal drug involved.

3. The recipient of the prescription shall sign a log and shall indicate the name and address of both the recipient and the patient for whom the medicinal drug was prescribed.

(2) ~~This section does not apply to the dispensing of~~ Controlled substances listed in Schedule II as defined in s. 893.03(2) *may be dispensed as provided in this section to the extent allowed by 21 C.F.R. s. 1306.11.*

Section 94. Subsection (1) of section 465.186, Florida Statutes, is amended to read:

465.186 Pharmacist's order for medicinal drugs; dispensing procedure; development of formulary.—

(1) There is hereby created a committee composed of two members of the Board of Medicine licensed under chapter 458 chosen by said board, one member of the Board of Osteopathic Medicine licensed under chapter 459 chosen by said board, three members of the Board of Pharmacy licensed under this chapter and chosen by said board, and one additional person with a background in health care or pharmacology chosen by the committee. The committee shall establish a formulary of medicinal drug products and dispensing procedures which shall be used by a pharmacist when ordering and dispensing such drug products to the public. Dispensing procedures may include matters related to reception of patient, description of his *or her* condition, patient interview, patient physician referral, product selection, and dispensing and use limitations. In developing the formulary of medicinal drug products, the committee may include products falling within the following categories:

(a) Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the United States Food and Drug Administration.

(b) Any medicinal drug recommended by the United States Food and Drug Administration Advisory Panel for transfer to over-the-counter status pending approval by the United States Food and Drug Administration.

(c) Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination.

(d) Any medicinal drug containing fluoride in any strength.

(e) Any medicinal drug containing lindane in any strength.

(f) Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program.

(g) Any topical anti-infectives excluding eye and ear topical anti-infectives.

However, any drug which is sold as an over-the-counter proprietary drug under federal law shall not be included in the formulary or otherwise affected by this section.

Section 95. Paragraph (iii) is added to subsection (4) of section 893.03, Florida Statutes, 1996 Supplement, to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(4) SCHEDULE IV.—A substance in Schedule IV has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, are controlled in Schedule IV:

(iii) Butorphanol tartrate.

Section 96. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (5) of section 316.193, Florida Statutes, 1996 Supplement, is reenacted to read:

316.193 Driving under the influence; penalties.—

(5) The court shall place any offender convicted of violating this section on monthly reporting probation and shall require attendance at a substance abuse course licensed by the department; and the agency conducting the course may refer the offender to an authorized service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section. The offender shall assume reasonable costs for such education, evaluation, and treatment, with completion of all such education, evaluation, and treatment being a condition of reporting probation. Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychosocial evaluation conducted by an agency appointed by the court and with access to the original evaluation. The offender shall bear the cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the substance abuse education course, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege. The department shall reinstate the driving privilege when the offender completes the substance abuse education course or enters treatment required under this subsection. The organization that conducts the substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. All DUI treatment programs providing treatment services on January 1, 1994, shall be allowed to continue to provide such services until the department determines whether a waiver should be granted. A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

Section 97. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (5) of section 327.35, Florida Statutes, 1996 Supplement, is reenacted to read:

327.35 Boating under the influence; penalties.—

(5) In addition to any sentence or fine, the court shall place any offender convicted of violating this section on monthly reporting probation and shall require attendance at a substance abuse course specified by the court; and the agency conducting the course may refer the offender to an authorized service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section. The offender shall assume reasonable costs for such education, evaluation, and treatment, with completion of all such education, evaluation, and treatment being a condition of reporting probation. Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychosocial evaluation conducted by an agency appointed by the court and with access to the original evaluation. The offender shall bear the cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03.

Section 98. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraph (b) of subsection (11) of section 440.102, Florida Statutes, 1996 Supplement, is reenacted to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR SPECIAL-RISK POSITIONS.—

(b) An employee who is employed by a public employer in a special-risk position may be discharged or disciplined by a public employer for the first positive confirmed test result if the drug confirmed is an illicit drug under s. 893.03. A special-risk employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any special-risk or safety-sensitive position of the public employer, but may be assigned to a position other than a safety-sensitive position or placed on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

Section 99. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (3) of section 458.326, Florida Statutes, is reenacted to read:

458.326 Intractable pain; authorized treatment.—

(3) Notwithstanding any other provision of law, a physician may prescribe or administer any controlled substance under Schedules II-V, as provided for in s. 893.03, to a person for the treatment of intractable pain, provided the physician does so in accordance with that level of care, skill, and treatment recognized by a reasonably prudent physician under similar conditions and circumstances.

Section 100. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (1) of section 817.563, Florida Statutes, is reenacted to read:

817.563 Controlled substance named or described in s. 893.03; sale of substance in lieu thereof.—It is unlawful for any person to agree, consent, or in any manner offer to unlawfully sell to any person a controlled substance named or described in s. 893.03 and then sell to such person any other substance in lieu of such controlled substance. Any person who violates this section with respect to:

(1) A controlled substance named or described in s. 893.03(1), (2), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 101. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, section 831.31, Florida Statutes, is reenacted to read:

831.31 Counterfeit controlled substance; sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver.—

(1) It is unlawful for any person to sell, manufacture, or deliver, or to possess with intent to sell, manufacture, or deliver, a counterfeit controlled substance. Any person who violates this subsection with respect to:

(a) A controlled substance named or described in s. 893.03(1), (2), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) For purposes of this section, "counterfeit controlled substance" means:

(a) A controlled substance named or described in s. 893.03 which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, or number, or any likeness thereof, of a manufacturer other than the person who in fact manufactured the controlled substance; or

(b) Any substance which is falsely identified as a controlled substance named or described in s. 893.03.

Section 102. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraph (d) of subsection (1) of section 856.015, Florida Statutes, is reenacted to read:

856.015 Open house parties.—

(1) Definitions.—As used in this section:

(d) "Drug" means a controlled substance, as that term is defined in ss. 893.02(4) and 893.03.

Section 103. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, subsection (4) of section 893.02, Florida Statutes, is reenacted to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(4) "Controlled substance" means any substance named or described in Schedules I through V of s. 893.03. Laws controlling the manufacture, distribution, preparation, dispensing, or administration of such substances are drug abuse laws.

Section 104. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraph (b) of subsection (1) of section 893.08, Florida Statutes, is reenacted to read:

893.08 Exceptions.—

(1) The following may be distributed at retail without a prescription, but only by a registered pharmacist:

(b) Any compound, mixture, or preparation containing any depressant or stimulant substance described in s. 893.03(2)(a) or (c) except any amphetamine drug or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to this chapter; in s. 893.03(3)(a); or in Schedule IV, if:

1. The compound, mixture, or preparation contains one or more active medicinal ingredients not having depressant or stimulant effect on the central nervous system, and

2. Such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the controlled substances which do have a depressant or stimulant effect on the central nervous system.

Section 105. For the purpose of incorporating the amendment to section 893.03, Florida Statutes, 1996 Supplement, in references thereto, paragraphs (a), (c), and (d) of subsection (1), paragraph (a) of subsection (2), paragraph (b) of subsection (4), and paragraph (b) of subsection (5) of section 893.13, Florida Statutes, 1996 Supplement, are reenacted to read:

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 a.m. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 and must be sentenced to a minimum term of imprisonment of 3 calendar years.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(d) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 200 feet of the real property comprising a public housing facility, within 200 feet of the real property comprising a public or private college, university, or other postsecondary educational institution, or within 200 feet of any public park. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(2)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to purchase, or possess with intent to purchase, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Except as authorized by this chapter, it is unlawful for any person 18 years of age or older to deliver any controlled substance to a person

under the age of 18 years, or to use or hire a person under the age of 18 years as an agent or employee in the sale or delivery of such a substance, or to use such person to assist in avoiding detection or apprehension for a violation of this chapter. Any person who violates this provision with respect to:

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence may not be suspended or deferred, nor shall the person so convicted be placed on probation.

(5) It is unlawful for any person to bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. Any person who violates this provision with respect to:

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 106. Subsection (7) of section 466.003, Florida Statutes, is amended to read:

466.003 Definitions.—As used in this chapter:

(7) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 107. Subsection (3) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(3) If an applicant is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) or of a dental college or school not approved by the board, he shall not be entitled to take the examinations required in this section to practice dentistry until he ~~meets the following requirements:~~

~~(a) Furnishes evidence to the board of a score on the examination of the National Board of Dental Examiners taken within 10 years of the date of application, which score is at least equal to the minimum score required for certification by that board. If the applicant fails to attain the score needed for certification on part I of the national board examination in two attempts, or fails to attain the score needed for certification on part II of the national board examination in two attempts, he shall not be entitled to take the laboratory model examination authorized in paragraph (c).~~

~~(b) Submits, upon meeting the requirements of paragraph (a), the following credentials for review by the board:~~

~~1. Transcripts of predental education and dental education totaling 7 academic years of postsecondary education, including 4 academic years of dental education; and~~

~~2. A dental school diploma.~~

~~The board shall not review the credentials specified in this paragraph until the applicant has furnished to the board evidence of satisfactory completion of the National Board of Dental Examiners examination as required by paragraph (a). Such credentials shall be submitted in a manner provided by rule of the board. The board shall approve those credentials which comply with this paragraph and with rules of the board adopted pursuant hereto. The provisions of this paragraph notwithstanding, an applicant who cannot produce the credentials required by this paragraph as a result of political or other conditions in the country in which he received his education may seek approval by the board of his educational background prior to complying with the provisions of paragraph (a) by submitting such other reasonable and reliable evidence as may be set forth by rule of the board in lieu of the credentials required in this paragraph. The board shall not accept such alternative evidence until it has made a reasonable attempt to obtain the credentials required by this paragraph from the educational institutions the applicant is alleged to have attended, unless the board is otherwise satisfied that such credentials cannot be obtained.~~

~~(c)~~ satisfies one of the following:

(a)~~1.~~ Completes a program of study, as defined by the board by rule, at an accredited American dental school and demonstrates receipt of a D.D.S. or D.M.D. from said school; *or*

(b)~~2.~~ Completes a 2-year supplemental dental education program at an accredited dental school and receives a dental diploma, degree, or certificate as evidence of program completion.~~; or~~

~~3. Exhibits manual skills on a laboratory model pursuant to rules of the board. The board may charge a reasonable fee, not to exceed $250, to cover the costs of administering the exhibition of competency in manual skills. If the applicant fails to exhibit competent clinical skills in two attempts, he shall not be entitled to take the examinations authorized in subsection (4). Effective December 31, 1991, no applicant may fulfill the requirements of this paragraph by taking the laboratory model exam. On or after said date, applicants must complete the educational requirements set forth in subparagraph 1. or subparagraph 2.~~

~~The provisions of paragraph (a) and subparagraph (c)3. notwithstanding, an applicant who is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) and who has failed to pass part I or part II of the national board examination in two attempts may take the laboratory model exam required in subparagraph (c)3. if the board finds that he has taken remedial training in the subject areas in which he tested below standard on said national board examination and that he has subsequently passed that part of such exam which he had previously failed, provided that no applicant shall be entitled to this exception who fails either part of the national board examination a total of three times. Further, an applicant who has failed to pass the laboratory model exam required in subparagraph (c)3. in two attempts may be allowed by the board to make a third and final attempt if the board finds that he has taken remedial training in clinical subjects in which he tested below standard. Upon passing said laboratory model exam, the applicant may take the licensure examinations required in subsection (4). Further, the educational requirements found in subparagraph (b)1. do not apply to persons who began dental education prior to October 1, 1983, and such persons shall be governed by the educational requirements in existence on September 30, 1983.~~

Section 108. Section 466.017, Florida Statutes, is amended to read:

466.017 Prescription of drugs; anesthesia.—

(1) A dentist shall have the right to prescribe drugs or medicine, subject to limitations imposed by law; perform surgical operations within the scope of his practice and training; administer general or local anesthesia or sedation, subject to limitations imposed by law; and use such appliances as may be necessary to the proper practice of dentistry.

(2) Pharmacists licensed pursuant to chapter 465 may fill prescriptions of legally licensed dentists in this state for any drugs necessary for the practice of dentistry.

(3) The board shall adopt rules which:

(a) Define general anesthesia.

(b) Specify which *methods of* general or local anesthesia or sedation, if any, are limited or prohibited for use by dentists.

(c) Establish minimal training, education, experience, or certification for a dentist to use general anesthesia or sedation, which rules may exclude, in the board's discretion, those dentists using general anesthesia or sedation in a competent and effective manner as of the effective date of the rules.

(d) Establish further requirements relating to the use of general anesthesia or sedation, including, but not limited to, office equipment and the training of dental assistants or dental hygienists who work with dentists using general anesthesia or sedation.

(e) Establish an administrative mechanism enabling the board to verify compliance with training, education, experience, equipment, or certification requirements of dentists, dental hygienists, and dental assistants adopted pursuant to this subsection. The board may charge a fee to defray the cost of verifying compliance with requirements adopted pursuant to this paragraph.

~~(4)(a) A licensed dentist who has been utilizing general anesthesia on a regular and routine basis in a competent and effective manner for a 10-year period preceding January 1, 1980, shall be deemed to have fulfilled the training requirements required by subsection (3) for general anesthesia.~~

~~(b) A licensed dentist who has been utilizing parenteral conscious sedation on an outpatient basis on a regular and routine basis in a competent and effective manner for the 3-year period preceding January 1, 1980, shall be deemed to have fulfilled the training requirements required by subsection (3) for parenteral conscious sedation.~~

(4)~~(5)~~ A dentist who administers or employs the use of any form of anesthesia must possess a certification in either basic cardiopulmonary resuscitation for health professionals or advanced cardiac life support approved by the American Heart Association or the American Red Cross or an equivalent agency-sponsored course with recertification every 2 years. Each dental office which uses any form of anesthesia must have immediately available and in good working order such resuscitative equipment, oxygen, and other resuscitative drugs as are specified by rule of the board in order to manage possible adverse reactions.

(5)~~(6)~~ A licensed dentist may utilize an X-ray machine, expose dental X-ray films, and interpret or read such films. The provisions of part IV of chapter 468 to the contrary notwithstanding, a licensed dentist may authorize or direct a dental assistant to operate such equipment and expose such films under his direction and supervision, pursuant to rules adopted by the board in accordance with s. 466.024 which ensure that said assistant is competent by reason of training and experience to operate said equipment in a safe and efficient manner. The board may charge a fee not to exceed $35 to defray the cost of verifying compliance with requirements adopted pursuant to this section.

(6)~~(7)~~ The provisions of s. 465.0276 notwithstanding, a dentist need not register with the board or comply with the continuing education requirements of that section if the dentist confines his dispensing activity to the dispensing of fluorides and chlorohexidine rinse solutions; provided that the dentist complies with and is subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, chapters 465, 499, and 893, and all applicable federal laws and regulations, when dispensing such products.

Section 109. Paragraphs (r) and (hh) of subsection (1) of section 466.028, Florida Statutes, are amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(r) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is *a Schedule II* ~~an~~ amphetamine or *a Schedule II* sympathomimetic amine drug or a compound *thereof* ~~designated as a Schedule II controlled substance~~, pursuant to chapter 893, to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(hh) Failing to report to the *department* ~~Division of Medical Quality Assurance~~ any *licensee* ~~physician licensed~~ under chapter 458 or ~~osteopathic physician licensed under~~ chapter 459 who the dentist knows has violated the grounds for disciplinary action set out in the law under which that *person* ~~physician or osteopathic physician~~ is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the dentist also provides services.

Section 110. Subsection (2) of section 468.1115, Florida Statutes, is amended to read:

468.1115 Exemptions.—

(2) The provisions of this part shall not apply to:

(a) Students actively engaged in a training program, if such persons are acting under the direct supervision of a licensed speech-language pathologist or a licensed audiologist.

(b) Persons practicing a licensed profession or operating within the scope of their profession, such as doctors of medicine, clinical psychologists, nurses, or hearing aid specialists, who are properly licensed under the laws of this state.

(c) *Persons certified in the areas of speech-language impairment or hearing impairment* ~~A person licensed~~ in this state under chapter 231 when engaging in the profession for which *they are certified* ~~he is licensed~~, or any person under the direct supervision of *such a certified person, or of a licensee under this chapter, when the person under such supervision is performing hearing screenings in a school setting for prekindergarten through grade 12* ~~the licensee when rendering services within the scope of the profession of the licensee~~.

(d) Laryngectomized individuals, rendering guidance and instruction to other laryngectomized individuals, who are under the supervision of a speech-language pathologist licensed under this part or of a physician licensed under chapter 458 or chapter 459 and qualified to perform this surgical procedure.

(e) Persons licensed by another state as a speech-language pathologist or audiologist who provide services within the applicable scope of practice set forth in s. 468.1125(6) or (7) for no more than 5 calendar days per month or 15 calendar days per year under the direct supervision of a Florida-licensed speech-language pathologist or audiologist. A person whose state of residence does not license speech-language pathologists or audiologists may also qualify for this exemption, if the person holds a certificate of clinical competence from the American Speech-Language and Hearing Association and meets all other requirements of this paragraph. In either case, the board shall hold the supervising Florida licensee fully accountable for the services provided by the out-of-state licensee.

(f) Nonlicensed persons working in a hospital setting who provide newborn infant hearing screenings, so long as training, clinical interpretation of the screenings, and the protocol for followup of infants who fail in-hospital screenings are provided by a licensed audiologist.

Section 111. Subsection (5) of section 468.1125, Florida Statutes, is amended to read:

468.1125 Definitions.—As used in this part, the term:

(5) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 112. Section 468.1155, Florida Statutes, is amended to read:

468.1155 Provisional license; requirements.—

(1)*(a)* A provisional license shall be required *of all applicants who cannot document 9 months of supervised professional employment experience and a passing score on the national examination.*

(b) Individuals who are required to hold a provisional license under paragraph (a) shall apply to the department and be certified by the board for licensure prior to initiating the professional employment experience required pursuant to s. 468.1165. ~~Any person desiring a provisional license to practice speech-language pathology or audiology shall apply to the department.~~

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant *who* ~~whom~~ the board certifies has:

(a) Completed the application form and remitted *the required fees, including* a nonrefundable application fee.

(b) Received a master's degree with a major emphasis in speech-language pathology from an institution of higher learning which, at the time the applicant was enrolled and graduated, was accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from a program at a university or college outside the United States or Canada *must* ~~shall~~ present documentation of the determination of equivalency to *standards established* ~~programs accredited~~ by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant

must ~~shall~~ have completed ~~a total of~~ 60 semester hours *that* ~~which~~ include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language;~~, and~~ information about training in management of speech, hearing, and language disorders;~~,~~ and ~~which provide~~ information supplementary to these fields.

2. Six semester hours in audiology.

3. Thirty of *the required 60* ~~these~~ semester hours ~~shall be~~ in courses acceptable toward a graduate degree by the college or university in which these courses were taken,~~.~~ of *which* ~~these 30 semester hours,~~ 24 semester hours *must* ~~shall~~ be in speech-language pathology.

(c) Completed 300 *supervised clinical* clock hours ~~of supervised clinical practice~~ with 200 clock hours in the area of speech-language pathology. The supervised clinical *clock hours* ~~practice~~ shall be completed within the training institution or one of its cooperating programs.

(3) The department shall issue a provisional license to practice audiology to each applicant *who* ~~whom~~ the board certifies has:

(a) Completed the application form and remitted *the required fees, including* a nonrefundable application fee.

(b) Received a master's degree with a major emphasis in audiology from an institution of higher learning which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from a program at a university or college outside the United States or Canada *must* ~~shall~~ present documentation of the determination of equivalency to *standards established* ~~programs accredited~~ by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant *must* ~~shall~~ have completed ~~a total of~~ 60 semester hours *that* ~~which~~ include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language;~~, and~~ information about training in management of speech, hearing, and language disorders;~~,~~ and ~~which provide~~ information supplementary to these fields.

2. Six semester hours in speech-language pathology.

3. Thirty of *the required 60* ~~these~~ semester hours ~~shall be~~ in courses acceptable toward a graduate degree by the college or university in which these courses were taken,~~.~~ of *which* ~~these 30 semester hours,~~ 24 semester hours *must* ~~shall~~ be in audiology.

(c) Completed 300 *supervised clinical* clock hours ~~of supervised clinical practice~~ with 200 clock hours in the area of audiology. The supervised clinical *clock hours* ~~practice~~ shall be completed within the training institution or one of its cooperating programs.

(4) An applicant for a provisional license who has received a master's degree with a major emphasis in speech-language pathology as provided in subsection (2), or audiology as provided in subsection (3), and who seeks licensure in the area in which the applicant is not currently licensed, must have completed 30 semester hours in courses acceptable toward a graduate degree and 200 supervised clinical clock hours in the second discipline from an accredited institution.

(5)~~(4)~~ The board, by rule, shall establish requirements for the renewal of a provisional license. However, ~~no person shall obtain~~ a provisional license *may not exceed* ~~for~~ a period *of* ~~which exceeds~~ 24 months.

Section 113. Paragraph (a) of subsection (2) and subsection (3) of section 468.1185, Florida Statutes, are amended to read:

468.1185 Licensure.—

(2) The board shall certify for licensure any applicant who has:

(a) Satisfied the education and supervised clinical *clock hour* ~~practice~~ requirements of s. 468.1155.

(3) The board shall certify as qualified for a license by endorsement as a speech-language pathologist or audiologist an applicant who:

(a) Holds a valid license or certificate in another state *or territory of the United States* to practice the profession for which the application for licensure is made, if the criteria for issuance of such license were substantially equivalent to or more stringent than the licensure criteria which existed in this state at the time the license was issued; or

(b) Has received the certificate of clinical competence of the American Speech-Language and Hearing Association.

Section 114. Section 468.1195, Florida Statutes, is amended to read:

468.1195 Renewal of license or certificate; continuing education requirements*; standards for approval of continuing education providers.*—

(1) The department shall renew a license or certificate upon receipt of the renewal application, renewal fee, and proof satisfactory to the board that~~, during the 2 years prior to the application for renewal,~~ the licensee or certificateholder *has completed the* ~~participated in not less than 20 hours of~~ continuing education *requirements established by the board* ~~in each area of licensure or certification~~*. A licensee or certificateholder who receives initial licensure or certification 6 months or less before the end of the biennial licensure cycle is exempt from the continuing education requirements for the first renewal of the license or certificate.*

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses and certificates.

(3) The board *may prescribe* ~~shall~~ by rule ~~prescribe~~ continuing education*, not to exceed 60 hours biennially in each area of licensure or certification,* as a condition for renewal of a license or a certificate. *The board may establish by rule standards for the approval of such continuing education activities.* The board may make exception from the requirements of continuing education in emergency or hardship cases.

(4) The board may establish by rule standards for the approval of providers of continuing education activities.

Section 115. Section 468.1201, Florida Statutes, is created to read:

468.1201 Requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—The board shall require, as a condition of granting a license under this part, that an applicant making initial application for licensure complete an education course acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete this requirement.

Section 116. Subsections (2), (3), and (4) of section 468.1215, Florida Statutes, are amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

(2) The department shall issue a certificate as a speech-language pathology assistant or as an audiology assistant to each applicant *who* ~~whom~~ the board certifies has:

(a) Completed the application form and remitted *the required fees, including* a nonrefundable application fee.

(b) Completed at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation.

(3) The board, by rule, shall establish minimum education *and on-the-job training and supervision* requirements for certification as a speech-language pathology assistant or audiology assistant.

(4) The provisions of this section shall not apply to any student, intern, or trainee performing speech-language pathology or audiology services while completing the supervised clinical *clock hours* ~~experience~~ as required in s. 468.1155.

Section 117. Subsection (2) of section 468.1245, Florida Statutes, is amended to read:

468.1245 Itemized listing of prices; delivery of hearing aid; *receipt* ~~contract~~; guarantee; packaging; disclaimer.—

(2) Any licensee who fits and sells a hearing aid shall, at the time of delivery, provide the purchaser with a *receipt* ~~contract~~ containing the seller's signature, the address of his regular place of business, and his license or certification number, if applicable, together with the brand, model, manufacturer or manufacturer's identification code, and serial number of the hearing aid furnished and the amount charged for the hearing aid. The *receipt* ~~contract~~ also shall specify whether the hearing aid is new, used, or rebuilt, and shall specify the length of time and other terms of the guarantee and by whom the hearing aid is guaranteed. When the client has requested an itemized list of prices, the *receipt* ~~contract~~ shall also provide an itemization of the total purchase price, including, but not limited to, the cost of the aid, ear mold, batteries, and other accessories, and the cost of any services. Notice of the availability of this service *must* ~~shall~~ be displayed in a conspicuous manner in the office. The receipt also shall state that any complaint concerning the hearing aid and *its* guarantee ~~therefor~~, if not reconciled with the licensee from whom the hearing aid was purchased, should be directed by the purchaser to the *department* ~~Agency for Health Care Administration~~. The address and telephone number of such office shall be stated on the *receipt* ~~contract~~.

Section 118. Section 468.1295, Florida Statutes, is amended to read:

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for both disciplinary actions as set forth in subsection (2) and cease and desist or other related actions by the department as set forth in s. 455.228:~~.~~

(a) *Procuring or* attempting to procure a license by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license revoked, suspended, or otherwise acted against, including denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of speech-language pathology or audiology.

(d) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or records required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such report or record shall include only those reports or records which are signed in one's capacity as a licensed speech-language pathologist or audiologist.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Being proven guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of speech-language pathology or audiology.

(g) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(h) Practicing with a revoked, suspended, inactive, or delinquent license.

(i) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(j) Showing or demonstrating or, in the event of sale, delivery of a product unusable or impractical for the purpose represented or implied by such action.

(k) Failing to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of such equipment as designated by the board and on the form approved by the board.

(l) Aiding, assisting, procuring, *employing,* or advising any *licensee or business entity* ~~licensed person~~ to practice speech-language pathology or audiology contrary to this part, *chapter 455,* or *any* ~~to a~~ rule *adopted pursuant thereto* ~~of the department or the board~~.

(m) *Violating any provision* ~~Violation or repeated violation~~ of this part or ~~of~~ chapter 455~~,~~ or any *rule* ~~rules~~ adopted pursuant thereto.

(n) *Misrepresenting the* ~~Misrepresentation of~~ professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or *using* ~~use of~~ any other term or title which might connote the availability of professional services when such use is not accurate.

(o) *Representing, advertising, or implying* ~~Representation, advertisement, or implication~~ that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(p) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(q) Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(r) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(s) Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made," or in any other sense specially fabricated for an individual ~~person~~, when such is not the case.

(t) Canvassing from house to house or by telephone, either in person or by an agent, for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.

(u) *Failing to notify the department in writing of a change in current mailing and place-of-practice address within 30 days after such change* ~~Failure to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of audiometric testing equipment on the form approved by the board~~.

(v) Failing to provide all information as described in *ss. 468.1225(5)(b),* ~~s.~~ 468.1245(1)*, and 468.1246.*

(w) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(x) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee or certificateholder knows, or has reason to know, the licensee or certificateholder is not competent to perform.

(y) Aiding, assisting, procuring, or employing any unlicensed person to practice speech-language pathology or audiology.

(z) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

(aa) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 468.1296.

(bb) Being unable to practice the profession for which he or she is licensed or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness, drunkenness, or use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, his or her designee, or the board that probable cause exists to believe that the licensee or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have

the authority to compel a licensee or certificateholder to submit to a mental or physical examination by a physician, psychologist, clinical social worker, marriage and family therapist, or mental health counselor designated by the department or board. If the licensee or certificateholder refuses to comply with the department's order directing the examination, such order may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee or certificateholder resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed or certified with reasonable skill and safety to patients.

(2) When the board finds any person guilty of any of the acts set forth in subsection (1), it may issue an order imposing one or more of the following penalties:

(a) *Refusal to certify, or to certify with restrictions,* ~~Denial of~~ an application for licensure.

(b) ~~Revocation or~~ Suspension *or permanent revocation* of a license.

(c)~~(d)~~ Issuance of a reprimand.

(d)~~(f)~~ Restriction of the authorized scope of practice.

(e)~~(e)~~ Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(f)~~(e)~~ Placement of the licensee *or certificateholder* on probation for a period of time and subject to such conditions as the board may specify. *Those conditions may include, but are not limited to,* ~~including~~ requiring the *licensee or certificateholder* ~~speech-language pathologist or audiologist~~ to *undergo treatment,* attend continuing education courses*, submit to be reexamined,* ~~or to~~ work under the supervision of another *licensee, or satisfy any terms which are reasonably tailored to the violation found* ~~speech-language pathologist or audiologist~~.

(g) Corrective action.

(3) The department shall reissue the license *or certificate which* ~~of a speech-language pathologist or audiologist who~~ has been *suspended or revoked* ~~disciplined~~ upon certification by the board that the *licensee or certificateholder* ~~person~~ has complied with all of the terms and conditions set forth in the final order.

Section 119. Section 468.1296, Florida Statutes, is created to read:

468.1296 Sexual misconduct.—Sexual misconduct by any person licensed or certified in the practice of his or her profession is prohibited. Sexual misconduct means to induce or to attempt to induce the patient to engage, or to engage or to attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient.

Section 120. Subsection (2) of section 468.1655, Florida Statutes, is amended to read:

468.1655 Definitions.—As used in this part:

(2) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 121. Subsection (1) of section 468.1695, Florida Statutes, is amended to read:

468.1695 Licensure by examination.—

(1) Any person desiring to be licensed as a nursing home administrator shall apply to the department to take the licensure examination. The examination shall be given at least *two* ~~four~~ times a year and shall include, but not be limited to, questions on the subjects of nursing home administration such as:

(a) Applicable standards of nursing home health and safety;

(b) Federal, state, and local health and safety laws and rules;

(c) General administration;

(d) Psychology of patient care;

(e) Principles of medical care;

(f) Personal and social care;

(g) Therapeutic and supportive care and services in long-term care;

(h) Departmental organization and management;

(i) Community interrelationships; and

(j) Terminology.

The board may, by rule, adopt use of a national examination in lieu of part or all of the examination required by this part.

Section 122. Subsections (2), (4), and (5) of section 468.203, Florida Statutes, are amended to read:

468.203 Definitions.—As used in this act, the term:

(2) "Board" means the Board of *Occupational Therapy Practice* ~~Medicine~~.

(4) "Occupational therapy" means *the use of purposeful activity or interventions to achieve functional outcomes.*

(a) For the purposes of this subsection:

1. "Achieving functional outcomes" means to maximize the independence and the maintenance of health of any individual who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or a learning disability, or an adverse environmental condition.

2. "Assessment" means the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.

(b) Occupational therapy services include, but are not limited to:

1. The assessment, treatment, and education of or consultation with the individual, family, or other persons.

2. Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills.

3. Providing for the development of: sensory-motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components of performance.

These services may require assessment of the need for use of interventions such as the design, development, adaptation, application, or training in the use of assistive technology devices; the design, fabrication, or application of rehabilitative technology such as selected orthotic devices; training in the use of assistive technology; orthotic or prosthetic devices; the application of physical agent modalities as an adjunct to or in preparation for purposeful activity; the use of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness ~~the evaluation and treatment of individuals whose ability to cope with the tasks of living are threatened or impaired by developmental deficits, the aging process, poverty and cultural differences, physical injury or illness, or psychological and social disability. The treatment utilizes task-oriented activities to prevent or correct physical or emotional deficits or to minimize the disabling effect of these deficits in the life of the individual. Specific occupational therapy techniques include, but are not limited to, activities of daily living (ADL), the fabrication and application of splints, perceptual-motor activities, the use of specifically designed crafts, guidance in the selection and use of adaptive equipment, exercises to enhance functional performance, and prevocational evaluation and treatment. Such techniques are applied in the treatment of individual patients or clients, in groups, or through social systems~~.

(c) The use of devices subject to 21 C.F.R. s. 801.109 and identified by the board is expressly prohibited except by an occupational therapist or occupational therapy assistant who has received training as specified

by the board. The board shall adopt rules to carry out the purpose of this provision.

(5) "Occupational therapy aide" means a person who assists in the practice of occupational therapy, who works under the direct supervision of a ~~person~~ licensed *occupational therapist or* ~~to practice~~ occupational therapy *assistant*, and whose activities require *a general* ~~an~~ understanding of occupational therapy *pursuant to board rules* ~~but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy~~.

Section 123. Section 468.205, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.205, F.S., for present text.)

468.205 Board of Occupational Therapy Practice.—

(1) There is created within the department the Board of Occupational Therapy Practice, composed of seven members appointed by the Governor, subject to confirmation by the Senate.

(2) Four members shall be licensed occupational therapists in good standing in this state who are residents of this state and have been engaged in the practice of occupational therapy for at least 4 years immediately prior to their appointment. One member shall be a licensed occupational therapy assistant in good standing in this state who is a resident of the state and has been engaged in the practice of occupational therapy for at least 4 years immediately prior to the appointment. Two members shall be consumers who are residents of the state who are not connected with the practice of occupational therapy.

(3) Within 90 days after the effective date of this act, the Governor shall appoint the board as follows:

(a) Two members for terms of 2 years each.

(b) Two members for terms of 3 years each.

(c) Three members for terms of 4 years each.

(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years and such members shall serve until their successors are appointed.

(5) All provisions of chapter 455 relating to activities of the board shall apply.

Section 124. Section 468.209, Florida Statutes, is amended to read:

468.209 Requirements for licensure.—

(1) An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application, accompanied by the application for licensure fee prescribed in s. 468.221, on forms provided by the *department* ~~board~~, showing to the satisfaction of the board that he:

(a) Is of good moral character.

(b) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, with concentration in biologic or physical science, psychology, and sociology, and with education in selected manual skills. ~~For an occupational therapist,~~ Such a program shall be accredited by the American ~~Medical Association in collaboration with the American~~ Occupational Therapy *Association's Accreditation Council for Occupational Therapy Education, or its successor* ~~Association~~. ~~For an occupational therapy assistant, such a program shall be approved by the American Occupational Therapy Association.~~

(c) Has successfully completed a period of supervised fieldwork experience at a recognized educational institution or a training program approved by the educational institution where he met the academic requirements. For an occupational therapist, a minimum of 6 months of supervised fieldwork experience is required. For an occupational therapy assistant, a minimum of 2 months of supervised fieldwork experience is required.

(d) Has passed an examination conducted or adopted by the board as provided in s. 468.211.

(2) An applicant who has practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for 4 years and who, *prior to January 24, 1988,* ~~has~~ completed a minimum of 6 months of supervised *occupational-therapist-level* fieldwork experience may take the examination to be licensed as an occupational therapist without meeting the educational requirements for occupational therapists made otherwise applicable under paragraph (1)(b).

(3) If the board determines that an applicant is qualified to be licensed by endorsement under s. 468.213, the board may issue the applicant a temporary permit to practice occupational therapy until the next board meeting at which license applications are to be considered, but not for a longer period of time. Only one temporary permit *by endorsement* shall be issued to an applicant, and it shall not be renewable.

(4) If the board determines that the applicant has not passed an examination, which examination is recognized by the board, to determine competence to practice occupational therapy and is not qualified to be licensed by endorsement, but has otherwise met all the requirements of this section and has made application for the next scheduled examination, the board may issue the applicant a temporary permit allowing him to practice occupational therapy under the supervision of a licensed occupational therapist until notification of the results of the examination. An individual who has passed the examination may continue to practice occupational therapy under his temporary permit until the next meeting of the board. An individual who has failed the examination shall not continue to practice occupational therapy under his temporary permit; and such permit shall be deemed revoked upon notification to the board of the examination results and the subsequent, immediate notification by the board to the applicant of the revocation. Only one temporary permit *by examination* shall be issued to an applicant, and it shall not be renewable. *However, applicants enrolled in a full-time advanced master's occupational therapy education program who have completed all requirements for licensure except examination shall, upon written request, be granted a temporary permit valid for 6 months even if that period extends beyond the next examination, provided the applicant has not failed the examination. This permit shall remain valid only while the applicant remains a full-time student and, upon written request, shall be renewed once for an additional 6 months.*

(5) An applicant seeking reentry into the profession who has not been in active practice within the last 5 years must, prior to applying for licensure, submit to the board documentation of continuing education as prescribed by rule.

Section 125. Subsection (6) is added to section 468.211, Florida Statutes, to read:

468.211 Examination for licensure.—

(6) If an applicant fails to pass the examination in three attempts, the applicant shall not be eligible for reexamination unless the applicant completes additional education or training requirements prescribed by the board. An applicant who has completed the additional education or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, the applicant is no longer eligible to take the examination.

Section 126. Section 468.213, Florida Statutes, is amended to read:

468.213 Licensure by endorsement.—

(1) The board may waive the examination and grant a license to any person who presents proof of current certification as an occupational therapist or occupational therapy assistant by *a national certifying organization* ~~the American Occupational Therapy Association~~ if the board determines the requirements for such certification to be equivalent to the requirements for licensure in this act.

(2) The board may waive the examination and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or *any* ~~a~~ territory *or jurisdiction* of the United States *or foreign national jurisdiction* which requires standards for licensure de-

termined by the board to be equivalent to the requirements for licensure in this act.

Section 127. Section 468.225, Florida Statutes, is amended to read:

468.225 *Exemptions* ~~Persons and practices not affected~~.—

(1) Nothing in this act shall be construed as preventing or restricting the practice, services, or activities of:

(a) Any person licensed in this state by any other law from engaging in the profession or occupation for which he is licensed.

(b) Any person employed as an occupational therapist or occupational therapy assistant by the United States, if such person provides occupational therapy solely under the direction or control of the organization by which he is employed.

(c) Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee.

(d) Any person fulfilling the supervised fieldwork experience requirements of s. 468.209, if such activities and services constitute a part of the experience necessary to meet the requirements of that section.

~~(e) Any person employed by, or working under the direct supervision of, an occupational therapist as an occupational therapy aide.~~

(2) No provision of this act shall be construed to prohibit physicians, *physician assistants,* nurses, physical therapists, osteopathic physicians or surgeons, ~~or~~ clinical psychologists*, speech-language pathologists, or audiologists* from using occupational therapy as a part of or incidental to their profession, when they practice their profession under the statutes applicable to their profession.

Section 128. Section 468.351, Florida Statutes, is amended to read:

468.351 Purpose and intent; application.—

(1)(a) The purpose in enacting this part is to provide for the *licensure* ~~certification and registration~~ of persons who deliver respiratory care services and who meet certain requirements. The delivery of respiratory care services by persons *licensed* ~~certified or registered~~ pursuant to this part shall not be construed to permit the practice of medicine.

(b) It is the finding of the Legislature that the delivery of respiratory care services by unskilled and incompetent persons presents a danger to the public health and safety. Because it is difficult for the public to make informed choices related to respiratory care services and since the consequences of wrong choices can seriously endanger public health and safety, it is the intent of the Legislature to prohibit the delivery of respiratory care services by persons who are determined to possess less than minimum competencies or who otherwise present a danger to the public.

(2) It is the intent of the Legislature that the department ~~of Health and Rehabilitative Services shall continue to~~ regulate blood gas laboratories and that the supervision of *health* ~~respiratory~~ care practitioners~~, clinical laboratory personnel, and other persons~~ performing blood gas analysis and specimen collection for the purpose of such analysis be specified in rules pursuant to *the applicable practice act* ~~chapter 483~~. Further, it is the intent of the Legislature that personnel *licensed* ~~certified or registered~~ pursuant to this part shall be exempt from the licensure provisions of chapter 483.

Section 129. Subsections (2), (8), and (9) of section 468.352, Florida Statutes, are amended to read:

468.352 Definitions.—As used in this part, unless the context otherwise requires, the term:

(2) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

(8) "Respiratory therapist" means any person *licensed* ~~registered~~ pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) "Respiratory care practitioner" means any person *licensed* ~~certified~~ pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board.

Section 130. Paragraph (a) of subsection (5) of section 468.354, Florida Statutes, is amended to read:

468.354 Advisory Council on Respiratory Care; organization; function.—

(5)(a) The council shall recommend to the department a code of ethics for those persons *licensed* ~~certified or registered~~ pursuant to this part.

Section 131. Section 468.355, Florida Statutes, is amended to read:

468.355 Eligibility for *licensure* ~~certification or registration~~; temporary *licensure* ~~certification~~.—

(1) To be eligible for *licensure* ~~certification~~ by the board as a respiratory care practitioner, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the *Commission* ~~Committee~~ on *Accreditation of* Allied Health Education *Programs* ~~and Accreditation of the American Medical Association~~, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Certified Respiratory Therapy Technician" certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

3. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

4. The applicant is currently employed in this state as a respiratory care practitioner or respiratory therapist on October 1, 1984.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall annually review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for *licensure* ~~registration~~ by the board as a respiratory therapist, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapists approved by the *Commission* ~~Committee~~ on *Accreditation of* Allied Health Education *Programs* ~~and Accreditation of the American Medical Association~~, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall annually review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(3) With respect to the delivery of respiratory care services, the board shall establish procedures for temporary *licensure* ~~certification~~ of eligible individuals entering the state and temporary *licensure* ~~certification~~ of those persons who have graduated from a program approved by the board. Such temporary *licensure* ~~certification~~ shall be for a period not to exceed 1 year.

Section 132. Section 468.356, Florida Statutes, is amended to read:

468.356 Approval of educational programs.—

(1) Approval of educational programs shall be in accordance with the Joint Review Committee for Respiratory Therapy Education through the *Commission* ~~Committee~~ on *Accreditation of* Allied Health Education *Programs, or other accrediting agency recognized by the United States Office of Education* ~~and Accreditation of the American Medical Association~~.

(2) In the event that an educational program has not yet received full American Medical Association approval, the board, at its discretion, may require appropriate documentation of the intent to achieve full accreditation within a specified time period. Temporary approval for graduates of such programs to sit for state *licensure* ~~certification or registration~~ examinations may then be granted by the board.

Section 133. Section 468.357, Florida Statutes, is amended to read:

468.357 *Licensure* ~~Certification~~ by examination.—

(1) A person who desires to be *licensed* ~~certified~~ as a respiratory care practitioner may submit an application to the *department* ~~board~~ to take the examination to be administered by the department.

(a) The department shall examine each applicant who is determined by the board to have:

1. Completed the application form and remitted the *applicable* ~~application~~ fee set by the board;

2. Submitted required documentation as required in s. 468.355; and

3. Remitted an examination fee set by the board.

(b) The department shall conduct examinations for *licensure* ~~certification~~ of respiratory care practitioners no less than two times a year in such geographical locations as are deemed advantageous to the majority of the applicants. ~~However, the examination shall be conducted no less than three times a year through 1988 and in such geographical locations as are deemed advantageous to the majority of the applicants.~~

(c) The examination given for respiratory care practitioners shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory therapy technicians. However, an equivalent examination may be accepted by the board in lieu of that examination.

(2) Each applicant who passes the examination shall be entitled to *licensure* ~~certification~~ as a respiratory care practitioner, and the department shall issue a *license* ~~certificate~~ pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a *license* ~~certificate~~ to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such an offense, the applicable provisions of s. 468.365 will apply.

(3)~~(a)~~ Any person who was employed in this state on or before September 30, 1983, as a respiratory therapy technician or respiratory therapist, and who has performed services in such professional capacity for 4 years or more by October 1, 1987, under the supervision of a licensed physician or in a hospital or licensed health care facility, shall be issued a *license* ~~certificate~~ without examination, if such person provides acceptable documentation of performance of such services to the board. Such documentation shall include certification by a physician licensed pursuant to chapter 458 or chapter 459 who has direct knowledge of the practice of, or who has supervised, the person. If such person is not determined to have performed critical care respiratory services for at least 4 years, the board may limit the *license* ~~certificate~~ of such person to the performance of noncritical care respiratory services. ~~Any person issued a certificate pursuant to this paragraph shall complete at least 20 contact hours of continuing education each year.~~

~~(b) Any person first employed in this state as a respiratory therapy technician or respiratory therapist on or after October 1, 1984, and prior to October 1, 1987, shall have until December 31, 1988, to pass the examination for certification under this part if the person has applied to take the examination before March 1, 1988, and such person shall be permitted to continue to perform respiratory care services until December 31, 1988.~~

Section 134. Section 468.358, Florida Statutes, is amended to read:

468.358 *Licensure* ~~Certification or registration~~ by endorsement.—

(1) *Licensure* ~~Certification~~ as a respiratory care practitioner shall be granted by endorsement to an individual who holds the "Certified Respiratory Therapy Technician" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. *Licensure* ~~Certification~~ by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(2) *Licensure* ~~Registration~~ as a respiratory therapist shall be granted by endorsement to an individual who holds the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. *Licensure* ~~Registration~~ by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(3) An individual who has been granted *licensure,* certification, registration, or other authority, by whatever name known, to deliver respiratory care services in another state or country may petition the board for consideration for *licensure* ~~certification or registration~~ in this state and, upon verification by oath and submission of evidence of *licensure,* certification, registration, or other authority acceptable to the board, may be granted *licensure* ~~certification or registration~~ by endorsement.

(4) *Licensure* ~~Certification or registration~~ shall not be granted by endorsement as provided in this section without the submission of a proper application and the payment of the requisite fees therefor.

Section 135. Subsections (1), (2), and (5) of section 468.359, Florida Statutes, are amended to read:

468.359 Assumption of title and use of abbreviations.—

(1) Only persons who are *licensed* ~~certified~~ pursuant to this part as respiratory care practitioners have the right to use the title "Respiratory Care Practitioner" and the abbreviation "RCP."

(2) Only persons who are *licensed* ~~registered~~ pursuant to this part as respiratory therapists have the right to use the title "*Registered* Respiratory Therapist" and the abbreviation "RRT," provided such persons have passed the Registry Examination for Respiratory Therapists given by the National Board for Respiratory Care.

(5) No person in this state shall deliver respiratory care services; advertise as, or assume the title of, respiratory care practitioner or respiratory therapist; or use the abbreviation "RCP" or take any other action that would lead the public to believe that such person is *licensed* ~~certified or registered~~ pursuant to this part unless such person is so *licensed* ~~certified or registered~~.

Section 136. Section 468.36, Florida Statutes, is amended to read:

468.36 Primary place of service delivery; notice of address or change of address.—Every *licensee* ~~certificateholder or registrant~~ shall file with the department the *licensee's current residence* address *as defined by board rule* ~~of his primary place of service delivery within the state prior to engaging in such service delivery. Prior to changing such address, he shall notify the department of the address of his new primary place of service delivery, whether or not within the state~~.

Section 137. Section 468.362, Florida Statutes, is repealed, and section 468.361, Florida Statutes, is amended to read:

468.361 Renewal of *licensure* ~~certification or registration~~; continuing education.—

(1) The department shall provide by rule a method for the biennial renewal of *licensure* ~~certification or registration~~ at fees set by the board.

(2) The board shall prescribe by rule continuing education requirements, not to exceed 24 hours biennially, as a condition for renewal of *licensure* ~~certification or registration~~. The program criteria with respect thereto shall be approved by the board.

(3) The board shall approve continuing education courses which may be accepted in meeting the requirements of this part. Providers of such courses shall also be approved by the board.

(4) The board may make exceptions from the requirements of this section in emergency or hardship cases.

Section 138. Section 468.363, Florida Statutes, is amended to read:

468.363 Reactivation of *licensure* ~~certification or registration~~; continuing education.—The board shall prescribe by rule continuing education requirements as a condition of reactivating a *license* ~~certificate or registration~~. The continuing education requirements for reactivating a *license* ~~certificate or registration~~ may not exceed 12 classroom hours for each year the *license* ~~certificate or registration~~ was inactive.

Section 139. Subsection (1) of section 468.364, Florida Statutes, is amended to read:

468.364 Fees; establishment; disposition.—

(1) The board shall establish by rule fees for the following purposes:

(a) Application, ~~fee:~~ a fee not to exceed $50.

(b) Examination, ~~fee:~~ a fee not to exceed $125 plus the actual per applicant cost to the department for purchase of the examination from the National Board for Respiratory Care or a similar national organization.

(c) Initial *licensure,* ~~certification or registration fee:~~ a fee not to exceed $200.

(d) Renewal of *licensure,* ~~certification or registration fee:~~ a fee not to exceed $200 biennially.

(e) Renewal of inactive *licensure,* ~~certification or registration:~~ a fee not to exceed $50.

(f) Reactivation, ~~fee:~~ a fee not to exceed $50.

Section 140. Section 468.365, Florida Statutes, is amended to read:

468.365 Disciplinary grounds and actions.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Procuring, attempting to procure, or renewing a *license* ~~certificate or registration~~ as provided by this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having *licensure,* certification, registration, or other authority, by whatever name known, to deliver respiratory care services revoked, suspended, or otherwise acted against, including the denial of *licensure,* certification, registration, or other authority to deliver respiratory care services by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty *of, or entering a plea of nolo contendere to,* regardless of adjudication, ~~of~~ a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those reports or records which require the signature of a ~~certified~~ respiratory care practitioner or ~~a~~ respiratory therapist *licensed* ~~registered~~ pursuant to this part.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board and the Advisory Council on Respiratory Care in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a legitimate purpose.

(h) Willfully failing to report any violation of this part.

(i) Willfully or repeatedly violating a rule of the board or the department or a lawful order of the board or department previously entered in a disciplinary hearing.

(j) Violation of any rule adopted pursuant to this part or chapter 455.

(k) Engaging in the delivery of respiratory care services with a revoked, suspended, or inactive *license* ~~certificate or registration~~.

(l) Permitting, aiding, assisting, procuring, or advising any person who is not *licensed* ~~certified or registered~~ pursuant to this part, contrary to this part or to any rule of the department or the board.

(m) Failing to perform any statutory or legal obligation placed upon a ~~certified~~ respiratory care practitioner or ~~a~~ respiratory therapist *licensed* ~~registered~~ pursuant to this part.

(n) Accepting and performing professional responsibilities which the *licensee* ~~certificateholder or registrant~~ knows, or has reason to know, he is not competent to perform.

(o) Delegating professional responsibilities to a person when the *licensee* ~~certificateholder or registrant~~ delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or *licensure* ~~certification or registration~~ to perform them.

(p) Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(q) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent the *licensee* ~~certificateholder or registrant~~ from receiving a fee for professional consultation services.

(r) Exercising influence within a respiratory care relationship for the purpose of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner or respiratory therapist.

(s) Making deceptive, untrue, or fraudulent representations in the delivery of respiratory care services or employing a trick or scheme in the delivery of respiratory care services if such a scheme or trick fails to conform to the generally prevailing standards of other *licensees* ~~certificateholders or registrants~~ within the community.

(t) Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(u) Failing to keep written respiratory care records justifying the reason for the action taken by the *licensee* ~~certificateholder or registrant~~.

(v) Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the *licensee* ~~certificateholder or registrant~~ or a third party, which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(w) Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 458 or chapter 459 and which are not in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 766.103, and 768.13.

(x) Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory care practitioner or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the *licensee* ~~certificateholder or registrant~~ being examined. The failure of a respiratory care practitioner or respiratory therapist to submit to such an examination when so directed constitutes an admission of the allegations against him, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his control. A respiratory care practitioner or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent delivery of respiratory care services with reasonable skill and safety to his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory care practitioner or respiratory therapist in any other proceeding.

(2) If the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for *licensure* ~~certification or registration~~.

(b) Revocation or suspension of *licensure* ~~certification or registration~~.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Placement of the respiratory care practitioner or respiratory therapist on probation for such period of time and subject to such conditions as the board may specify, including, *but not limited to,* requiring the respiratory care practitioner or respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another respiratory care practitioner or respiratory therapist.

(e) Issuance of a reprimand.

(3) The board shall not reinstate *licensure* ~~certification or registration~~, or cause a *license* ~~certificate or registration~~ to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that the respiratory care practitioner or respiratory therapist is capable of safely engaging in the delivery of respiratory care services.

(4) The board may, by rule, establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision on probation, or conditions upon probation or reissuance of a *license* ~~certificate or registration~~.

Section 141. Subsection (1) of section 468.366, Florida Statutes, is amended to read:

468.366 Penalties for violations.—

(1) It is a violation of law for any person, including any firm, association, or corporation, to:

(a) Sell or fraudulently obtain, attempt to obtain, or furnish to any person a diploma, license, ~~certificate, registration,~~ or record, or aid or abet in the sale, procurement, or attempted procurement thereof.

(b) Deliver respiratory care services, as defined by this part or by rule of the board, under cover of any diploma, license, ~~certificate, registration,~~ or record that was illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation.

(c) Deliver respiratory care services, as defined by this part or by rule of the board, unless such person is duly *licensed* ~~certified or registered~~ to do so under the provisions of this part or unless such person is exempted pursuant to s. 468.368.

(d) Use, in connection with his name, any designation tending to imply that he is a respiratory care practitioner or a respiratory therapist, duly *licensed* ~~certified or registered~~ under the provisions of this part, unless he is so *licensed* ~~certified or registered~~.

(e) Advertise an educational program as meeting the requirements of this part, or conduct an educational program for the preparation of respiratory care practitioners or respiratory therapists, unless such program has been approved by the board.

(f) Knowingly employ *unlicensed* ~~uncertified or unregistered~~ persons in the delivery of respiratory care services, unless exempted by this part.

(g) Knowingly conceal information relative to any violation of this part.

Section 142. Subsection (8) of section 468.368, Florida Statutes, is amended to read:

468.368 Exemptions.—Nothing in this part shall be construed to prohibit:

(8) The employment by a health care facility of a student enrolled in the clinical portion of an approved respiratory care educational program (who has demonstrated such enrollment to the board by submission of evidence satisfactory to the board) to deliver limited respiratory care support services under the supervision of personnel *licensed* ~~certified or registered~~ pursuant to this part. Such exemption shall also apply to the graduates of such programs until the receipt of temporary *licensure* ~~certification~~ issued pursuant to the provisions of s. 468.355(3). However, such employees shall not perform invasive procedures or procedures related to critical respiratory care, including therapeutic, diagnostic, and palliative procedures, nor shall they participate in delivering certain services requiring unsupervised patient contact, as determined by the board.

Section 143. Subsection (3) of section 478.42, Florida Statutes, is amended to read:

478.42 Definitions.—As used in this chapter, the term:

(3) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 144. Section 478.45, Florida Statutes, is amended to read:

478.45 Requirements for licensure.—

(1) An applicant applying for licensure as an electrologist shall file a written application, accompanied by the application for licensure fee prescribed in s. 478.55, on a form provided by the board, showing to the satisfaction of the board that the applicant:

(a) Is at least 18 years old.

(b) Is of good moral character.

~~(c) Is a resident of the state.~~

(c)~~(d)~~ Possesses a high school diploma or a graduate equivalency diploma.

(d)~~(e)~~ Has not committed an act in any jurisdiction which would constitute grounds for disciplining an electrologist in this state.

(e)~~(f)1.~~ Has successfully completed the academic requirements of an electrolysis training program, not to exceed 120 hours, and the practical application thereof as approved by the board~~; or~~

~~2. Was engaged in the practice of electrology prior to October 1, 1991, and filed an application for licensure within 90 days after the date established by the board or by February 1, 1995, whichever comes last~~.

(2) Each applicant for licensure shall successfully pass a written examination developed by the department or a national examination

that has~~, both of which have~~ been approved by the board. The examinations shall test the applicant's knowledge relating to the practice of electrology, including the applicant's professional skills and judgment in the use of electrolysis techniques and methods, and any other subjects which are useful to determine the applicant's fitness to practice.

(3) The department, upon approval of the board, may adopt *a* ~~the American Electrology Association examination or any other~~ national examination in lieu of any part of the examination required by this section. The board, with the assistance of the council, shall establish standards for acceptable performance.

(4) The department shall issue a license to practice electrology to any applicant who passes the examination, pays the licensure fee as set forth in s. 478.55, and otherwise meets the requirements of this chapter.

(5) The department shall conduct licensure examinations at least *two times a year* ~~biannually at locations set by the board. However, such examinations may be conducted at least three times each year through 1995~~. The *department* ~~board~~ shall give public notice of the time and place of each examination at least 60 days before it is administered and shall mail notice of such examination to each applicant whose application is timely filed, pursuant to board rule.

(6) The department may not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would be a violation of this chapter, until such investigation is complete. Upon completion of such investigation, if the applicant is found guilty of such offense, the board shall apply the applicable provisions of s. 478.52.

Section 145. Subsection (1) of section 478.46, Florida Statutes, is amended to read:

478.46 Temporary permits.—

(1) If the *department* ~~executive director of the board~~ determines that an applicant is qualified to be licensed under s. *478.47* ~~478.45~~, the *department* ~~board~~ may issue the applicant a temporary permit to practice *electrolysis* ~~electrology~~ until the next board meeting at which license applications are to be considered, but not for a longer period of time. Only one temporary permit shall be issued to an applicant, and it shall not be renewable.

Section 146. Section 478.47, Florida Statutes, is amended to read:

478.47 Licensure by endorsement.—The department shall issue a license by endorsement to any applicant who submits an application and the required fees as set forth in s. 478.55 and who ~~the board certifies has met the qualifications of s. 478.45(1) or who~~ holds an active license or other authority to practice electrology in a jurisdiction whose licensure requirements are determined by the board to be equivalent to the requirements for licensure in this state.

Section 147. Paragraph (d) of subsection (2) of section 478.52, Florida Statutes, is amended, and paragraph (u) is added to subsection (1) of said section, to read:

478.52 Disciplinary proceedings.—

(1) The following acts are grounds for which the disciplinary actions in subsection (2) may be taken:

(u) Operating any electrolysis facility unless it has been duly licensed as provided in this chapter.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(d) Place the licensee on probation for a specified time and subject the licensee to such conditions as the board determines necessary, including, *but not limited to,* requiring treatment, continuing education courses, reexamination, or working under the supervision of another licensee.

Section 148. Subsections (1) and (2) of section 480.033, Florida Statutes, are amended to read:

480.033 Definitions.—As used in this act:

(1) "Board" means the Board of Massage *Therapy*.

(2) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 149. Section 480.034, Florida Statutes, is amended to read:

480.034 Exemptions.—

(1) Nothing in this act shall modify or repeal any provision of chapters 458-464, inclusive, or of chapter 476, chapter 477, or chapter 486.

(2) Athletic trainers employed by or on behalf of a professional athletic team performing or training within this state shall be exempt from the provisions of this act.

(3) The state and its political subdivisions are exempt from the registration requirements of this act.

~~(4) Treatments for the purpose of cleansing and beautifying the skin or in conjunction with a weight loss program, including herbal wraps, body scrubs, paraffin wax treatments, and seaweed wraps, shall be exempt from the provisions of this act.~~

(4)~~(5)~~ An exemption granted is effective to the extent that an exempted person's practice or profession overlaps with the practice of massage.

Section 150. Subsection (1) of section 480.035, Florida Statutes, is amended to read:

480.035 Board of Massage *Therapy*.—

(1) The Board of Massage *Therapy* is created within the department. The board shall consist of seven members, who shall be appointed by the Governor and whose function it shall be to carry out the provisions of this act.

Section 151. Section 480.041, Florida Statutes, is amended to read:

480.041 Massage therapists; qualifications; licensure; endorsement~~; provisional licensure~~.—

(1) Any person is qualified for licensure as a massage therapist under this act who:

(a) Is at least 18 years of age or has received a high school diploma or graduate equivalency diploma;

(b) Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board; and

(c) Has received a passing grade on an examination administered by the department.

(2) Every person desiring to be examined for licensure as a massage therapist shall apply to the department in writing upon forms prepared and furnished by the department. Such applicants shall be subject to the provisions of s. 480.046(1). Applicants may take an examination administered by the department only upon meeting the requirements of this section as determined by the board.

(3) Upon an applicant's passing the examination and paying the initial licensure fee, the department shall issue to the applicant a license, valid until the next scheduled renewal date, to practice massage.

~~(4)(a) The board may issue to an applicant, without examination, a provisional license to practice massage, provided such applicant meets all other conditions and requirements relating to qualification for licensure and submits a fee pursuant to s. 480.044. Such applicant for a provisional license shall be associated with a licensed massage therapist and shall practice only under the supervision of such licensed massage therapist at a licensed establishment.~~

~~(b) The provisional license, when granted, shall include the name and address of the licensed massage therapist with whom the applicant is associated. No licensed massage therapist may supervise more than one provisional licenseholder at the same time.~~

~~(c) The applicant must appear at the next examination for licensure for which the applicant can be scheduled according to the rules of the board and department. The provisional license shall expire upon written notification by the department that the applicant has failed the examination or on the date of the scheduled examination, should the applicant fail to appear. Acceptance of a provisional license by an applicant shall be deemed to be consent for expiration of that license in accordance with the provisions of this chapter.~~

~~(d) No more than one provisional license may be issued to an individual. No provisional license shall be issued to an applicant who has previously failed the examination.~~

(4)~~(5)~~ The board shall adopt rules:

(a) Establishing a minimum training program for apprentices.

~~(b) Specifying standards and procedures for issuance of a provisional license.~~

(b)~~(c)~~ Providing for educational standards, examination, and certification for the practice of colonic irrigation, as defined in s. 480.033(6), by massage therapists.

(c)~~(d)~~ Specifying licensing procedures for practitioners desiring to be licensed in this state who hold an active license and have practiced in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction which has licensing standards substantially similar to, equivalent to, or more stringent than the standards of this state.

Section 152. Section 480.0415, Florida Statutes, is amended to read:

480.0415 License renewal.—The board shall prescribe by rule the method for renewal of biennial licensure which shall include continuing education requirements not to exceed *25* ~~12~~ classroom hours per biennium. The board shall by rule establish criteria for the approval of continuing education programs or courses. The programs or courses approved by the board may include correspondence courses that meet the criteria for continuing education courses held in a classroom setting.

Section 153. Subsection (1) of section 480.042, Florida Statutes, is amended to read:

480.042 Examinations.—

(1) The board shall specify by rule the general areas of competency to be covered by examinations for licensure. These rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The board shall ensure that examinations adequately measure ~~both~~ an applicant's competency ~~and his knowledge of related statutory requirements~~. Professional testing services may be utilized to formulate the examinations.

Section 154. Section 480.0425, Florida Statutes, as amended by chapter 94-119, Laws of Florida, is repealed.

Section 155. Subsection (7) of section 480.043, Florida Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure; inspection.—

(7)*(a)* Once issued, no license for operation of a massage establishment may be transferred from one *owner* ~~person, corporation, name, or location~~ to another.

(b) A license may be transferred from one location to another only after inspection and approval by the board and receipt of an application and inspection fee set by rule of the board, not to exceed $125.

(c) A license may be transferred from one business name to another after approval by the board and receipt of an application fee set by rule of the board, not to exceed $25.

Section 156. Subsection (1) of section 480.044, Florida Statutes, is amended to read:

480.044 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

(a) Massage therapist application and examination fee: not to exceed $250.

(b) Massage therapist initial licensure fee: not to exceed $150.

(c) Establishment application fee: not to exceed $200.

(d) Establishment licensure fee: not to exceed $150.

(e) Biennial establishment renewal fee: not to exceed $150.

(f) Biennial massage therapist licensure renewal fee: not to exceed $200.

(g) Massage therapist reexamination fee: not to exceed $250.

(h) Fee for apprentice: not to exceed $100.

(i) Colonics examination fee: not to exceed $100.

(j) Colonics reexamination fee: not to exceed $100.

~~(k) Application and provisional licensure fee: not to exceed $50.~~

(k)~~(l)~~ Application and reactivation for inactive status of a massage therapist license fee: not to exceed $250.

(l)~~(m)~~ Renewal fee for inactive status: not to exceed $250.

Section 157. Paragraph (a) of subsection (1) of section 480.047, Florida Statutes, is amended to read:

480.047 Penalties.—

(1) It is unlawful for any person to:

(a) Hold himself *or herself* out as a massage therapist *or to practice massage* unless duly licensed *under this chapter or unless otherwise specifically exempted from licensure under this chapter* ~~as provided herein~~.

Section 158. Section 480.0485, Florida Statutes, is created to read:

480.0485 Sexual misconduct in the practice of massage therapy.—The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of massage therapy is prohibited.

Section 159. Paragraph (f) of subsection (3) of section 20.43, Florida Statutes, 1996 Supplement, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(f) ~~Effective July 1, 1997,~~ Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

1. Nursing assistants, as provided under s. 400.211.

2. Health care services pools, as provided under s. 402.48.

3. The Board of Acupuncture, created under chapter 457.

4. The Board of Medicine, created under chapter 458.

5. The Board of Osteopathic Medicine, created under chapter 459.

6. The Board of Chiropractic, created under chapter 460.

7. The Board of Podiatric Medicine, created under chapter 461.

8. Naturopathy, as provided under chapter 462.

9. The Board of Optometry, created under chapter 463.

10. The Board of Nursing, created under chapter 464.

11. The Board of Pharmacy, created under chapter 465.

12. The Board of Dentistry, created under chapter 466.

13. Midwifery, as provided under chapter 467.

14. The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

15. The Board of Nursing Home Administrators, created under part II of chapter 468.

16. Occupational therapy, as provided under part III of chapter 468.

17. Respiratory therapy, as provided under part V of chapter 468.

18. Dietetics and nutrition practice, as provided under part X of chapter 468.

19. Athletic trainers, as provided under part XIV of chapter 468.

20. Electrolysis, as provided under chapter 478.

21. The Board of Massage *Therapy*, created under chapter 480.

22. The Board of Clinical Laboratory Personnel, created under part *III* ~~IV~~ of chapter 483.

23. Medical physicists, as provided under part *IV* ~~V~~ of chapter 483.

24. The Board of Opticianry, created under part I of chapter 484.

25. The Board of Hearing Aid Specialists, created under part II of chapter 484.

26. The Board of Physical Therapy Practice, created under chapter 486.

27. The Board of Psychology, created under chapter 490.

28. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

The department shall contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

Section 160. Paragraph (b) of subsection (2) of section 381.81, Florida Statutes, is amended to read:

381.81 Minority Health Improvement Act.—

(2) DEFINITIONS.—As used in this section, the following words and terms shall have the following meanings, unless the context indicates another meaning or intent:

(b) "Health profession" means any regulated health profession, including occupational therapy, as regulated under part III of chapter 468; respiratory therapy, as regulated under part V of chapter 468; physical therapy, as regulated under chapter 486; midwifery, as regulated under chapter 467; dietetics and nutrition practice, as regulated under part X of chapter 468; electrolysis, as regulated under chapter 478; nursing assistants, as regulated under s. 400.211; and those professions regulated by: the Board of Medicine, created under chapter 458; the Board of Osteopathic Medicine, created under chapter 459; the Board of Acupuncture, created under chapter 457; the Board of Chiropractic, created under chapter 460; the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491; the Board of Dentistry, created under chapter 466; the Board of Optometry, created under chapter 463; the Board of Podiatric Medicine, created under chapter 461; the Board of Nursing, created by chapter 464; the Board of Psychological Examiners, created under chapter 490; the Board of Speech-Language Pathology and Audiology, created under part I of chapter 468; the Board of Nursing Home Administrators, created under part II of chapter 468; the Board of Clinical Laboratory Personnel, created under part *III* ~~IV~~ of chapter 483; ~~and~~ the Board of Opticianry, created under part I of chapter 484*; and the Board of Hearing Aid Specialists, created under part II of chapter 484*.

Section 161. Section 483.800, Florida Statutes, is amended to read:

483.800 Declaration of policy and statement of purpose.—The purpose of this part is to protect the public health, safety, and welfare of the people of this state from the hazards of improper performance by clinical laboratory personnel. Clinical laboratories provide essential services to practitioners of the healing arts by furnishing vital information that is essential to a determination of the nature, cause, and extent of the condition involved. Unreliable and inaccurate reports may cause unnecessary anxiety, suffering, and financial burdens and may even contribute directly to death. The protection of public and individual health requires the licensure of clinical laboratory personnel who meet minimum requirements for safe practice. The Legislature finds that laboratory testing technology continues to advance rapidly. The Legislature also finds that a hospital training program under the direction of the hospital clinical laboratory director offers an opportunity for individuals already trained in health care professions to expand the scope of their careers. The Legislature further finds that there is an immediate need for properly trained personnel to ensure patient access to testing. Therefore, the Legislature recognizes the patient-focused benefits of hospital-based training for laboratory and nonlaboratory personnel for testing within *hospitals and commercial laboratories* ~~the laboratory and at alternate sites,~~ and recognizes the benefits of a training program approved by the Board of Clinical Laboratory Personnel under the direction of the hospital clinical laboratory director.

Section 162. Subsection (3) is added to section 483.801, Florida Statutes, to read:

483.801 Exemptions.—This part applies to all clinical laboratories and clinical laboratory personnel within this state, except:

(3) Advanced registered nurse practitioners licensed under chapter 464 who perform provider-performed microscopy procedures (PPMP) in an exclusive-use laboratory setting.

Section 163. Section 483.803, Florida Statutes, is amended to read:

483.803 Definitions.—As used in this part, the term:

(1) "Board" means the Board of Clinical Laboratory Personnel.

(2) "Clinical laboratory" means a clinical laboratory as defined in s. 483.041(2).

(3) "Clinical laboratory examination" means an examination performed on materials or specimens of the human body to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition.

(4)~~(3)~~ "Clinical laboratory personnel" includes a clinical laboratory director, supervisor, technologist, blood gas analyst, or technician who performs or is responsible for laboratory test procedures, but the term does not include trainees, persons who perform screening for blood banks or plasmapheresis centers, phlebotomists, or persons employed by a clinical laboratory to perform manual pretesting duties or clerical, personnel, or other administrative responsibilities.

(5)~~(4)~~ "Clinical laboratory trainee" means any person having qualifying education who is enrolled in a clinical laboratory training program approved pursuant to s. 483.811 and who is seeking experience required to meet minimum qualifications for licensing in this state. Trainees may perform procedures under direct and responsible supervision of duly licensed clinical laboratory personnel, but they may not report test results.

(6)~~(5)~~ "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

(7)~~(6)~~ "Licensed practitioner of the healing arts" means a physician licensed pursuant to chapter 458, chapter 459, or chapter 460; a dentist

licensed pursuant to chapter 466; or a person licensed pursuant to chapter 461 or chapter 462.

(8) "Public health laboratory scientist" means any licensed director, supervisor, technologist, or technician engaged in laboratory testing of human specimens in a state, county, or municipal public health laboratory.

Section 164. Subsections (1) and (2) of section 483.809, Florida Statutes, are amended to read:

483.809 Licensure; examinations; registration of trainees; approval of curricula.—

(1) LICENSING~~; QUALIFICATIONS~~.—

~~(a)~~ The department shall provide biennial licensure of all clinical laboratory personnel *who the board certifies have met* ~~meeting~~ the requirements of this part ~~and shall prescribe the qualifications necessary for such licensure~~. The license of any person who fails to pay a required fee or otherwise fails to qualify within 60 days after the date of expiration of such license shall be automatically canceled without notice or further proceedings unless the individual has made application for inactive status pursuant to s. 483.819.

~~(b) Personnel qualifications may require appropriate education, training, or experience or the passing of an examination in appropriate subjects or any combination of these, but no practitioner of the healing arts licensed to practice in this state is required to obtain any license under this part or to pay any fee hereunder except the fee required for clinical laboratory licensure.~~

(2) EXAMINATIONS.—The department shall conduct examinations required by board rules to determine in part the qualification of clinical laboratory personnel for licensure. *An approved national certification examination may be accepted in lieu of state examination for public health scientists.*

Section 165. Section 483.812, Florida Statutes, is created to read:

483.812 Public health laboratory scientists; licensure.—

(1) Applicants at the director and supervisor level in the category of public health who are registered by the National Registry of Clinical Chemistry Certification or the American Society of Microbiology may qualify under board rules by passing the appropriate supervision and administration examination.

(2)(a) A technologist applicant for licensure in the category of public health microbiology, with a baccalaureate degree in one of the biological sciences from an accredited institution, may use the American Society of Microbiology or the National Registry of Microbiology Certification in Public Health Microbiology to qualify for a technologist license in public health microbiology. Such a technologist may work in a public health microbiology laboratory.

(b) A technologist applicant for licensure in the category of public health chemistry, with a baccalaureate degree in one of the chemical, biological, or physical sciences from an accredited institution, may use the National Registry of Clinical Chemistry Certification to qualify for a technologist license in public health chemistry. Such a technologist may work in a public health chemistry laboratory.

(c) A technician applicant for licensure in the category of public health, with a baccalaureate degree in one of the chemical or biological sciences from an accredited institution, may obtain a one-time, 3-year, conditional public health technician license pending national certification by the American Society of Microbiology or the National Registry of Clinical Chemistry Certification. Such a technician may perform testing only under the direct supervision of a licensed pathologist, director, supervisor, or technologist.

(3) A person licensed by the Board of Clinical Laboratory Personnel may work in a public health laboratory at the appropriate level and specialty.

Section 166. Section 483.813, Florida Statutes, is amended to read:

483.813 Clinical laboratory personnel license.—A person may not conduct a clinical laboratory examination or report the results of such examination unless such person is licensed under this part to perform such procedures. However, this provision does not apply to any practitioner of the healing arts authorized to practice in this state. The department may grant a temporary license to any candidate it deems properly qualified, for a period not to exceed *1 year, or a conditional license for a period not to exceed 3 years* ~~6 months~~.

Section 167. Section 483.823, Florida Statutes, is amended to read:

483.823 Qualifications of clinical laboratory personnel.—

(1) The board shall prescribe minimal qualifications for clinical laboratory personnel and shall issue a license to any person who meets the minimum qualifications and who demonstrates that he possesses the character, training, and ability to qualify in those areas for which the license is sought.

(2) Personnel qualifications may require appropriate education, training, or experience or the passing of an examination in appropriate subjects or any combination of these, but no practitioner of the healing arts licensed to practice in this state is required to obtain any license under this part or to pay any fee hereunder except the fee required for clinical laboratory licensure.

Section 168. Section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action ~~against clinical laboratory personnel~~.—The following acts constitute grounds for which disciplinary actions specified in s. 483.827 may be taken against *applicants, registrants, and licensees under this part* ~~clinical laboratory personnel~~:

(1) *Attempting to obtain, obtaining, or renewing a license or registration under this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board* ~~Making a fraudulent statement on an application for a license or any other document required by the department~~.

(2) Engaging in or attempting to engage in, or representing himself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to his license.

(3) Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or erroneous reporting.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Having been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(6) Having been adjudged mentally or physically incompetent.

(7) Violating or aiding and abetting in the violation of any provision of this part or the rules adopted hereunder.

(8) Reporting a test result when no laboratory test was performed on a clinical specimen.

(9) Knowingly advertising false services or credentials.

(10) Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction. *The licensing authority's acceptance of a relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the licensee, shall be construed as action against the licensee.*

(11) Failing to report to the board, in writing, within 30 days if action under subsection (10) has been taken against one's license to practice as clinical laboratory personnel in another state, territory, or country.

(12) Being unable to perform or report clinical laboratory examinations with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee

is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(13) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

Section 169. Section 483.828, Florida Statutes, is created to read:

483.828 Penalty for violations.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing as clinical laboratory personnel without an active license.

(b) Using or attempting to use a license to practice as clinical laboratory personnel which is suspended or revoked.

(c) Attempting to obtain or obtaining a license to practice as clinical laboratory personnel by knowing misrepresentation.

(2) Each of the following act constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Knowingly concealing information relating to violations of this part.

(b) Making any willfully false oath or affirmation whenever an oath or affirmation is required by this part.

(c) Leading the public to believe that one is licensed as clinical laboratory personnel, or is engaged in licensed practice as clinical laboratory personnel, without holding a valid, active license.

Section 170. Section 483.901, Florida Statutes, is amended to read:

483.901 Medical physicists; definitions; licensure.—

(1) SHORT TITLE.—This section may be cited as the "Florida Medical Physicists Act."

(2) DECLARATION OF LEGISLATIVE POLICY.—The Legislature finds that the practice of medical physics by incompetent persons is a threat to the public health and safety. It is, therefore, the responsibility of this state to protect the public health and safety from the harmful effects of excessive and unnecessary radiation by ensuring that the practice of medical physics is entrusted only to persons who are licensed under this section.

(3) DEFINITIONS.—As used in this section, the term:

~~(a) "Agency" means the Agency for Health Care Administration or its successor.~~

(a)~~(b)~~ "Council" means the Advisory Council of Medical Physicists in the *Department of Health* ~~Agency for Health Care Administration~~.

(b) "Department" means the Department of Health.

(c) "Diagnostic radiological physics" means the specialty of medical physics which deals with the diagnostic application and safe use of X rays, gamma rays from sealed sources, ultrasonic radiation, radio frequency radiation, or magnetic fields, and the use of equipment associated with the production, use, measurement, and evaluation of the radiation and the quality of the diagnostic image resulting from its production and use.

(d) "License" means a certificate issued by the *department* ~~agency~~ which authorizes the holder to practice medical physics.

(e) "Licensed medical physicist" means a person who holds a license issued under this section.

(f) "Medical health physics" means the specialty of medical physics which deals with the safe use of X rays, gamma rays, electron or other charged particle beams, neutrons, radionuclides, and radiation from sealed sources, for both diagnostic and therapeutic purposes in human beings and the use of equipment required to perform appropriate tests and measurements *that do not involve the direct application of radiation to humans for diagnostic or therapeutic procedures*.

(g) "Medical nuclear radiological physics" means the specialty of medical physics which deals with the therapeutic and diagnostic application and safe use of radionuclides, except those used in sealed sources for therapeutic purposes, and the use of equipment associated with the production, use, measurement, and evaluation of radionuclides.

(h) "Medical physics" means the branch of physics which is associated with the practice of medicine. It includes the fields of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, and medical health physics.

(i) "Physician" means a doctor of medicine, *osteopathic medicine* ~~osteopathy~~, podiatry, dentistry, or chiropractic who is licensed in this state and who prescribes a radiological procedure.

(j) "Practice of medical physics" means the use of principles and accepted protocols of physics to *ensure* ~~assure~~ the correct quality, quantity, and placement of radiation during the performance of a radiological procedure prescribed by a physician which will protect the patient and others from harmful excessive radiation. The term includes radiation beam calibration and characterization quality assurance, instrument specification, acceptance testing, shielding design, protection analysis on radiation-emitting equipment and radiopharmaceuticals, and consultation with a physician to *ensure* ~~assure~~ accurate radiation dosage to a specific patient.

(k) "Radiation" means ionizing or nonionizing radiation above background levels which is used to perform a diagnostic or therapeutic medical or dental radiological procedure.

(l) "Radiological procedure" means a test, measurement, calculation, or radiation exposure used in the diagnosis or treatment of diseases or other medical or dental conditions in human beings that includes therapeutic radiation, diagnostic radiation, nuclear magnetic resonance, or nuclear medicine procedures.

(m) "Therapeutic radiological physics" means that specialty of medical physics which deals with the therapeutic application and safe use of X rays, gamma rays, electron or other charged particle beams, neutrons, or radiation from radionuclide sources, and the use of equipment associated with the production, use, measurement, and evaluation of that radiation.

(4) COUNCIL.—The Advisory Council of Medical Physicists is created in the *Department of Health* ~~Agency for Health Care Administration~~ to *advise the department in regulating* ~~regulate~~ the practice of medical physics in this state.

(a) The council shall be composed of *nine* ~~seven~~ members appointed by the *secretary of the department* ~~director~~ as follows:

1. A licensed medical physicist who specializes in diagnostic radiological physics.

2. A licensed medical physicist who specializes in therapeutic radiological physics.

3. A licensed medical physicist who specializes in medical nuclear radiological physics.

4. A physician who is board certified by the American Board of Radiology or its equivalent.

5. A physician who is board certified by the American Osteopathic Board of Radiology or its equivalent.

6. A physician who is board certified by the American *Chiropractic Radiology* Board ~~of Chiropractic Radiology~~ or its equivalent.

7. *Three* ~~A~~ consumer *members* ~~member~~ who *are* ~~is~~ not, and *have* ~~has~~ never been, licensed as a medical physicist or licensed in any closely related profession.

(b) The *secretary of the department* ~~director~~ shall appoint the medical physicist members of the council from a list of candidates who are licensed to practice medical physics.

(c) The *secretary of the department* ~~director~~ shall appoint the physician *members* ~~member~~ of the council from a list of candidates who are licensed to practice medicine in this state and are board certified in diagnostic radiology, therapeutic radiology, or radiation oncology.

(d) The *secretary of the department* ~~director~~ shall appoint the public *members* ~~member~~ of the council.

(e) As the term of each member expires, the *secretary of the department* ~~director~~ shall appoint the successor for a term of *4* ~~3~~ years. A member shall serve until *the member's* ~~his~~ successor is appointed, unless physically unable to do so.

(f) An individual is ineligible to serve more than two full consecutive *4-year* ~~3-year~~ terms.

(g) If a vacancy on the council occurs, the director shall appoint a member to serve for a *4-year* ~~3-year~~ term.

(h) A council member must be a United States citizen and must have been a resident of this state for 2 consecutive years immediately before being appointed.

1. A member of the council who is a medical physicist must have practiced for at least 6 years before being appointed or be board certified for the specialty in which the member practices.

2. A member of the council who is a physician must be licensed to practice medicine in this state and must have practiced diagnostic radiology or radiation oncology in this state for at least 2 years before being appointed.

3. The public *members* ~~member~~ of the council must not have a financial interest in any endeavor related to the practice of medical physics.

(i) Notwithstanding any other provision of this subsection, no later than January 1, 1996, the *secretary of the department* ~~director~~ shall make the initial appointments to the council as follows:

1. One member who is engaged in the practice of medical physics, *one physician member,* and one public member, each of whom is to be appointed to serve until June 30, 1996;

2. One member who is engaged in the practice of medical physics and one physician member, each of whom is to be appointed to serve until June 30, 1997; and

3. One member who is engaged in the practice of medical physics *and one physician member, each of whom is* to be appointed to serve until June 30, 1998.

(j) A council member may be removed from the council if the member:

1. Did not have the required qualifications at the time of appointment;

2. Does not maintain the required qualifications while serving on the council; or

3. Fails to attend the regularly scheduled council meetings in a calendar year as required by s. 455.207.

(k) Members of the council may not receive compensation for their services; however, they are entitled to reimbursement, from funds deposited in the *Medical Quality Assurance* ~~Health Care~~ Trust Fund, for necessary travel expenses as specified in s. 112.061 for each day they engage in the business of the council.

(l) At the first regularly scheduled meeting of each calendar year, the council shall elect a presiding officer and an assistant presiding officer from among its members. The council shall meet at least once each year and at other times in accordance with *department requirements* ~~agency rules~~.

(m) The *department* ~~agency~~ shall provide administrative support to the council for all licensing activities.

(n) The council may conduct its meetings electronically.

(5) POWERS OF COUNCIL.—The council shall:

(a) Recommend rules to administer this section.

(b) Recommend practice standards for the practice of medical physics which are consistent with the Guidelines for Ethical Practice for Medical Physicists prepared by the American Association of Physicists in Medicine and disciplinary guidelines adopted under s. 455.2273.

(c) Develop and recommend continuing education requirements for licensed medical physicists.

(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the *department* ~~agency~~ for the appropriate specialty.

(a) The *department* ~~agency~~ shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. The council shall recommend to the *department* ~~agency~~ continuing education requirements that shall be a condition of license renewal. The *department* ~~agency~~ shall require a minimum of 24 hours *per biennium* of continuing education offered by an organization recommended by the council *and approved by the department. The department, upon recommendation of the council, may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.*

(b) In order to apply for a medical physicist license in one or more specialties, a person must file an individual application for each specialty with the *department* ~~agency~~. The application must be on a form prescribed by the *department* ~~agency~~ and must be accompanied by a nonrefundable application fee for each specialty.

(c) *The department may issue a license to an eligible applicant if the applicant meets all license requirements.* At any time before the *department* ~~agency~~ issues ~~or renews~~ a license, the applicant may request in writing that the application be withdrawn. To reapply, the applicant must submit a new application and an additional nonrefundable application fee and must meet all current licensure requirements.

(d) The *department* ~~agency~~ shall review each completed application for a license which the *department* ~~agency~~ receives.

~~(e) The agency may issue a license to an eligible applicant if the applicant meets all license requirements.~~

~~1. Licenses must be uniform and must include:~~

~~a. The name of the licensee;~~

~~b. The medical physics specialty that the licensee may practice; and~~

~~c. The expiration date of the license.~~

~~2. A license certificate is the property of the agency and must be surrendered on demand.~~

~~3. The agency shall adopt rules establishing a procedure for the biennial renewal of licenses.~~

~~4. A person may renew an unexpired license by meeting the renewal requirements, paying the nonrefundable renewal fee before the expiration of the license, and meeting continuing education requirements.~~

~~5. The cost to renew a license within 90 days after the license has expired is the normal renewal fee plus a penalty in the amount of half the renewal fee.~~

~~6. The cost to renew a license that has been expired for more than 90 days but less than 2 years is the normal renewal fee plus a penalty in the amount of the renewal fee.~~

~~7. A license may not be renewed after it has been expired for more than 2 years. To be relicensed, a person must comply with all current application requirements to practice medical physics and must submit a new application and nonrefundable application fee to the agency.~~

(e)~~(f)~~ On receipt of an application and fee as specified in this section, the *department* ~~agency~~ may issue a license to practice medical physics in this state:

1. Until October 1, 1997, to a person who meets any of the following requirements:

a. Earned from an accredited college or university a doctoral degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering and has at least 2 years' experience in the practice of the medical physics specialty for which application is made.

b. Earned from an accredited college or university a master's degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering and has at least 3 years' experience in the practice of the medical physics specialty for which application is made.

c. Earned from an accredited college or university a bachelor's degree in physics and has at least 5 years' experience in the practice of the medical physics specialty for which application is made.

d. Has at least 8 years' experience in the practice of the medical physics specialty for which application is made, 2 years of which must have been earned within the 4 years immediately preceding application for licensure.

e. Is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics or the Canadian Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the agency.

~~1. Until October 1, 1997, to a person who has earned from an accredited college or university a master's degree or doctoral degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering, and has at least 2 years of experience in the practice of the medical physics specialty for which application is made during the 4 years immediately before the application is made.~~

2. *On or* after October 1, 1997, to a person who~~:~~

~~a. Holds a license to practice medical physics in this state; or~~

~~b.~~ is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the *department* ~~agency~~.

(f)~~(g)~~ A licensee shall:

1. Display the license in a place accessible to the public; and

2. Report immediately any change in the licensee's address or name to the *department* ~~agency~~.

(g) The following acts are grounds for which the disciplinary actions in paragraph (h) may be taken:

1. Obtaining or attempting to obtain a license by bribery, fraud, knowing misrepresentation, or concealment of material fact or through an error of the department.

2. Having a license denied, revoked, suspended, or otherwise acted against in another jurisdiction.

3. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of medical physics.

4. Willfully failing to file a report or record required for medical physics or willfully impeding or obstructing the filing of a report or record required by this section or inducing another person to do so.

5. Making misleading, deceptive, or fraudulent representations in or related to the practice of medical physics.

6. Willfully failing to report any known violation of this section or any rule adopted thereunder.

7. Willfully or repeatedly violating a rule adopted under this section or an order of the department.

8. Failing to perform any statutory or legal obligation placed upon a licensee.

9. Aiding, assisting, procuring, employing, or advising any unlicensed person to practice medical physics contrary to this section or any rule adopted thereunder.

10. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

11. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

12. Gross or repeated malpractice or the inability to practice medical physics with reasonable skill and safety.

13. Judicially determined mental incompetency.

14. Being unable to practice medical physics with reasonable skill and safety because of a mental or physical condition or illness or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

a. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and the licensee's failure to submit to such an examination constitutes an admission of the allegations against the licensee, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control.

b. A licensee who is disciplined under this subparagraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that the licensee can resume the practice of medical physics with reasonable skill and safety.

c. With respect to any proceeding under this subparagraph, the record of proceedings or the orders entered by the department may not be used against a licensee in any other proceeding.

(h) When the department finds any person guilty of any of the grounds set forth in paragraph (g), including conduct that would constitute a substantial violation of paragraph (g) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

1. Deny the application for licensure.

2. Revoke or suspend the license.

3. Impose an administrative fine for each count or separate offense.

4. Place the licensee on probation for a specified time and subject the licensee to such conditions as the department determines necessary, including requiring treatment, continuing education courses, or working under the monitoring or supervision of another licensee.

5. Restrict a licensee's practice.

6. Issue a reprimand to the licensee.

(i) The department may not issue or reinstate a license to a person it has deemed unqualified until it is satisfied that such person has complied with the terms and conditions of the final order and that the licensee can safely practice medical physics.

~~(h) The agency may refuse to issue or renew a license, suspend or revoke a license, or reprimand the licensee for the following:~~

~~1. Obtaining or renewing a license by means of fraud, misrepresentation, or concealment of material fact;~~

~~2. Having made an application for or held a license issued by the licensing authority of another state, territory, or jurisdiction which was denied, suspended, or revoked by that licensing authority without so informing the agency;~~

~~3. Engaging in unprofessional conduct related to the practice of medical physics that has endangered or is likely to endanger the health, safety, or welfare of the public;~~

~~4. Violating this section, a rule of the agency, or the practice standards for medical physics; or~~

~~5. Being convicted of a felony or of a misdemeanor that directly relates to a person's duties and responsibilities as a licensed medical physicist.~~

(j)~~(i)~~ The *department* ~~agency~~ may issue a temporary license to an applicant pending completion of the application process.

(7) FEES.—The fee for the initial license application shall be $500 and is nonrefundable. The fee for license renewal may not be more than $500. These fees may cover only the costs incurred by the *department* ~~agency~~ and the council to administer this section. By July 1 each year, the *department* ~~agency~~ shall advise the council if the fees are insufficient to administer this section.

(8) DISPOSITION OF FEES.—The *department* ~~agency~~ shall deposit all funds received into the Health Care Trust Fund.

(9) PENALTY FOR VIOLATIONS.—It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to:

(a) Practice or attempt to practice medical physics or hold oneself out to be a licensed medical physicist without holding an active license.

(b) Practice or attempt to practice medical physics under a name other than one's own.

(c) Use or attempt to use a revoked or suspended license or the license of another.

~~(9) OFFENSES.—A person is in violation of this section if the person intentionally or knowingly:~~

~~(a) Practices medical physics in violation of this section; or~~

~~(b) Uses letters, terminology, symbols, or signs to indicate or imply qualifications or licensure to practice medical physics in any manner for which the person is not licensed.~~

~~(10) PENALTIES.—~~

~~(a) A person who violates this section or any rule adopted under this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(b) The agency may modify, deny, suspend, or revoke a license, or may impose an administrative fine not to exceed $1,000 per violation, for the violation of any provision of this section, rule adopted under this section, or terms or conditions of any license issued by the agency. The agency shall develop specific disciplinary guidelines in accordance with s. 455.2273.~~

~~1. In determining the amount of a fine that is to be levied for a violation, the following factors must be considered:~~

~~a. The severity of the violation and the extent to which this section, any rule adopted under this section, or any term or condition of any license was violated.~~

~~b. Any action taken by the licensee to correct the violation.~~

~~c. Any previous violation by the licensee.~~

~~2. All amounts collected under this section must be deposited in the Health Care Trust Fund.~~

~~(c) If the agency determines that the licensee presents a clear and present danger to the public health or safety, the agency may issue an emergency order that immediately suspends or revokes his license.~~

(10)~~(11)~~ EXEMPTIONS.—This section does not apply to:

(a) A physician who is licensed by this state to the extent that *the physician* ~~he~~ practices within the scope of *the physician's* ~~his~~ training, education, and licensure;

(b) A person who is licensed under part IV of chapter 468 to the extent that *the person* ~~he~~ practices within the scope of *the person's* ~~his~~ training, education, and licensure;

(c) A person who performs beam calibration and characterization, quality assurance, instrument specification, acceptance testing, shielding design, or protection analysis on radiation-emitting equipment or radiopharmaceuticals in connection with procedures that are not involved with the diagnosis or treatment of disease or other medical or dental conditions in humans;

(d) A person who is employed by a federal or state regulatory agency and is performing duties within the scope of the person's employment;

(e) A student or intern who practices medical physics in conjunction with a program at an accredited college or university to the extent that the student or intern is adequately supervised by a licensed medical physicist or licensed physician; or

(f) A dentist or any person working under *the dentist's* ~~his~~ supervision pursuant to chapter 466 to the extent that the dentist or the person supervised by the dentist is practicing within the scope of his *or her* training, education, and licensure.

~~(12) LICENSURE EXCEPTION.—Notwithstanding the provisions of subsections (1)-(11), any medical physicist who, as of July 1, 1995, has practiced medical physics for 5 years or longer is entitled to continue to so practice and need not be licensed as a medical physicist.~~

Section 171. Subsection (2) of section 484.041, Florida Statutes, is amended to read:

484.041 Definitions.—As used in this part, the term:

(2) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 172. Subsection (1) of section 484.042, Florida Statutes, is amended to read:

484.042 Board of Hearing Aid Specialists; membership, appointment, terms.—

(1) The Board of Hearing Aid Specialists is created within the Department of *Health* ~~Business and Professional Regulation~~ and shall consist of nine members to be appointed by the Governor and confirmed by the Senate.

Section 173. Subsection (2) of section 484.051, Florida Statutes, is amended to read:

484.051 Itemization of prices; delivery of hearing aid; receipt, packaging, disclaimer, guarantee.—

(2) Any person who fits and sells a hearing aid shall, at the time of delivery, provide the purchaser with a receipt containing the seller's signature, the address of his regular place of business, and his license or trainee registration number, if applicable, together with the brand, model, manufacturer or manufacturer's identification code, and serial

number of the hearing aid furnished and the amount charged for the hearing aid. The receipt also shall specify whether the hearing aid is new, used, or rebuilt and shall specify the length of time and other terms of the guarantee and by whom the hearing aid is guaranteed. When the client has requested an itemized list of prices, the receipt shall also provide an itemization of the total purchase price, including, but not limited to, the cost of the aid, earmold, batteries and other accessories, and any services. Notice of the availability of this service shall be displayed in a conspicuous manner in the office. The receipt also shall state that any complaint concerning the hearing aid and guarantee therefor, if not reconciled with the licensee from whom the hearing aid was purchased, should be directed by the purchaser to the Department of *Health* ~~Business and Professional Regulation~~. The address and telephone number of such office shall be stated on the receipt.

Section 174. Subsection (2) of section 486.021, Florida Statutes, is amended to read:

486.021 Definitions.—In this chapter, unless the context otherwise requires, the term:

(2) "Department" means the Department of *Health* ~~Business and Professional Regulation~~.

Section 175. Section 486.023, Florida Statutes, is amended to read:

486.023 Board of Physical Therapy Practice.—

(1) There is created within the department the Board of Physical Therapy Practice, composed of seven members~~, recommended by the Florida Physical Therapy Association and~~ appointed by the Governor *and*~~,~~ subject to confirmation by the Senate.

(2) Five board members shall be licensed physical therapists in good standing in this state who are residents of this state and *who* have been engaged in the practice of physical therapy for at least 4 years immediately prior to their appointment. One licensed physical therapist board member may be a full-time faculty member teaching in a physical therapy curriculum in an educational institution in this state. ~~One of~~ The two remaining members shall be *residents* ~~a resident~~ of this state who *have* ~~has~~ never been ~~a~~ licensed health care *practitioners* ~~practitioner~~. ~~One of the two remaining members shall be a health care practitioner licensed under chapter 458 or chapter 459 who is a resident of this state and has been engaged as a licensed health care practitioner for at least 4 years immediately prior to his or her appointment.~~

~~(3) Within 90 days after October 1, 1989, the Governor shall appoint the board as follows:~~

~~(a) Two members for terms of 2 years each.~~

~~(b) Two members for terms of 3 years each.~~

~~(c) Three members for terms of 4 years each.~~

(3)~~(4)~~ As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed.

(4)~~(5)~~ All provisions of chapter 455 relating to activities of the board shall apply.

Section 176. Section 486.031, Florida Statutes, is amended to read:

486.031 Physical therapist; licensing requirements.—To be eligible for licensing as a physical therapist, an applicant must:

(1) Be at least 18 years old;

(2) Be of good moral character; and

(3)(a) Have been graduated from a school of physical therapy which has been approved for the educational preparation of physical therapists by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation ~~(formerly the National Commission on Accrediting and the Federation of Regional Accrediting Commissions of Higher Education)~~ or the United States Department of Education at the time of his graduation and have passed, to the satisfaction of the board, *the American Registry Examination prior to 1971 or a national* ~~an~~ examination *approved* ~~administered~~ by the *board* ~~department~~ to determine his fitness for practice as a physical therapist as hereinafter provided; ~~or~~

(b) Have received a diploma from a program in physical therapy in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapists in this country, as recognized by the appropriate agency as identified by the board, and have passed to the satisfaction of the board an examination ~~administered by the department~~ to determine his fitness for practice as a physical therapist as hereinafter provided; or

(c) Be entitled to licensure without examination as provided in s. 486.081.

Section 177. Section 486.041, Florida Statutes, is amended to read:

486.041 Physical therapist; application for license; fee; temporary permit.—

(1) A person who desires to be licensed as a physical therapist shall apply to the *department* ~~board~~ in writing on a form furnished by the department. He shall embody in that application evidence under oath, satisfactory to the board, of his possessing the qualifications preliminary to examination required by s. 486.031. He shall pay to the department at the time of filing his application a fee not to exceed $100, as fixed by the board~~, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Services for the American Physical Therapist's Association or a similar national organization. If an applicant is deemed ineligible to take the examination, that part of his application fee which is to be used for examination expenses shall be returned~~.

(2) If a person desires to practice physical therapy before becoming licensed through examination, he shall apply ~~to the board~~ for a temporary permit in accordance with rules adopted pursuant to this chapter.

(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.

(b) An applicant for licensure by examination and practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.

Section 178. Section 486.051, Florida Statutes, is amended to read:

486.051 Physical therapist; examination of applicant.~~—The department shall provide for examination of applicants for licensing as physical therapists at least once a year, and more often at the discretion of the board, at a time and place to be determined by the department.~~ The examinations of an applicant for licensing as a physical therapist shall be ~~administered by the department,~~ in accordance with rules adopted by the board, to test the applicant's qualifications and shall include the taking of a ~~written~~ test by the applicant. If an applicant fails to pass the examination in three attempts, he shall not be eligible for reexamination unless he completes additional educational or training requirements prescribed by the board. An applicant who has completed the additional educational or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, he is no longer eligible to take the examination.

Section 179. Section 486.081, Florida Statutes, is amended to read:

486.081 Physical therapist; issuance of license without examination to person passing examination of another authorized examining board; temporary permit; fee.—

(1) The board may cause a license to be issued through the department without examination to any applicant who presents evidence satisfactory to the board of having passed *the American Registry Examination prior to 1971 or* an examination in physical therapy before a similar lawfully authorized examining board of another state, the District of Columbia, a territory, or a foreign country, if the standards for licensure in physical therapy in such other state, district, territory, or foreign country are determined by the board to be as high as those of this state, as established by rules adopted pursuant to this chapter. Any person who holds a license pursuant to this section may use the words "physical

therapist" or "physiotherapist," or the letters "P.T.," in connection with his name or place of business to denote his licensure hereunder.

(2) At the time of making application for licensure without examination pursuant to the terms of this section, the applicant shall pay to the department a fee not to exceed $175 as fixed by the board, no part of which will be returned.

(3) If a person desires to practice physical therapy before becoming licensed through endorsement, he shall apply to the board for a temporary permit in accordance with rules adopted pursuant to this chapter. A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable.

Section 180. Section 486.102, Florida Statutes, is amended to read:

486.102 Physical therapist assistant; licensing requirements.—To be eligible for licensing by the board as a physical therapist assistant, an applicant must:

(1) Be at least 18 years old;

(2) Be of good moral character; and

(3)(a) Have been graduated from a school giving a course of not less than 2 years for physical therapist assistants, which has been approved for the educational preparation of physical therapist assistants by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation ~~(formerly the National Commission on Accrediting and the Federation of Regional Accrediting Commissions of Higher Education)~~ or the United States Department of Education at the time of his graduation and have passed to the satisfaction of the board an examination ~~administered by the department~~ to determine his fitness for practice as a physical therapist assistant as hereinafter provided; ~~or~~

(b) Have been graduated from a school giving a course for physical therapist assistants in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapist assistants in this country, as recognized by the appropriate agency as identified by the board, and passed to the satisfaction of the board an examination ~~conducted by the department~~ to determine his fitness for practice as a physical therapist assistant as hereinafter provided; or

(c) Be entitled to licensure without examination as provided in s. 486.107.

Section 181. Section 486.103, Florida Statutes, is amended to read:

486.103 Physical therapist assistant; application for license; fee; temporary permit.—

(1) A person who desires to be licensed as a physical therapist assistant shall apply to the *department* ~~board~~ in writing on a form furnished by the department. He shall embody in that application evidence under oath, satisfactory to the board, of his possessing the qualifications preliminary to examination required by s. 486.104. He shall pay to the department at the time of filing his application a fee not to exceed $100, as fixed by the board~~, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Services for the American Physical Therapist's Association or a similar national organization. If an applicant is deemed ineligible to take the examination, that part of his application fee which is to be used for examination expenses shall be returned~~.

(2) If a person desires to work as a physical therapist assistant before being licensed through examination, he shall apply for a temporary permit in accordance with rules adopted pursuant to this chapter.

(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.

(b) An applicant for licensure by examination who is practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.

Section 182. Section 486.104, Florida Statutes, is amended to read:

486.104 Physical therapist assistant; examination of applicant.—~~The department shall provide for examination of applicants for licensing as physical therapist assistants at least once a year, and more often at the discretion of the board, at a time and place to be determined by the department.~~ The examination of an applicant for licensing as a physical therapist assistant shall be ~~provided by the department,~~ in accordance with rules adopted by the board, to test the applicant's qualifications and shall include the taking of a ~~written~~ test by the applicant. If an applicant fails to pass the examination in three attempts, he shall not be eligible for reexamination unless he completes additional educational or training requirements prescribed by the board. An applicant who has completed the additional educational or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, he is no longer eligible to take the examination.

Section 183. Section 486.123, Florida Statutes, is created to read:

486.123 Sexual misconduct in the practice of physical therapy.—The physical therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of physical therapy means violation of the physical therapist-patient relationship through which the physical therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of physical therapy is prohibited.

Section 184. Paragraph (g) is added to subsection (2) of section 486.125, Florida Statutes, to read:

486.125 Refusal, revocation, or suspension of license; administrative fines and other disciplinary measures.—

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(g) Recovery of actual costs of investigation and prosecution.

Section 185. Subsection (11) is added to section 641.495, Florida Statutes, 1996 Supplement, to read:

641.495 Requirements for issuance and maintenance of certificate.—

(11) The organization shall designate a medical director who is a physician licensed under chapter 458 or chapter 459.

Section 186. Subsection (2) of section 468.1645, Florida Statutes, is amended to read:

468.1645 Administrator license required.—

(2) Nothing in this part or in the rules adopted hereunder shall require an administrator of any facility or institution operated by *and* ~~a recognized church or religious denomination~~ for persons who rely exclusively upon treatment by spiritual means through prayer, *in accordance with the creed or tenets of any organized church or religious denomination, to be licensed as a nursing home administrator if the administrator* ~~who~~ is employed only to administer *in such facilities or* institutions ~~accredited by such church or denomination~~ for the care and treatment of the sick ~~in accordance with its teachings, to be licensed as a nursing home administrator~~.

Section 187. Effective upon this act becoming a law, paragraphs (a) and (c) of subsection (1) of section 458.3115, Florida Statutes, 1996 Supplement are amended to read:

458.3115 Restricted license; certain foreign-licensed physicians; United States Medical Licensing Examination (USMLE) or agency-developed examination; restrictions on practice; full licensure.—

(1)

(a) Notwithstanding any other provision of law, the agency shall provide procedures under which certain physicians who are or were foreign-licensed and have practiced medicine no less than 2 years may take the USMLE or an agency-developed examination to qualify for a

restricted license to practice medicine in this state. The agency and board-developed examination shall test the same areas of medical knowledge as the Federation of State Medical Boards of the United States, Inc. (FLEX) previously administered by the Florida Board of Medicine to grant medical licensure in Florida. Said examination shall be in the same form and content and shall be administered in the same manner as the FLEX. *The agency-developed examination must be made available no later than September 1, 1998, to a physician who qualifies for licensure.* A person who is eligible to take and elects to take the agency and board-developed examination, who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the agency-developed examination, and may sit for the agency and board-developed examination five times within 5 years.

(c) A person shall be eligible to take such examination for restricted licensure if the person:

1. Has taken, upon approval by the board, and completed, in November 1990 or November 1992, one of the special preparatory medical update courses authorized by the board and the University of Miami Medical School and subsequently passed the final course examination; ~~or~~ upon approval by the board to take the course completed in 1990 or in 1992, has a certificate of successful completion of that course from the University of Miami or the Stanley H. Kaplan course; *or can document to the department that he or she was one of the persons who took and successfully completed the Stanley H. Kaplan course that was approved by the Board of Medicine and supervised by the University of Miami. At a minimum, the documentation must include class attendance records and the test score on the final course examination;*

2. Applies to the agency and submits an application fee that is nonrefundable and equivalent to the fee required for full licensure;

3. Documents no less than 2 years of the active practice of medicine in another jurisdiction;

4. Submits an examination fee that is nonrefundable and equivalent to the fee required for full licensure plus the actual per-applicant cost to the agency to provide either examination described in this section;

5. Has not committed any act or offense in this or any other jurisdiction that would constitute a substantial basis for disciplining a physician under this chapter or chapter 455; and

6. Is not under discipline, investigation, or prosecution in this or any other jurisdiction for an act that would constitute a violation of this chapter or chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

Section 188. Section 458.3124, Florida Statutes, is created to read:

458.3124 Restricted license; certain experienced foreign-trained physicians.—

(1) A person who was trained in a medical school that is listed in the World Directory of Medical Schools published by the World Health Organization and is located in a country other than the United States, Canada, or Puerto Rico may apply to take Step III of the United States Medical Licensing Examination, if the person:

(a) Legally practiced medicine for at least 5 years in the country in which the school is located;

(b) Has passed Steps I and II of the United States Medical Licensing Examination;

(c) Is certified by the Education Commission for Foreign Medical Graduates as qualified for a restricted license to practice medicine;

(d) Is not subject to discipline, investigation, or prosecution in any jurisdiction for acts that threaten the public health, safety, or welfare or violate chapters 455 or 458; and

(e) Has been a resident of this state since July 1, 1996.

(2) A person applying for licensure under this section must submit to the Department of Health on or before December 31, 1998:

(a) A completed application and documentation required by the Board of Medicine to prove compliance with subsection (1); and

(b) A nonrefundable application fee not to exceed $500 and a nonrefundable examination fee not to exceed $300 plus the actual cost to purchase and administer the examination.

(3) A person applying under this section may take the examination a maximum of 5 times within 5 years.

(4) A restricted licensee under this section must practice under the supervision of a licensee approved by the board, with the first year of licensure under direct supervision and the second year in community service under indirect supervision, including practicing with organizations that serve indigent populations, such as section 501(c)(3) agencies, public health units, prisons, or other organizations approved by the board.

(5) Notwithstanding s. 458.311(1)(f), a person who successfully meets the requirements of this section and who successfully passes Step III of the United States Medical Licensing Examination is eligible for full licensure as a physician.

(6) The board shall adopt rules to implement this section.

Section 189. Subsection (3) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

(3)~~(a)~~ A person that engages in wholesale distribution of prescription drugs in this state must have a wholesale distributor's permit issued by the department, *except as noted in this section. Each establishment must be separately permitted except as noted in this subsection.*

(a) A separate establishment permit is not required when a permitted prescription drug wholesaler consigns a prescription drug to a pharmacy that is permitted under chapter 465 and located in this state, provided that:

1. The consignor wholesaler notifies the department in writing of the contract to consign prescription drugs to a pharmacy along with the identity and location of each consignee pharmacy;

2. The pharmacy maintains its permit under chapter 465;

3. The consignor wholesaler, which has no legal authority to dispense prescription drugs, complies with all wholesale distribution requirements of s. 499.0121 with respect to the consigned drugs and maintains records documenting the transfer of title or other completion of the wholesale distribution of the consigned prescription drugs;

4. The distribution of the prescription drug is otherwise lawful under this chapter and other applicable law;

5. Open packages containing prescription drugs within a pharmacy are the responsibility of the pharmacy, regardless of how the drugs are titled; and

6. The pharmacy dispenses the consigned prescription drug in accordance with the limitations of its permit under chapter 465 or returns the consigned prescription drug to the consignor wholesaler. In addition, a person who holds title to prescription drugs may transfer the drugs to a person permitted or licensed to handle the reverse distribution or destruction of drugs. Any other distribution by and means of the consigned prescription drug by any person, not limited to the consignor wholesaler or consignee pharmacy, to any other person is prohibited.

(b) A wholesale distributor's permit is not required for the one-time transfer of title of a pharmacy's lawfully acquired prescription drug inventory by a pharmacy with a valid permit issued under chapter 465 to a consignor prescription drug wholesaler, permitted under this chapter, in accordance with a written consignment agreement between the pharmacy and that wholesaler if: the permitted pharmacy and the permitted prescription drug wholesaler comply with all of the provisions of paragraph (3)(a) and the prescription drugs continue to be within the permitted pharmacy's inventory for dispensing in accordance with the limitations of the pharmacy permit under chapter 465. A consignor drug

wholesaler may not use the pharmacy as a wholesale distributor through which it distributes the legend drugs to other pharmacies. Nothing in this section is intended to prevent a wholesale drug distributor from obtaining this inventory in the event of nonpayment by the pharmacy.

(c)~~(b)~~ The department shall require information from each wholesale distributor as part of the permit and renewal of such permit, as required under s. 499.01.

Section 190. *The Board of Medicine shall adopt rules to establish practice guidelines for physicians to safely prescribe phentermine, fenfluramine, and other drugs used to treat obesity.*

Section 191. *The Board of Osteopathic Medicine shall adopt rules to establish practice guidelines for physicians to safely prescribe phentermine, fenfluramine, and other drugs used to treat obesity.*

Section 192. This act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to regulation of health care professions; amending s. 402.48, F.S., relating to health care services pools; increasing the period of registration; updating a definition and a provision relating to meeting financial responsibility requirements; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration, the Department of Business and Professional Regulation, or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending s. 455.2285, F.S.; revising requirements for information that is disclosed in the annual report; amending s. 457.102, F.S.; revising definitions applicable to the regulation of acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; revising fees; conforming terminology; amending s. 457.107, F.S.; revising licensure renewal fees; conforming terminology; amending s. 457.1085, F.S.; revising requirements on the adoption of rules relating to infection control and on the use of acupuncture needles; amending ss. 457.103, 457.108, 457.109, and 457.116, F.S., to conform; amending s. 458.303, F.S.; eliminating references to physician's trained assistants; amending s. 458.305, F.S.; updating the definition of "department"; amending s. 458.307, F.S.; revising provisions relating to probable cause panels of the Board of Medicine; amending s. 455.206, F.S.; conforming a cross-reference; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a specified fellowship to partially satisfy the licensing requirements; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing persons in certain training programs to take the examination under certain circumstances; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing additional requirements prior to certification of eligibility for licensure; conforming a cross-reference; eliminating a provision authorizing licensure under a period of supervision; providing conditions for reactivation of certain licenses issued by endorsement; amending s. 458.317, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of medicine; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; revising recent-practice requirements; amending s. 458.320, F.S.; conforming a cross-reference; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 458.331, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing requirements for the prescribing of medicinal drugs; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee; amending ss. 458.347 and 459.022, F.S.; revising requirements for certification as a physician assistant; updating terminology; amending s. 458.3485, F.S.; requiring medical assistants to be under the direct supervision of a licensed physician; providing for rules; amending s. 459.003, F.S.; updating the definition of "department"; providing that certain terms are equivalent; amending s. 459.021, F.S.; revising terminology relating to osteopathic medicine; revising provisions relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; authorizing resident physicians to prescribe drugs appearing on schedules of controlled substances under certain circumstances; repealing s. 460.413(1)(bb) and (cc), F.S., relating to grounds for disciplinary action; amending s. 459.0075, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of osteopathic medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of osteopathic medicine; amending s. 459.0085, F.S.; conforming a cross-reference; requiring osteopathic physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; amending ss. 240.4067, 390.011, 395.0191, 408.035, 409.905, 415.102, 415.1034, 415.504, 440.106, 440.13, 440.134, 440.15, 456.31, 459.006, 462.01, 468.301, 468.302, 476.044, 477.0135, 483.291, 621.03, 627.351, 627.357, 627.6482, 725.01, 766.101, 766.103, 766.105, 766.110, 817.234, and 945.047, F.S.; conforming and correcting terminology relating to osteopathic medicine; amending s. 460.403, F.S.; updating the definition of "department"; amending s. 460.413, F.S.; repealing ss. 460.413(1)(bb) and 460.413(1)(cc), relating to grounds for disciplinary action; revising grounds for disciplinary action; providing penalties; providing criteria for determining the applicable penalty; providing certain evidentiary standards; providing authority and procedure to enjoin a chiropractor from providing medical services under certain circumstances; reenacting ss. 320.0848(9), 455.236(4)(g), and 766.111(2), F.S., relating to parking permits for disabled persons, prohibited referrals to home health agencies, and unnecessary diagnostic testing, to incorporate the amendment to s. 460.413, F.S., in references thereto; amending s. 460.4165, F.S.; revising a provision relating to the fee accompanying applications to supervise chiropractic physician's assistants; amending s. 461.003, F.S.; updating the definition of "department"; amending s. 461.013, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 461.018, F.S.; clarifying a provision relating to the limited practice of podiatry in designated areas of need; amending s. 464.003, F.S.; revising a definition to update authority over regulation of nursing; amending ss. 464.004, 464.008, 464.009, 464.012, 464.013, and 464.014, F.S., to conform; amending s. 464.018, F.S.; revising grounds for disciplinary action; providing penalties; conforming terminology; amending s. 464.019, F.S., relating to approval of nursing programs; providing for a program review fee; conforming terminology; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; providing an exemption from regulation relating to certain nurses accompanying and caring for patients temporarily residing in this state; amending s. 465.003, F.S.; revising the definitions of the terms "pharmacy" and "department"; amending s. 465.004, F.S.; increasing the membership of the Board of Pharmacy; revising membership qualifications; amending s. 465.0125, F.S.; providing responsibilities of consultant pharmacists and doctors of pharmacy; providing for rules; amending s. 465.014, F.S.; revising tasks and duties delegated to a pharmacy technician; increasing the number of pharmacy technicians who may be supervised by a licensed pharmacist; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising grounds for disciplinary actions; providing penalties; amending s. 465.0196, F.S., relating to special pharmacy permits; conforming a cross-reference; amending s. 465.026, F.S.; revising provisions relating to the filling of prescriptions transferred by electronic or other means; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; amending s. 465.186, F.S.; providing for inclusion of certain products and over-the-counter proprietary drugs in the formulary of authorized medicinal drug products and dispensing procedures; amending s. 893.03, F.S.; adding butorphanol tartrate as a Schedule IV controlled

substance; reenacting ss. 316.193(5), 327.35(5), 440.102(11)(b), 458.326(3), 817.563(1), 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.08(1)(b), 893.13(1)(a), (c), and (d), (2)(a), (4)(b), and (5)(b), F.S., relating to driving under the influence, boating under the influence, drug-free workplace program requirements, authorized treatment of intractable pain, sales of substances in lieu of controlled substances, counterfeit controlled substances, open house parties, definitions applicable to regulation of controlled substances, exceptions to required prescription for distribution at retail, and prohibited acts relating to controlled substances, respectively, to incorporate the amendment to s. 893.03, F.S., in references thereto; amending s. 466.003, F.S.; updating the definition of "department"; amending s. 466.006, F.S., relating to the examination of dentists; revising prerequisites for certain applicants to take the examination; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; amending s. 466.028, F.S.; revising grounds for disciplinary action; providing penalties; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1125, F.S.; updating the definition of "department"; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing requirements for cross-discipline licensure; amending s. 468.1185, F.S.; revising licensure requirements; conforming a reference; amending s. 468.1195, F.S.; revising continuing education requirements; providing for adoption of standards of approval of continuing education providers; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; conforming a reference; amending s. 468.1245, F.S.; revising provisions relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; creating s. 468.1296, F.S.; prohibiting sexual misconduct in the practice of speech-language pathology and audiology, for which there are penalties; amending s. 468.1655, F.S.; updating the definition of "department"; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.203, F.S.; revising definitions applicable to regulation of occupational therapy; amending s. 468.205, F.S.; replacing the Occupational Therapy Council with a Board of Occupational Therapy Practice; providing for qualifications, appointments, and terms of board members; providing for the filling of vacancies on the board; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; requiring documentation of continuing education for certain applicants; amending s. 468.211, F.S.; providing a restriction on the number of times an applicant may fail the examination and requiring remediation after a certain number; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S.; repealing s. 468.362, F.S., relating to continuing education; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; updating the definition of "department"; revising terminology; revising approval of educational programs; eliminating annual continuing education requirements for certain persons; providing penalties; amending s. 478.42, F.S.; updating the definition of "department"; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending s. 478.46, F.S.; revising requirements relating to issuance of temporary permits; conforming a cross-reference and terminology; amending s. 478.47, F.S.; revising requirements for licensure by endorsement; amending s. 478.52, F.S.; prohibiting the operation of unlicensed electrolysis facilities; providing penalties; amending s. 480.033, F.S.; revising the definition of "board"; updating the definition of "department"; amending s. 480.034, F.S.; eliminating an exemption from regulation applicable to certain skin treatments and weight-loss programs; amending s. 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.041, F.S.; eliminating provisional licensure to practice massage therapy; amending s. 480.0415, F.S.; authorizing an increase in the number of classroom hours of continuing education that may be required for renewal of a license to practice massage therapy; amending s. 480.042, F.S.; revising what examinations must measure; repealing s. 480.0425, F.S., relating to inactive status; amending s. 480.043, F.S.; revising provisions relating to the transfer of licenses; amending s. 480.044, F.S.; revising provisions relating to fees; amending s. 480.047, F.S.; prohibiting the practice of massage therapy without a license unless exempted from licensure; creating s. 480.0485, F.S.; prohibiting sexual misconduct in the practice of massage therapy, for which there are disciplinary actions; amending s. 20.43, F.S., relating to the Department of Health; conforming terminology; updating a reference; amending s. 381.81, F.S., to conform; amending s. 483.800, F.S.; revising policy and purpose relating to regulation of clinical laboratory personnel; amending s. 483.801, F.S.; providing a regulatory exemption relating to advanced registered nurse practitioners; amending s. 483.803, F.S.; updating the definition of "department"; providing definitions; amending s. 483.809, F.S.; revising licensing provisions; authorizing an alternative examination for public health laboratory scientists; creating s. 483.812, F.S.; providing for licensure of public health laboratory scientists; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; providing a period for a conditional license; amending s. 483.823, F.S.; revising provisions relating to qualifications of clinical laboratory personnel; amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 483.828, F.S.; providing penalties for specified violations; amending s. 483.901, F.S., the "Florida Medical Physicists Act"; providing that the Advisory Council of Medical Physicists is an advisory rather than a regulatory body; increasing the number and terms of council members; clarifying initial and other appointment provisions; revising provisions relating to council meetings; revising licensure requirements; clarifying that the required continuing education hours are to be satisfied biennially and that the organizations providing such education must be approved by the Department of Health; revising and providing grounds for disciplinary action; revising and providing criminal acts; providing an administrative fine; providing penalties; eliminating a provision authorizing a licensure exception; amending s. 484.041, F.S.; updating the definition of "department"; amending s. 484.042, F.S.; updating a reference, to conform; amending s. 484.051, F.S.; updating a reference, to conform; amending s. 486.021, F.S.; updating the definition of "department"; amending s. 486.023, F.S.; changing the membership of the Board of Physical Therapy Practice; amending ss. 486.031 and 486.081, F.S.; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending s. 486.041, F.S.; revising provisions relating to applying for a license as a physical therapist and to the fee therefor; amending s. 486.051, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist; amending s. 486.102, F.S.; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.103, F.S.; revising provisions relating to applying for a license as a physical therapist assistant and to the fee therefor; amending s. 486.104, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist assistant; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; providing for recovery of the actual costs of investigation and prosecution; amending s. 641.495, F.S.; requiring a health maintenance organization to designate as medical director a state-licensed physician or osteopathic physician; amending s. 468.1645, F.S.; revising provisions that exempt from licensure requirements administrators of nursing homes operated by and for persons who rely upon treatment by spiritual means through prayer; amending s. 458.3115, F.S.; revising requirements for the development of examinations administered to certain foreign-licensed physicians; prescribing eligibility requirements for certain foreign-trained physicians to take a restricted-license examination; creating s. 458.3124, F.S.; providing for certain foreign-trained and licensed physicians to take certain licensure examinations; providing restrictions and establishing fees; restricting the practice of such persons; providing for eligibility for full licensure; providing for the adoption of rules; amending s. 499.012, F.S.; clarifying and providing for additional wholesale distribution exceptions; requiring the Board of Medicine to establish guidelines for physicians to prescribe certain drugs used to treat obesity; requiring the Board of Osteopathic Medicine to establish guidelines for physicians to prescribe certain drugs used to treat obesity; providing an effective date.

Senator Williams moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 114, line 9-14, delete those lines and insert: *pharmacist members, one must be currently engaged in the practice of pharmacy in a community pharmacy, one must be currently engaged in the practice of pharmacy in a Class II institutional pharmacy*

or a Modified Class II institutional pharmacy, and five shall be pharmacists licensed in this state

Senator Hargrett moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with title amendment)—On page 116, lines 2-22, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 241, line 29 through page 242, line 2, delete those lines and insert: for rules; amending s. 465.0156, F.S.;

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with title amendment)—On page 235, between lines 9 and 10, insert:

Section 192. *(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 46l, Florida Statutes, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:*

(a)1. The name of each medical school that the applicant has attended, with the dates of attendance and the date of graduation, and a description of all graduate medical education completed by the applicant, excluding any coursework taken to satisfy medical licensure continuing education requirements.

2. The name of each hospital at which the applicant has privileges.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification that the applicant has received from a specialty board that is recognized by the board to which the applicant is applying.

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent l0 years.

7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, upon disposition of the appeal, submit to the department a copy of the final written order of disposition.

8. A description of any final disciplinary action taken within the previous 10 years against the applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialities, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of medical staff membership or the restriction of privileges at a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

(b) In addition to the information required under paragraph (a), each applicant who seeks licensure under chapter 458, chapter 459, or chapter 461, Florida Statutes, and who has practiced previously in this state or in another jurisdiction or a foreign country must provide the information required of licensees under those chapters pursuant to section 455.247, Florida Statutes. An applicant for licensure under chapter 460, Florida Statutes, who has practiced previously in this state or in another jurisdiction or a foreign country must provide the same information as is required of licensees under chapter 458, Florida Statutes, pursuant to section 455.247, Florida Statutes.

(2) Before the issuance of the licensure renewal notice required by section 455.273, Florida Statutes, the Department of Health shall send a notice to each person licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, at the licensee's last known address of record with the department, regarding the requirements for information to be submitted by those practitioners pursuant to this section in conjunction with the renewal of such license and under procedures adopted by the department.

(3) Each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under each respective licensing chapter and section 455.227(1)(k), Florida Statutes. For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

(a) Refuse to issue a license to any person applying for initial licensure who fails to submit and update the required information.

(b) Issue a citation to any licensee who fails to submit and update the required information and may fine the licensee up to $50 for each day that the licensee is not in compliance with this subsection. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to follow the procedure under section 455.225, Florida Statutes. If the licensee disputes the matter in the citation, the procedures set forth in section 455.225, Florida Statutes, must be followed. However, if the licensee does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the licensee's last known address.

(4)(a) An applicant for initial licensure must submit a set of fingerprints to the Department of Health in accordance with section 458.311, section 458.313, section 459.0055, section 460.406, or section 461.006, Florida Statutes.

(b) An applicant for renewed licensure must submit a set of fingerprints for the initial renewal of his or her license after January 1, 2000, to the agency regulating that profession in accordance with procedures established under section 458.3l9, section 459.008, section 460.407, or section 461.007, Florida Statutes.

(c) The Department of Health shall submit the fingerprints provided by an applicant for initial licensure to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The department shall submit the fingerprints provided by an applicant for a renewed license to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check for the initial renewal of the applicant's license after January 1, 2000; for any subsequent renewal of the applicant's license the department shall submit the required information for a statewide criminal history check of the applicant.

(5) Each person who is required to submit information pursuant to this section may submit additional information. Such information may include, but is not limited to:

(a) Information regarding publications in peer-reviewed medical literature within the previous l0 years.

(b) Information regarding professional or community-service activities or awards.

(c) Languages, other than English, used by the applicant to communicate with patients and identification of any translating service that may be available at the place where the applicant primarily conducts his or her practice.

(d) An indication of whether the person participates in the Medicaid program.

Section 193. *(1) Beginning July 1, 1999, the Department of Health shall compile the information submitted pursuant to section 1 into a practitioner profile of the applicant submitting the information, except that the Department of Health may develop a format to compile uniformly any information submitted under paragraph 1(4)(b).*

(2) On the profile required under subsection (1), the department shall indicate if the information provided under section 1(1)(a)7. is not corroborated by a criminal history check conducted according to this subsection. If the information provided under section 1(1)(a)7. is corroborated by the criminal history check, the fact that the criminal history check was performed need not be indicated on the profile. The department, or the board having regulatory authority over the practitioner acting on behalf of the department, shall investigate any information received by the department or the board when it has reasonable grounds to believe that the practitioner has violated any law that relates to the practitioner's practice.

(3) The Department of Health may include in each practitioner's practitioner profile that criminal information that directly relates to the practitioner's ability to competently practice his or her profession. The department must include in each practitioner's practitioner profile the following statement: "The criminal history information, if any exists, may be incomplete; federal criminal history information is not available to the public."

(4) The Department of Health shall include, with respect to a practitioner licensed under chapter 458 or chapter 459, Florida Statutes, a statement of how the practitioner has elected to comply with the financial responsibility requirements of section 458.320 or section 459.0085, Florida Statutes. The department shall include, with respect to practitioners licensed under chapter 458, chapter 459, or chapter 461, Florida Statutes, information relating to liability actions which has been reported under section 455.247 or section 627.912, Florida Statutes, within the previous 10 years for any paid claim that exceeds $5,000. Such claims information shall be reported in the context of comparing an individual practitioner's claims to the experience of other physicians within the same specialty to the extent such information is available to the Department of Health. If information relating to a liability action is included in a practitioner's practitioner profile, the profile must also include the following statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

(5) The Department of Health may include in the practitioner's practitioner profile any other information that is a public record of any governmental entity and that relates to a practitioner's ability to competently practice his or her profession. However, the department must consult with the board having regulatory authority over the practitioner before such information is included in his or her profile.

(6) Upon the completion of a practitioner profile under this section, the Department of Health shall furnish the practitioner who is the subject of the profile a copy of it. The practitioner has a period of 30 days in which to review the profile and to correct any factual inaccuracies in it. The Department of Health shall make the profile available to the public at the end of the 30-day period. The department shall make the profiles available to the public through the World Wide Web and other commonly used means of distribution.

(7) Making a practitioner profile available to the public under this section does not constitute agency action for which a hearing under section 120.57, Florida Statutes, may be sought.

Section 194. *The Department of Health shall update each practitioner's practitioner profile periodically. An updated profile is subject to the same requirements as an original profile with respect to the period within which the practitioner may review the profile for the purpose of correcting factual inaccuracies.*

Section 195. *Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The department must develop, by the year 2000, a schedule and procedures for each practitioner within a health care profession regulated within the Division of Medical Quality Assurance to submit relevant information to be compiled into a profile to be made available to the public. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119, Florida Statutes, and Section 24(a), Article I of the State Constitution, so that the Department of Health may corroborate any information that physicians are required to report under section 1 of this act.*

Section 196. *Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, Florida Statutes, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under section 1.*

Section 197. *Information in superseded practitioner profiles must be maintained by the Department of Health, in accordance with general law and the rules of the Department of State.*

Section 198. Paragraph (g) is added to subsection (1) of section 458.311, Florida Statutes, 1996 Supplement, to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician shall apply to the department to take the licensure examination. The department shall examine each applicant whom the board certifies:

(g) Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 199. Subsection (1) of section 458.313, Florida Statutes, 1996 Supplement, is amended to read:

458.313 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee not to exceed $500 set by the board, demonstrates to the board that he:

(a) Has met the qualifications for licensure in *s. 458.311(1)(b)-(g)* ~~s. 458.311(1)(b)-(f)~~;

(b) Has obtained a passing score, as established by rule of the board, on the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), the United States Medical Licensing Examination (USMLE), or the examination of the National Board of Medical Examiners, or on a combination thereof, provided that said examination or combination of examinations required shall have been so taken within the 10 years immediately preceding the filing of his application for licensure under this section; and

(c) Shows evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year preceding the filing of an application for licensure.

Section 200. Subsection (1) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, evidence that the applicant has actively practiced medicine or has been on the active teaching faculty of an accredited medical school within the previous 4 years, and a fee not to exceed $500; provided, however, that if the licensee is either a resident physician, assistant resident physician, fellow, house physician, or intern in an approved postgraduate training program, as defined by the board by rule, the fee shall not exceed $100 per annum. If the licensee has not actively practiced medicine within the previous 4 years, the board shall require that the licensee successfully complete a board-approved clinical competency examination prior to renewal of the license. "Actively practiced medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, including physicians practicing administrative medicine. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 201. Subsection (1) of section 459.0055, Florida Statutes, 1996 Supplement, is amended to read:

459.0055 General licensure requirements.—

(1) Except as otherwise provided herein, any person desiring to be licensed or certified as an osteopathic physician pursuant to this chapter shall:

(a) Complete an application form and submit the appropriate fee to the department;

(b) Be at least 21 years of age;

(c) Be of good moral character;

(d) Have completed at least 3 years of preprofessional postsecondary education;

(e) Have not previously committed any act which would constitute a violation of this chapter, unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(f) Not be under investigation in any jurisdiction for an act which would constitute a violation of this chapter. If, upon completion of such investigation, it is determined that the applicant has committed an act which would constitute a violation of this chapter, the applicant shall be ineligible for licensure unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(g) Have not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction unless the board determines that the grounds on which such action was taken do not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. A licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician, shall be considered action against the osteopathic physician's license;

(h) Have met the criteria set forth in s. 459.006, s. 459.007, s. 459.0075, s. 459.0077, or s. 459.021, whichever is applicable*;*~~.~~

(i) Submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 202. Subsection (1) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(1) The department shall renew a license or certificate upon receipt of the renewal application and fee. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 203. Paragraph (g) is added to subsection (1) of section 460.406, Florida Statutes, 1996 Supplement, to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician shall apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed $100 which shall be nonrefundable. There shall also be an examination fee not to exceed $500 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has:

(g) Submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 204. Subsection (1) of section 460.407, Florida Statutes, is amended to read:

460.407 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed $500. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 205. Paragraph (f) is added to subsection (1) of section 461.006, Florida Statutes, to read:

461.006 Licensure by examination.—

(1) Any person desiring to be licensed as a podiatrist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies:

(f) Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 206. Subsection (1) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and a fee not to exceed $350 set by the board. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 207. Subsection (5) of section 458.320, Florida Statutes, 1996 Supplement, is amended to read:

458.320 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(14).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 458.317 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at an accredited medical school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the medical school.

(e) Any person holding an active license under this chapter who is not practicing medicine in this state. If such person initiates or resumes any practice of medicine in this state, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of medicine or maintains a part-time practice of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding $10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the medical practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time; probation for a period of 3 years or longer; or a fine of $500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or $250,000, if the physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

2. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

3.~~2.~~ Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

4.~~3.~~ If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

5.~~4.~~ The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.

Section 208. Subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, is amended to read:

459.0085 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, and subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(14).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 459.0075 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at a college of osteopathic medicine. Such person may engage in the practice of osteopathic medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the college of osteopathic medicine.

(e) Any person holding an active license under this chapter who is not practicing osteopathic medicine in this state. If such person initiates or resumes any practice of osteopathic medicine in this state, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding $10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time, probation for a period of 3 years or longer, or a fine of $500 or more for a

violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department a certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the osteopathic physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or $250,000, if the osteopathic physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment, pending disposition of the appeal.

2. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

3.~~2.~~ Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

4.~~3.~~ If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the osteopathic physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

5.~~4.~~ The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes strict penalties against noninsured osteopathic physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.

Section 209. Section 455.2478, Florida Statutes, is created to read:

455.2478 Reports of professional liability actions; bankruptcies; Department of Health's responsibility to provide.—

(1) The report of a claim or action for damages for personal injury which is required to be provided to the Department of Health under s. 455.247 or s. 627.912 is public information except for the name of the claimant or injured person, which remains confidential as provided in s. 455.247(2)(d) and s. 627.912(2)(e). The Department of Health shall, upon request, make such report available to any person.

(2) Any information in the possession of the Department of Health which relates to a bankruptcy proceeding by a practitioner of medicine licensed under chapter 458, a practitioner of osteopathic medicine licensed under chapter 459, a podiatrist licensed under chapter 461, or a dentist licensed under chapter 466 is public information. The Department of Health shall, upon request, make such information available to any person.

Section 210. Section 627.912, Florida Statutes, 1996 Supplement, is amended to read:

627.912 Professional liability claims and actions; reports by insurers.—

(1) Each self-insurer authorized under s. 627.357 and each insurer or joint underwriting association providing professional liability insurance to a practitioner of medicine licensed *under* ~~pursuant to the provisions of~~ chapter 458, to a practitioner of osteopathic medicine licensed *under* ~~pursuant to the provisions of~~ chapter 459, to a podiatrist licensed *under* ~~pursuant to the provisions of~~ chapter 461, to a dentist licensed *under* ~~pursuant to the provisions of~~ chapter 466, to a hospital licensed *under* ~~pursuant to the provisions of~~ chapter 395, to a crisis stabilization unit licensed under part IV of chapter 394, to a health maintenance organization certificated under part I of chapter 641, to clinics included in chapter 390, to an ambulatory surgical center as defined in s. 395.002, or to a member of The Florida Bar shall report in duplicate to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:

(a) A final judgment in any amount.

(b) A settlement in any amount.

(c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department and, if the insured party is licensed *under* ~~pursuant to~~ chapter 458, chapter 459, chapter 461, or chapter 466, with the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, no later than *30* ~~60~~ days following the occurrence of any event listed in paragraph (a), paragraph (b), or paragraph (c). The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~ shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply. The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, as part of the annual report required by s. 455.2285, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the *agency* ~~Department of Business and Professional Regulation~~ or the appropriate regulatory board.

(2) The reports required by subsection (1) shall contain:

(a) The name, address, and specialty coverage of the insured.

(b) The insured's policy number.

(c) The date of the occurrence which created the claim.

(d) The date the claim was reported to the insurer or self-insurer.

(e) The name and address of the injured person. This information is confidential and exempt from the provisions of s. 119.07(1), and must not be disclosed by the department without the injured person's consent, except for disclosure by the department to the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~. This information may be used by the department for purposes of identifying multiple or duplicate claims arising out of the same occurrence.

(f) The date of suit, if filed.

(g) The injured person's age and sex.

(h) The total number and names of all defendants involved in the claim.

(i) The date and amount of judgment or settlement, if any, including the itemization of the verdict ~~as required under s. 768.48~~, together with a copy of the settlement or judgment.

(j) In the case of a settlement, such information as the department may require with regard to the injured person's incurred and anticipated medical expense, wage loss, and other expenses.

(k) The loss adjustment expense paid to defense counsel, and all other allocated loss adjustment expense paid.

(l) The date and reason for final disposition, if no judgment or settlement.

(m) A summary of the occurrence which created the claim, which shall include:

1. The name of the institution, if any, and the location within the institution at which the injury occurred.

2. The final diagnosis for which treatment was sought or rendered, including the patient's actual condition.

3. A description of the misdiagnosis made, if any, of the patient's actual condition.

4. The operation, diagnostic, or treatment procedure causing the injury.

5. A description of the principal injury giving rise to the claim.

6. The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future.

(n) Any other information required by the department to analyze and evaluate the nature, causes, location, cost, and damages involved in professional liability cases.

(3) Upon request by the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, the department shall provide *the* ~~that~~ *agency* ~~department~~ with any information received *under* ~~pursuant to~~ this section related to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466. For purposes of safety management, the department shall annually provide the Department of Health ~~and Rehabilitative Services~~ with copies of the reports in cases resulting in an indemnity being paid to the claimants.

(4) ~~There shall be no liability on the part of, and no cause of action of any nature shall arise against,~~ Any insurer reporting hereunder or its agents or employees or the department or its employees *is not liable* for any action taken by them *under* ~~pursuant to~~ this section, *except that the department shall impose a fine of $250 per day per case against an insurer that violates the requirements of this section. This subsection applies to claims accruing on or after October 1, 1997.*

Section 211. *The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.*

Section 212. Subsection (1) of section 458.316, Florida Statutes, is amended to read:

458.316 Public health certificate.—

(1) Any person desiring to obtain a public health certificate shall submit an application fee not to exceed $300 and shall demonstrate to the board that he is a graduate of an accredited medical school and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, or is licensed to practice medicine without restriction in another jurisdiction in the United States and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, and shall meet the requirements in *s. 458.311(1)(a)-(g)* ~~s. 458.311(1)(a)-(f)~~ and (5).

Section 213. Section 458.3165, Florida Statutes, is amended to read:

458.3165 Public psychiatry certificate.—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed $300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in *s. 458.311(1)(a)-(g)* ~~s. 458.311(1)(a)-(f)~~ and (5).

(1) Such certificate shall:

(a) Authorize the holder to practice only in a public mental health facility or program funded in part or entirely by state funds.

(b) Be issued and renewable biennially if the secretary of the Department of Health and Rehabilitative Services and the chairman of the department of psychiatry at one of the public medical schools or the chairman of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

(c) Automatically expire if the holder's relationship with a public mental health facility or program expires.

(d) Not be issued to a person who has been adjudged unqualified or guilty of any of the prohibited acts in this chapter.

(2) The board may take disciplinary action against a certificate-holder for noncompliance with any part of this section or for any reason for which a regular licensee may be subject to discipline.

Section 214. Paragraph (a) of subsection (1) of section 458.317, Florida Statutes, is amended to read:

458.317 Limited licenses.—

(1)(a) Any person desiring to obtain a limited license shall:

1. Submit to the board, with an application and fee not to exceed $300, an affidavit stating that he has been licensed to practice medicine in any jurisdiction in the United States for at least 10 years and has retired or intends to retire from the practice of medicine and intends to practice only pursuant to the restrictions of a limited license granted

pursuant to this section. If the person applying for a limited license submits a notarized statement from the employing agency or institution stating that he will not receive monetary compensation for any service involving the practice of medicine, the application fee and all licensure fees shall be waived.

2. Meet the requirements in *s. 458.311(1)(b)-(g)* ~~s. 458.311(1)(b)-(f)~~ and (5). If the applicant graduated from medical school prior to 1946, the board or its appropriate committee may accept military medical training or medical experience as a substitute for the approved 1-year residency requirement in s. 458.311(1)(f).

And the title is amended as follows:

On page 250, line 12, after the semicolon (;) insert: requiring physicians, osteopathic physicians, podiatrists, and chiropractors to furnish specified biographical and other data to the Department of Health; requiring the department to verify certain of the information and compile the information submitted and other public record information into a practitioner profile of each licensee and to make the profiles available to the public; providing for rules; providing duties of practitioners to update information and duties of the department to update profiles; providing for retention of information in superseded profiles; amending ss. 458.311, 458.313, 458.319, F.S.; requiring applicants for licensure or relicensure as physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 459.0055, 459.008, F.S.; requiring applicants for licensure or relicensure as osteopathic physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 460.406, 460.407, F.S.; requiring applicants for licensure or relicensure as chiropractors to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 461.006, 461.007, F.S.; requiring applicants for licensure or relicensure as podiatrists to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 458.320, 459.0085, F.S.; requiring the agency to issue an emergency order suspending the license of a physician or osteopathic physician for certain violations; creating s. 455.2478, F.S.; providing that reports on professional liability actions and information relating to bankruptcy proceedings of specified health care practitioners which are in the possession of the Department of Health are public records; requiring the department to make such information available to persons who request it; amending s. 627.912, F.S.; providing for insurer reporting of professional liability claims and actions; revising the timeframe for reporting; providing penalties; providing for a toll-free telephone number for reporting complaints relating to medical care; providing applicability; amending ss. 458.316, 458.3165, 458.317, F.S.; conforming cross-references;

RECONSIDERATION OF AMENDMENT

On motion by Senator Brown-Waite, the Senate reconsidered the vote by which **Amendment 1C** was adopted. **Amendment 1C** was adopted.

Senator Silver moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D (with title amendment)—On page 235, between lines 9 and 10, insert: Section 19227. Section 458.351, Florida Statutes, is created to read:

458.351 Telemedicine; licensure required; exception.—In addition to any other provision of this chapter defining or otherwise regulating the practice of medicine, any physician, or osteopathic physician licensed under chapter 459, wherever located, who has primary authority over the care or diagnosis of a patient located in this state is practicing medicine in this state and shall be subject to licensure as required by this chapter. A physician lawfully licensed in another state or territory of the United States or in a foreign country who engages in consultation with a physician or osteopathic physician duly licensed in this state and does not exercise primary authority over the patient's care and diagnosis is exempt from licensure, as provided in s. 458.303(1)(b) or s. 459.002(1)(b). In the case of electronic transmission of radiographic images, a physician who provides, through an ongoing regular arrangement, official authenticated interpretations of radiographic images to any health care practitioner or patient located in this state shall be regarded as exercising primary authority over the diagnosis of the involved patient and subject to licensure as required by this chapter.

(Renumber subsequent section.)

And the title is amended as follows:

On page 250, line 12, after the semicolon (;) insert: creating s. 458.351, F.S.; requiring licensure of any physician, wherever located, who has primary authority over the care or diagnosis of a patient located in this state; providing an exception; providing applicability with respect to transmission of radiographic images;

RECONSIDERATION OF AMENDMENT

On motion by Senator Silver, the Senate reconsidered the vote by which **Amendment 1D** was adopted. **Amendment 1D** was withdrawn.

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted:

Amendment 1E (with title amendment)—On page 235, between lines 9 and 10, insert:

Section 192. Subsections (6) through (11) of section 409.9122, Florida Statutes, 1996 Supplement, are redesignated as subsections (7) through (12), respectively, and a new subsection (6) is added to that section to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(6) MediPass enrolled recipients may receive up to 10 visits of reimbursable services by participating Medicaid physicians licensed under chapter 460 and up to four visits of reimbursable services by participating Medicaid physicians licensed under chapter 461. Any further visits must be by prior authorization by the MediPass primary care provider. However, nothing in this subsection may be construed to increase the total number of visits or the total amount of dollars per year per person under current Medicaid rules, unless otherwise provided for in the General Appropriations Act.

And the title is amended as follows:

On page 250, line 12, after the semicolon (;) insert: amending s. 409.9122, F.S.;

Senator Grant moved the following amendment to **Amendment 1** which was adopted:

Amendment 1F (with title amendment)—On page 235, between lines 9 and 10, insert:

Section 192. *(1) There is created within the Department of Health a Task Force on Exemptions from Licensure under section 468.505(1)(k), Florida Statutes. The Department of Health shall provide staff support for the task force. The task force shall consist of not more than 15 members nominated by the associations and entities named in this section and appointed by the Secretary of Health. Members of the task force shall not receive compensation, per diem, or reimbursement for travel expenses for service on the task force. Participation in the task force is optional and at the discretion of each identified group or entity. If all identified groups and entities participate, the task force shall include:*

(a) One representative from each of the following associations:

1. The Florida Dietetic Association.

2. The Florida Health Care Association.

3. The Florida Association of Homes for the Aging.

4. The Florida Assisted Living Association.

5. The Florida League of Health Systems.

6. The Association of Community Hospitals and Health Systems of Florida, Inc.

7. The Florida Hospital Association.

8. The Florida Medical Association.

9. The Florida Osteopathic Medical Association.

(b) One representative from each of the following entities:

1. The Department of Health.

2. The Dietetics and Nutrition Practice Council.

3. The Board of Medicine, which representative must be a member of the board who is licensed under chapter 458, Florida Statutes.

4. The Board of Osteopathic Medicine, which representative must be a member of the board who is licensed under chapter 459, Florida Statutes.

5. The Department of Elderly Affairs.

6. The Agency for Health Care Administration.

(2) The task force shall hold its first meeting no later than August 1, 1997, and shall report its findings to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the applicable legislative committees of substance not later than December 31, 1997. All task force meetings must be held in Tallahassee at the Department of Health in order to minimize costs to the state.

(3) The task force shall be charged with the responsibility to:

(a) Determine the number of licensed dietitians, the number of registered dietitians, and the number of dietitians who are neither licensed nor registered who are employed by or under contract with a hospital licensed under chapter 395, Florida Statutes, a nursing home or assisted living facility licensed under part II or part III of chapter 400, Florida Statutes, or a continuing care facility certified under chapter 651, Florida Statutes; and

(b) Assess the need and make recommendations for retaining the exemptions from licensure under section 468.505(1)(k), Florida Statutes, in light of the legislative purpose and intent of licensure as set forth in section 468.502, Florida Statutes, and review the quality of dietetic and nutrition services provided in the settings set forth in section 468.505(1)(k), Florida Statutes.

(4) The task force is dissolved effective January 1, 1998.

(Renumber subsequent section.)

And the title is amended as follows:

On page 250, line 12, after the semicolon (;) insert: creating a Task Force on Exemptions from Licensure under s. 468.505(1)(k), F.S., which exempts certain persons employed by a hospital, nursing home, assisted living facility, or continuing care facility; providing for membership and meetings of the task force, including place of meetings; requiring a report to certain legislative leaders; providing responsibilities of the task force; providing for dissolution of the task force;

Senator Silver moved the following amendment to **Amendment 1** which was adopted:

Amendment 1G (with title amendment)—On page 235, between lines 9 and 10, insert:

Section 192. Section 458.351, Florida Statutes, is created to read:

458.351 Telemedicine; licensure required; exception.—In addition to any other provision of this chapter defining or otherwise regulating the practice of medicine, any physician, or osteopathic physician, wherever located, who has primary authority over the care or diagnosis of a patient located in this state is practicing medicine in this state and shall be subject to licensure as required by this chapter or chapter 459. A physician lawfully licensed in another state or territory of the United States or in a foreign country who engages in consultation with a physician or osteopathic physician duly licensed in this state and does not exercise primary authority over the patient's care and diagnosis is exempt from licensure, as provided in s. 458.303(1)(b) or s. 459.002(1)(b). In the case of electronic transmission of radiographic images, a physician who provides, through an ongoing regular arrangement, official authenticated interpretations of radiographic images to any health care practitioner or patient located in this state shall be regarded as exercising primary authority over the diagnosis of the involved patient and subject to licensure as required by this chapter or chapter 459.

(Renumber subsequent section.)

And the title is amended as follows:

On page 250, line 12, after the semicolon (;) insert: creating s. 458.351, F.S.; requiring licensure of any physician, wherever located, who has primary authority over the care or diagnosis of a patient located in this state; providing an exception; providing applicability with respect to transmission of radiographic images;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 2013** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Dudley—

CS for CS for SB 698—A bill to be entitled An act relating to enforcement of child support; amending s. 61.046, F.S.; defining the term "State Case Registry"; amending s. 61.052, F.S.; requiring that all initial pleadings in all dissolution of marriage actions contain the social security numbers of all parties; amending s. 61.13, F.S.; providing for enforcement of an award of health care coverage; requiring that all child support orders contain the social security numbers of all parties to the action; amending s. 61.1301, F.S.; providing for inclusion of an income deduction order in an order establishing, enforcing, or modifying a child support obligation; making conforming changes; providing for enforcement of income deduction; amending s. 61.13016, F.S.; providing for suspension of a driver's license or motor vehicle registration for failure to comply with a subpoena; specifying requirements for giving a delinquent child-support obligor notice of delinquency and intent to suspend; amending s. 322.245, F.S.; providing notice in accordance with s. 61.13016, F.S.; amending s. 61.1354, F.S.; providing for provision of child support arrearage information to or obtaining consumer credit reports from consumer reporting agencies; providing rulemaking authority; amending s. 61.14, F.S.; providing for modification of a child support award without a change in circumstances pursuant to periodic review; providing rulemaking authority; amending s. 61.181, F.S.; extending a date with respect to the central depositories; amending s. 61.1812, F.S.; providing a new source of funding for the child support enforcement program; amending s. 61.1814, F.S.; providing for deposit of money from specified fines; amending s. 61.30, F.S.; providing for modification of a child support award without a change in circumstances pursuant to periodic review; providing for determination and imputation of income on a monthly basis in determining a child support award; providing that in adjusting a child support award based on independent income of child, money from a part-time job or supplemental security income is not to be included; amending s. 88.1011, F.S.; providing definitions; amending ss. 88.1021, 88.2031, and 88.2051, F.S.; making technical changes; amending s. 88.2071, F.S.; providing for determination of controlling child support order; amending ss. 88.3011, 88.3031, F.S.; making technical changes; amending s. 88.3041, F.S.; providing duties of initiating state when responding state has not adopted act; amending ss. 88.3051, 88.3061, F.S.; providing for agency review of orders; deleting provision for service of process by first class mail; amending s. 88.3071, F.S.; deleting provisions for service of process by first class mail and attorney and client relationship; amending s. 88.5011, F.S.; deleting duties of employer under foreign state income deduction order; transferring and renumbering s. 88.5021, F.S.; creating s. 88.50215, F.S.; providing duties of employer under foreign state income deduction order; creating s. 88.5031, F.S.; providing for compliance with multiple income deduction orders; creating s. 88.5041, F.S.; providing for immunity from civil liability; creating s. 88.5051, F.S.; providing for penalties for noncompliance; creating s. 88.5061, F.S.; providing for contest of income deduction order by obligor; amending s. 88.6051, F.S.; deleting provisions specifying method of notice, content of notice, and notice to employer; amending s. 88.6061, F.S.; deleting provisions for contest of registered order and for notice by first class mail; amending s. 88.6111, F.S.; providing procedures for order modification if multiple orders exist; amending s. 88.6121, F.S.; making technical changes; creating s. 88.6131, F.S.; providing for modification of foreign order when all parties live in this state; creating s. 88.6141, F.S.; providing for notice of modification of order to tribunal that issued order; amending s. 88.7011, F.S.; making technical changes; creating s. 88.9051, F.S.; providing rulemaking authority; amending s. 213.053, F.S.; providing that that department

may release confidential tax payer information to any state or local child support enforcement program; amending s. 231.17, F.S.; requiring that applications for teaching certificates contain the social security number of the applicant; amending s. 382.008, F.S.; requiring that all certificates of death or fetal death contain the social security number of the decedent, if available; amending s. 320.05, F.S.; providing that the department is to release records to child support enforcement agency; amending s. 382.013, F.S.; providing for use of register of births for comparison with state child support case registry; amending s. 402.308, F.S.; requiring that applications for child care facilities licenses contain the social security number of the applicant; amending s. 409.2554, F.S.; conforming a cross-reference; amending s. 409.2561, F.S.; providing for application of child support guidelines to determination of public assistance reimbursement obligation; amending s. 409.2564, F.S.; providing the department with authority to subpoena information and to impose a fine for failure to comply; providing authority to change child support payee; providing authority for increasing child support award to include delinquencies; amending s. 409.2564, F.S.; providing an effective date; providing for reporting arrearages to the Secretary of the U.S. Department of Health and Human Services; providing rulemaking authority; amending s. 409.25641, F.S.; providing procedures for processing interstate enforcement requests; providing rulemaking authority; amending s. 409.25645, F.S.; making technical changes; amending s. 409.25656, F.S.; authorizing the department to garnish obligors' wages; providing that levy notice remains in effect until final resolution of action contesting notice; establishing continuing obligation of notice of property in possession or control; prohibiting transfer or disposal of property within effective period of notice; authorizing the department to bring action to compel compliance with levy; providing rules authority; creating s. 409.25657, F.S.; requiring financial institutions to cooperate with the Department of Revenue to develop and operate a data match system; providing rulemaking authority; amending s. 409.2567, F.S.; conforming provisions; amending s. 409.2574, F.S.; providing for service of notice of income deduction; amending s. 409.2577, F.S.; providing an effective date; requiring the Department of Revenue to notify the U.S. Department of Health and Human Services of reasonable evidence of domestic violence or child abuse the disclosure of which could be harmful to parent or child; creating s. 409.2578, F.S.; providing state child support agency access to employment information; providing an administrative fine; providing rulemaking authority; creating s. 409.25785, F.S.; providing an effective date; creating a state directory of new hires; providing for transition of new hire reporting and for operation of directory; requiring all employers to furnish information concerning newly hired employees; providing for notice of wage withholding; providing for use and disclosure of new hire information; amending s. 409.2579, F.S.; prohibiting the state child support enforcement agency from disclosing to one party to a protective order information concerning the location of the other party; providing rulemaking authority; providing that the child support agency may report specified information pertaining to injury, neglect, or exploitation of a child to an appropriate agency or official when the child's health is threatened; amending s. 409.2598, F.S.; providing that the state child support agency may take action against the license of an obligor who fails to comply with a subpoena; providing procedures; amending s. 414.38, F.S.; providing for the pilot work experience and job training program for noncustodial parents to be conducted throughout the state; providing for the program to be administered by the Department of Children and Family Services and the Department of Labor and Employment Security through local WAGES coalitions; providing requirements for service providers; requiring evaluations of the program; amending s. 443.171, F.S.; providing that a governmental agency need not file an employment record relating to specified employees; amending s. 443.1715, F.S.; providing for confidentiality of employment records of specified governmental employees; repealing s. 443.175, F.S., which provides for a pilot project on reports of new hire information; amending s. 455.213, F.S.; requiring that all applications for professional or occupational licenses contain the social security number of the applicant; amending s. 455.2141, F.S.; requiring that all applications for licenses within the jurisdiction of the Agency for Health Care Administration contain the social security number of the applicant; amending s. 548.021, F.S.; requiring that applications for licenses for pugilistic exhibitions contain the social security number of the applicant; amending s. 626.171, F.S.; requiring that applications for various insurance licenses contain the social security number of the applicant; amending s. 741.04, F.S.; requiring that affidavits to obtain a marriage license contain the social security number of both parties; amending s. 742.031, F.S.; requiring that the social security number of each party be entered on an order of paternity; providing certain presumptions regarding custody and providing authority for the court to make certain parental responsibility and custody determinations; providing for prima facie evidence of expenses of genetic testing; requiring a temporary order for child support upon clear and convincing evidence of paternity; creating s. 742.032, F.S.; requiring each party to a paternity action to file specified information with the court; providing for use of such information in subsequent action; amending s. 742.10, F.S.; providing for rescission of acknowledgment of paternity; providing additional notice requirements; amending s. 742.105, F.S.; providing for effect of a foreign paternity order that is based upon an acknowledgment of paternity; amending s. 742.12, F.S.; requiring scientific testing for paternity; establishing criteria therefor; amending s. 943.053, F.S.; requiring the Department of Law Enforcement to disclose criminal justice information to the state child support agency; providing for draft requests for a proposal by the Department of Revenue; providing for a report to the Legislature on the draft proposals; providing certain time limitations for developing and submitting the draft proposals; exempting the Department of Revenue from the provisions of certain statutes to expedite the acquisition of goods and services and the leasing of facilities for the implementation of the act; requiring a report from the Department of Revenue; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for CS for SB 698** to **HB 2031**.

Pending further consideration of **CS for CS for SB 698** as amended, on motion by Senator Dudley, by two-thirds vote **HB 2031** was withdrawn from the Committees on Judiciary; and Ways and Means.

On motions by Senator Dudley, by two-thirds vote—

HB 2031—A bill to be entitled An act relating to child support enforcement; amending s. 61.046, F.S.; defining the term "State Case Registry"; amending ss. 61.052, 382.008, 455.213, 455.2141, and 741.04, F.S.; requiring the inclusion of a person's social security number in judgments for dissolution of marriage, in death certificates, in certain licensing provisions, and in certain other provisions of law; amending s. 61.13, F.S.; revising language with respect to orders for child support; amending s. 61.1301, F.S.; revising language with respect to income deduction; providing for income deduction notice; amending s. 61.13016, F.S.; revising notification requirements with respect to the suspension of the driver's license of a child support obligor; amending s. 61.1354, F.S.; revising language with respect to the sharing of information between consumer reporting agencies and the IV-D agency; amending s. 61.14, F.S.; providing for the modification of certain support orders without a substantial change of circumstances; providing that workers' compensation payments are not exempt from garnishment, attachment, execution, and assignment of income for the purpose of enforcing child or spousal support obligations; amending s. 61.181, F.S.; extending a date with respect to the central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; amending s. 61.1812, F.S.; revising language with respect to the Child Support Incentive Trust Fund; amending s. 61.1814, F.S.; changing the name of the Child Support Enforcement Application and User Fee Trust Fund to the Child Support Enforcement Application and Program Revenue Trust Fund; amending s. 61.30, F.S.; providing that in certain Title IV-D cases no change of circumstances need to be proven to warrant a modification in child support payments; providing for retroactive child support under certain circumstances; providing that the Legislature shall review the child support guidelines at least every 4 years beginning in 1997; providing for a child support guidelines study; providing for a report; amending s. 88.1011, F.S.; revising definitions with respect to the Uniform Interstate Family Support Act; amending ss. 88.1021, 88.2031, and 88.3031, F.S.; conforming to the act; amending s. 88.2051, F.S., relating to continuing exclusive jurisdiction; amending s. 88.2071, F.S.; providing for the recognition of controlling child support orders; amending s. 88.3011, F.S.; correcting a cross reference; amending s. 88.3041, F.S.; providing a procedure when a responding state has not enacted a law similar to the Uniform Interstate Family Support Act; amending ss. 88.3051, 88.3061, 88.3071, and 88.6061, F.S.; deleting reference to first class mail for certain notification; amending s. 88.5011, F.S.; providing for the employer's receipt of an income-withholding order of another state; creating s. 88.50211, F.S., relating to the employer's compliance with the income-withholding order of another state; creating s. 88.5031, F.S.; providing for compliance with multiple income-withholding orders; creating s. 88.5041, F.S.; providing for immunity from civil liability; creating s. 88.5051, F.S.; providing for penalties for noncompliance; creating s. 88.5061, F.S.; providing for the contest by the

obligor of the validity of enforcement of an income-withholding order under certain circumstances; transferring and renumbering s. 88.5021, F.S., to conform to the act; amending s. 88.6051, F.S.; revising language with respect to notice of registration of order; amending s. 88.6111, F.S.; revising language with respect to modification of a child support order of another state; amending s. 88.6121, F.S., relating to the recognition of an order modified in another state; creating s. 88.6131, F.S.; providing for jurisdiction to modify the child support order of another state when individual parties reside in this state; creating s. 88.6141, F.S.; providing for notice to the issuing tribunal of modifications; amending s. 88.7011, F.S.; revising language with respect to proceeding to determine parentage; creating s. 88.9051, F.S.; providing for rules; amending s. 213.053, F.S.; revising language with respect to confidentiality and information sharing by the Department of Revenue; amending ss. 231.17, 402.308, 548.021, and 626.171, F.S.; requiring the inclusion of the applicant's social security number on applications for teaching certificates, child care facility licenses, a license or permit issued by the State Athletic Commission, and certain insurance licenses; amending s. 320.05, F.S.; directing the Department of Highway Safety and Motor Vehicles to disclose certain information to child support enforcing agencies; amending s. 382.013, F.S.; providing for the use of certain information regarding registered births; providing for certain information to be given to unwed mothers; amending ss. 383.0112, 383.0113, and 383.216, F.S., relating to the Commission on Responsible Fatherhood; postponing date of a statewide symposium; revising appointment of commission members; providing terms; providing for assignment to the Department of Children and Family Services; providing for inclusion of certain programs in the plan of each prenatal and infant health care coalition; amending s. 409.2554, F.S.; correcting a cross reference; creating s. 409.25575, F.S.; providing for the privatization of child support enforcement; amending s. 409.2561, F.S.; revising language with respect to reimbursement for public assistance payments made for support of a child; amending s. 409.2564, F.S.; revising language with respect to actions for support; creating s. 409.25641, F.S.; providing procedures for processing interstate enforcement requests; amending s. 409.25645, F.S.; authorizing the use of administrative orders to require genetic testing in Title IV-D cases; amending s. 409.25656, F.S.; revising language with respect to garnishment; creating s. 409.25657, F.S.; providing requirements for financial institutions; amending s. 409.2567, F.S.; revising language with respect to services to individuals not otherwise entitled to delete reference to paternity determination; amending s. 409.2574, F.S.; directing the department to serve notice on the obligor with respect to income deduction notice; creating s. 409.2576, F.S.; creating a State Directory of New Hires; providing definitions, reports, and data; providing for service of deduction notices; providing disclosure; providing for rulemaking; amending s. 409.2577, F.S.; revising language with respect to the parent locator service; providing for certain notification; creating s. 409.2578, F.S.; providing for access to employment information; providing administrative fines; amending s. 409.2579, F.S.; revising language with respect to safeguarding Title IV-D case file information; amending s. 409.2598, F.S., relating to suspension or denial of new or renewal licenses, registrations, and certification; amending s. 414.028, F.S.; authorizing local WAGES coalitions to fund certain community-based welfare prevention and reduction initiatives; amending s. 443.171, F.S., relating to records and reports of employing units with respect to unemployment compensation; amending s. 443.1715, F.S., relating to the disclosure of certain information with respect to unemployment compensation; amending s. 742.031, F.S.; providing for the recording of each parties social security number on the order adjudicating paternity; providing that certain bills are admissible in evidence; providing requirements with respect to a judgment of paternity which does not contain an explicit award of custody; providing for temporary orders of child support; creating s. 742.032, F.S.; providing for the filing of location information; amending s. 742.10, F.S.; providing that certain persons may rescind an acknowledgment of paternity under certain circumstances; providing for certain rules; providing for the effect of a signed voluntary acknowledgement of paternity; amending s. 742.105, F.S., relating to the effect of a determination of paternity from a foreign jurisdiction; amending s. 742.12, F.S.; revising language with respect to scientific testing to determine paternity; amending s. 744.301, F.S.; revising language with respect to natural guardians; amending s. 943.053, F.S.; directing the Department of Law Enforcement to disclose certain information to the child support enforcement agency; exempting the Department of Revenue from the provisions of certain statutes to expedite the acquisition of goods and services and the leasing of facilities for the implementation of the act; directing the department to develop a draft request for a state disbursement unit and a state case registry; providing for a report; providing legislative findings with respect to protection of applicants and recipients of certain public assistance; repealing s. 443.175, F.S., relating to pilot projects; requiring a report from the Department of Revenue; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 698** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 2031** was placed on the calendar of Bills on Third Reading.

SENATOR BURT PRESIDING

On motion by Senator Myers—

CS for SB 1632—A bill to be entitled An act relating to regulation of professions; dividing ch. 455, F.S., into parts; transferring those provisions of ch. 455, F.S., that pertain to health-related professions into the second part; duplicating publication of extant provisions affecting both health-related professions and other professions in the second part; amending s. 11, ch. 96-403, Laws of Florida; transferring certain functions from the Agency for Health Care Administration to the Department of Health; amending s. 20.43, F.S.; prescribing guidelines for appointments to boards within the Department of Health; amending ss. 455.01, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.213, 455.214, 455.217, 455.2175, 455.218, 455.2185, 455.221, 455.2226, 455.2228, 455.223, 455.224, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.24, 455.242, 455.243, 455.245, F.S.; conforming those sections to the transfer of regulatory authority over health-related professions from the Agency for Health Care Administration to the Department of Health; conforming those sections to the subdivision of ch. 455, F.S.; creating s. 455.501, F.S.; providing definitions; creating s. 455.504, F.S.; providing applicability; creating s. 455.507, F.S.; providing for continuing licensure of members of the Armed Forces; creating s. 455.511, F.S.; prohibiting disqualification from professional licensure on account of citizenship; creating s. 455.514, F.S.; providing for qualification of immigrants for professional licensure examination; creating s. 455.517, F.S.; providing legislative intent; creating s. 455.521, F.S.; prescribing powers and duties of the Department of Health; creating s. 455.524, F.S.; providing for long-range policy planning; creating s. 455.527, F.S.; providing method of contacting regulatory boards; renumbering s. 455.206, F.S., relating to conditions for board membership; creating s. 455.534, F.S.; providing for organization, meetings, compensation, and travel expense for boards; creating s. 455.537, F.S.; providing for publication of information; creating s. 455.541, F.S.; providing accountability and liability of board members; creating s. 455.544, F.S.; providing for board rules, final agency action, and challenges; creating s. 455.547, F.S.; providing requirements with respect to continuing education; creating s. 455.551, F.S.; providing for continued recognition of certain education programs; creating s. 455.554, F.S.; providing for consultation with postsecondary education boards; creating s. 455.561, F.S.; providing for limited licenses; renumbering and amending s. 455.2141, F.S., relating to general licensing provisions for health-related professions; prescribing additional guidelines with respect to continuing education; renumbering and amending s. 455.2142, F.S., relating to sexual misconduct by applicants for licensure; creating s. 455.571, F.S.; providing for use of professional testing services; renumbering and amending s. 455.2173, F.S., relating to examinations; prescribing additional powers and duties of the respective boards and the department; creating s. 455.577, F.S.; providing a penalty for theft or reproduction of an examination; creating s. 455.581, F.S.; prescribing additional provisions with respect to examination and licensure of foreign-trained professionals; creating s. 455.584, F.S.; providing exemptions and limited license authorization for certain foreign professionals; renumbering and amending s. 455.220, F.S., relating to fees and receipts; prescribing additional powers and duties of the respective boards and the department; renumbering and amending s. 455.2205, F.S., relating to the Health Care Trust Fund; creating s. 455.594, F.S.; providing for legal and investigative services; renumbering and amending s. 455.222, F.S., relating to instruction on domestic violence; renumbering s. 455.2224, F.S., relating to hepatitis B and HIV carriers; creating s. 455.604, F.S.; providing for instruction on HIV and AIDS; creating s. 455.607, F.S.; providing for instruction on HIV and AIDS; creating s. 455.611, F.S.; providing for oaths, depositions, and subpoenas; creating s. 455.614, F.S.; providing for mediation; creating s. 455.617, F.S.; providing authority to issue citations; creating s. 455.621, F.S.; providing for disciplinary proceedings; creating s. 455.624, F.S.; providing grounds for discipline; prescribing penalties; creating s. 455.627, F.S.; providing

disciplinary guidelines; creating s. 455.631, F.S.; prescribing a penalty for giving false information; creating s. 455.634, F.S.; providing for prosecution of criminal violations; creating s. 455.637, F.S.; providing sanctions against unlicensed practice of a profession; creating s. 455.641, F.S.; providing for enforcement of prohibition against unlicensed practice; providing a fee; creating s. 455.644, F.S.; requiring an annual report; creating s. 455.647, F.S.; providing for public inspection of certain information; creating s. 455.651, F.S.; providing a penalty for disclosure of confidential information; renumbering and amending s. 455.236, F.S., relating to financial arrangements between referring health care providers and providers of health care services; renumbering s. 455.237, F.S., relating to prohibiting kickbacks; renumbering and amending s. 455.239, F.S., relating to licensure of designated health care services; creating s. 455.664, F.S.; providing requirements with respect to advertising by health care providers; renumbering and amending s. 455.241, F.S., relating to patient records; renumbering and amending s. 455.2415, F.S., relating to confidential communications between a patient and a psychiatrist; renumbering s. 455.2416, F.S., relating to practitioner disclosure of confidential information; creating s. 455.677, F.S.; providing for disposition of records of deceased, relocated, or retired practitioners; creating s. 455.681, F.S.; providing for inspections; renumbering s. 455.244, F.S., relating to chiropractic and podiatric health care; creating s. 455.687, F.S.; providing for immediate suspension of certain licenses; renumbering s. 455.2455, F.S., relating to treatment of Medicare beneficiaries; renumbering and amending s. 455.2456, F.S., relating to financial responsibility; renumbering s. 455.247, F.S., relating to reports on professional liability claims; renumbering s. 455.25, F.S., relating to disclosure of certain financial interests; renumbering and amending s. 455.26, F.S., relating to the Impaired Practitioners Committee; renumbering and amending s. 455.261, F.S., relating to the treatment program for impaired practitioners; creating s. 455.711, F.S.; providing for inactive and delinquent status; creating s. 455.714, F.S.; providing for renewal and cancellation notices; creating s. 455.717, F.S.; requiring an address of record; renumbering and amending s. 455.277, F.S., relating to the Health Care Community Antitrust Guidance Act; renumbering s. 455.2775, F.S., relating to information submitted in relation to antitrust issues; repealing s. 455.2055, F.S., relating to membership of practice boards, the provisions of which were incorporated into s. 20.43, F.S.; requiring the Secretary of Health to appoint a task force to study the validation of health care practitioner credentials; providing membership of the task force; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for SB 1632** to **HB 1925**.

Pending further consideration of **CS for SB 1632** as amended, on motion by Senator Myers, by two-thirds vote **HB 1925** was withdrawn from the Committees on Health Care; and Ways and Means.

On motions by Senator Myers, the rules were waived and by two-thirds vote—

HB 1925—A bill to be entitled An act relating to regulation of health care practitioners; creating part II of chapter 455, F.S., to provide regulatory provisions applicable to the Department of Health that are separate from those applicable to the Department of Business and Professional Regulation; creating ss. 455.401, 455.402, 455.403, 455.404, 455.405, 455.406, 455.407, 455.408, 455.409, 455.411, 455.412, 455.414, 455.415, 455.416, 455.417, 455.418, 455.419, 455.421, 455.422, 455.424, 455.427, 455.428, 455.429, 455.431, 455.432, 455.433, 455.436, 455.438, 455.439, 455.441, 455.442, 455.443, 455.444, 455.445, 455.446, 455.447, 455.448, 455.449, 455.451, 455.452, 455.453, 455.457, 455.458, 455.461, 455.465, 455.466, 455.467, 455.468, and 455.469, F.S., to conform; providing intent; providing for a procedure for updating boards on major public health policy; providing for appointment of a task force to develop uniform procedures to standardize the validation of health care practitioner credentials; providing requirements with respect to examinations, including requirements for national, contracted, and shared examinations and translations of examinations; restricting board meetings to those determined to be in the public interest; providing for appointment of nonboard members to board committees under certain circumstances; requiring applicants for initial licensure to submit a full set of fingerprints; providing additional grounds for disciplinary action relating to keeping legible records, payments on federally or state guaranteed educational loans or service-conditional scholarships, providing proper identification to patients, and reporting of disciplinary actions of another jurisdiction; revising provisions relating to ownership and control of patient records; transferring s. 455.247, F.S., to conform; transferring and amending ss. 455.2055, 455.2141, 455.2142, 455.2173, 455.222, 455.2224, 455.241, 455.2415, 455.2416, 455.244, 455.2455, and 455.2456, F.S., to conform; amending ss. 455.01, 455.017, 455.10, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.213, 455.214, 455.217, 455.2175, 455.218, 455.219, 455.221, 455.2228, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.26, 455.261, and 455.273, F.S., to conform; transferring and amending s. 455.2205, F.S., relating to the Health Care Trust Fund, to conform; amending ss. 215.20, 391.208, 391.217, 400.5575, and 408.20, F.S.; correcting cross references, to conform; transferring and amending ss. 455.24, 455.242, 455.243, and 455.245, F.S., relating to veterinary medical practice, to conform; amending s. 455.25, F.S., relating to disclosure of financial interest; requiring physicians or other health care providers to disclose their financial interest in certain entities; eliminating entity disclosure of financial interest; repealing s. 455.220, F.S., relating to fees required by the boards to cover the costs of regulation, to conform; repealing s. 455.2226, F.S., relating to instruction on human immunodeficiency virus and acquired immune deficiency syndrome; creating part I of the remaining provisions of chapter 455, F.S., as amended, to conform; amending ss. 120.80, 212.08, 215.37, 240.215, 310.102, 337.162, 381.0039, 383.32, 395.0193, 395.0197, 395.3025, 400.491, 408.061, 408.704, 415.1055, 415.5055, 415.51, 440.13, 457.103, 458.307, 458.3115, 458.331, 458.343, 458.347, 459.004, 459.015, 459.019, 459.022, 460.404, 460.4061, 461.004, 461.013, 463.003, 463.016, 464.004, 465.004, 465.006, 466.004, 466.007, 466.018, 466.022, 466.028, 468.1135, 468.1145, 468.1185, 468.1295, 468.1665, 468.1755, 468.1756, 468.205, 468.219, 468.364, 468.365, 468.402, 468.4315, 468.453, 468.456, 468.4571, 468.506, 468.507, 468.513, 468.523, 468.526, 468.532, 468.535, 468.703, 468.707, 468.711, 468.719, 469.009, 470.003, 470.036, 471.008, 471.015, 471.033, 472.015, 473.3035, 473.308, 473.311, 473.323, 474.204, 474.214, 474.2145, 475.021, 475.181, 475.25, 475.624, 476.204, 477.029, 480.044, 481.2055, 481.213, 481.225, 481.2251, 481.306, 481.311, 481.325, 483.805, 483.807, 483.901, 484.014, 484.042, 484.056, 486.023, 486.115, 486.172, 489.129, 489.533, 490.004, 490.009, 490.015, 491.004, 491.009, 491.015, 492.103, 492.113, 627.668, 627.912, 636.039, 641.27, 641.55, 766.106, 766.305, 766.308, 766.314, and 937.031, F.S.; correcting cross references and terminology, to conform; amending ss. 20.43, 381.81, 400.211, 402.48, 457.102, 458.305, 459.003, 460.403, 461.003, 462.01, 463.002, 465.003, 466.003, 467.003, 468.1125, 468.1655, 468.352, 468.518, 468.701, 478.42, 480.033, 483.803, 484.002, 484.003, 484.041, 484.042, 484.051, 486.021, 490.003, and 491.003, F.S.; correcting cross references and definitions, to conform; providing an effective date.

—a companion measure, was substituted for **CS for SB 1632** as amended and by two-thirds vote read the second time by title.

Senator Myers moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 11 of chapter 96-403, Laws of Florida, is amended to read:

Section 11. Effective July 1, 1997, the regulation of nursing assistants, as provided under s. 400.211, Florida Statutes; health care services pools, as provided under s. 402.48, Florida Statutes; the Board of Acupuncture, created under chapter 457, Florida Statutes; the Board of Medicine, created under chapter 458, Florida Statutes; the Board of Osteopathic Medicine, created under chapter 459, Florida Statutes; the Board of Chiropractic, created under chapter 460, Florida Statutes; the Board of Podiatric Medicine, created under chapter 461, Florida Statutes; naturopathy, as provided under chapter 462, Florida Statutes; the Board of Optometry, created under chapter 463, Florida Statutes; the Board of Nursing, created under chapter 464, Florida Statutes; the Board of Pharmacy, created under chapter 465, Florida Statutes; the Board of Dentistry, created under chapter 466, Florida Statutes; midwifery, as provided under chapter 467, Florida Statutes; the Board of Speech-Language Pathology and Audiology, created under part I of chapter 468, Florida Statutes; the Board of Nursing Home Administrators, created under part II of chapter 468, Florida Statutes; occupational therapy, as provided under part III of chapter 468, Florida Statutes; respiratory therapy, as provided under part V of chapter 468, Florida Statutes; dietetics and nutrition practice, as provided under part X of chapter 468, Florida Statutes; electrolysis, as provided under chapter 478, Florida Statutes; the Board of Clinical Laboratory Personnel, created under part IV of chapter 483, Florida Statutes; medical physicists,

as provided under part V of chapter 483, Florida Statutes; the Board of Opticianry, created under part I of chapter 484, Florida Statutes; the Board of Physical Therapy Practice, created under chapter 486, Florida Statutes; the Board of Psychology, created under chapter 490, Florida Statutes; and the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491, Florida Statutes, under the Division of Health Quality Assurance of the Agency for Health Care Administration, or under the agency, within the Department of Business and Professional Regulation, ~~including all licensing, examination, publication, administrative, and management information services, but not consumer complaint, investigative, or prosecutorial services, provided by the Agency for Health Care Administration,~~ is transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, and assigned to the Division of Medical Quality Assurance within the Department of Health, as created by this act.

Section 2. Section 20.43, Florida Statutes, 1996 Supplement, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(1) The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(a) Prevent to the fullest extent possible, the occurrence and progression of communicable and noncommunicable diseases and disabilities.

(b) Maintain a constant surveillance of disease occurrence and accumulate health statistics necessary to establish disease trends and to design health programs.

(c) Conduct special studies of the causes of diseases and formulate preventive strategies.

(d) Promote the maintenance and improvement of the environment as it affects public health.

(e) Promote the maintenance and improvement of health in the residents of the state.

(f) Provide leadership, in cooperation with the public and private sectors, in establishing statewide and community public health delivery systems.

(g) Provide health care and early intervention services to infants, toddlers, children, adolescents, and high-risk perinatal patients who are at risk for disabling conditions or have chronic illnesses.

(h) Develop working associations with all agencies and organizations involved and interested in health and health care delivery.

(i) Analyze trends in the evolution of health systems, and identify and promote the use of innovative, cost-effective health delivery systems.

(j) Serve as the statewide repository of all aggregate data accumulated by state agencies related to health care; analyze that data and issue periodic reports and policy statements, as appropriate; require that all aggregated data be kept in a manner that promotes easy utilization by the public, state agencies, and all other interested parties; provide technical assistance as required; and work cooperatively with the state's higher education programs to promote further study and analysis of health care systems and health care outcomes.

(k) Biennially publish, and annually update, a state health plan that assesses current health programs, systems, and costs; makes projections of future problems and opportunities; and recommends changes needed in the health care system to improve the public health.

(l) Regulate health practitioners, to the extent authorized by the Legislature, as necessary for the preservation of the health, safety, and welfare of the public.

(2) The head of the Department of Health is the Secretary of Health and State Health Officer. The secretary must be a physician licensed under chapter 458 or chapter 459 who has advanced training or extensive experience in public health administration. The secretary is appointed by the Governor subject to confirmation by the Senate. The secretary serves at the pleasure of the Governor.

(3) The following divisions of the Department of Health are established:

(a) Division of Administration.

(b) Division of Environmental Health.

(c) Division of Disease Control.

(d) Division of Family Services.

(e) Division of Children's Medical Services.

(f) ~~Effective July 1, 1997,~~ Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

1. Nursing assistants, as provided under s. 400.211.

2. Health care services pools, as provided under s. 402.48.

3. The Board of Acupuncture, created under chapter 457.

4. The Board of Medicine, created under chapter 458.

5. The Board of Osteopathic Medicine, created under chapter 459.

6. The Board of Chiropractic, created under chapter 460.

7. The Board of Podiatric Medicine, created under chapter 461.

8. Naturopathy, as provided under chapter 462.

9. The Board of Optometry, created under chapter 463.

10. The Board of Nursing, created under chapter 464.

11. The Board of Pharmacy, created under chapter 465.

12. The Board of Dentistry, created under chapter 466.

13. Midwifery, as provided under chapter 467.

14. The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

15. The Board of Nursing Home Administrators, created under part II of chapter 468.

16. Occupational therapy, as provided under part III of chapter 468.

17. Respiratory therapy, as provided under part V of chapter 468.

18. Dietetics and nutrition practice, as provided under part X of chapter 468.

19. Athletic trainers, as provided under part XIV of chapter 468.

20. Electrolysis, as provided under chapter 478.

21. The Board of Massage, created under chapter 480.

22. The Board of Clinical Laboratory Personnel, created under part IV of chapter 483.

23. Medical physicists, as provided under part V of chapter 483.

24. The Board of Opticianry, created under part I of chapter 484.

25. The Board of Hearing Aid Specialists, created under part II of chapter 484.

26. The Board of Physical Therapy Practice, created under chapter 486.

27. The Board of Psychology, created under chapter 490.

28. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

~~The department shall contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.~~

(4)(a) The members of each board within the department shall be appointed by the Governor, subject to confirmation by the Senate. Consumer members on the board shall be appointed pursuant to paragraph (b). Members shall be appointed for 4-year terms, and such terms shall expire on October 31. However, a term of less than 4 years may be used to ensure that:

1. No more than two members' terms expire during the same calendar year for boards consisting of seven or eight members.

2. No more than three members' terms expire during the same calendar year for boards consisting of 9 to 12 members.

3. No more than five members' terms expire during the same calendar year for boards consisting of 13 or more members.

A member whose term has expired shall continue to serve on the board until such time as a replacement is appointed. A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment. No member may serve for more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms of the member's own appointment thereafter.

(b) Each board with five or more members shall have at least two consumer members who are not, and have never been, members or practitioners of the profession regulated by such board or of any closely related profession. Each board with fewer than five members shall have at least one consumer member who is not, and has never been, a member or practitioner of the profession regulated by such board or of any closely related profession.

(c) Notwithstanding any other provision of law, the department is authorized to establish uniform application forms and certificates of licensure for use by the boards within the department. Nothing in this paragraph authorizes the department to vary any substantive requirements, duties, or eligibilities for licensure or certification as provided by law.

(5)~~(4)~~ The department shall plan and administer its public health programs through its county health departments and may, for administrative purposes and efficient service delivery, establish up to 15 service areas to carry out such duties as may be prescribed by the secretary. The boundaries of the service areas shall be the same as, or combinations of, the districts of the health and human services boards established in s. 20.19 and, to the extent practicable, shall take into consideration the boundaries of the jobs and education regional boards.

(6)~~(5)~~ The secretary and division directors are authorized to appoint ad hoc advisory committees as necessary. The issue or problem that the ad hoc committee shall address, and the timeframe within which the committee is to complete its work, shall be specified at the time the committee is appointed. Ad hoc advisory committees shall include representatives of groups or entities affected by the issue or problem that the committee is asked to examine. Members of ad hoc advisory committees shall receive no compensation, but may, within existing departmental resources, receive reimbursement for travel expenses as provided in s. 112.061.

Section 3. Section 455.01, Florida Statutes, 1996 Supplement, is amended to read:

455.01 Definitions.—As used in this *part* ~~chapter~~, the term:

(1) "Board" means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the department, including the Florida Real Estate Commission; except that, for ss. 455.201-455.261, "board" means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Certified Public Accounting, ~~the Division of Medical Quality Assurance,~~ the Division of Professions, or the Division of Real Estate.

(2) "Consumer member" means a person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been, a member or practitioner of the profession, or of any closely related profession, regulated by such board.

(3) "Department" means the Department of Business and Professional Regulation.

~~(4) "Health care practitioner" means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; part I, part III, part V, or part X of chapter 468; chapter 474; chapter 484; chapter 486; chapter 490; or chapter 491.~~

(4)~~(5)~~ "License" means any permit, registration, certificate, or license issued by the department.

(5)~~(6)~~ "Licensee" means any person issued a permit, registration, certificate, or license by the department.

(6)~~(7)~~ "Profession" means any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, ~~Medical Quality Assurance,~~ Professions, Real Estate, and Regulation.

Section 4. Section 455.203, Florida Statutes, 1996 Supplement, is amended to read:

455.203 Department; ~~Agency for Health Care Administration;~~ powers and duties.—The department ~~and the Agency for Health Care Administration~~, for the boards under *its jurisdiction* ~~their respective jurisdictions~~, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; ~~provided,~~ however, the department ~~or the Agency for Health Care Administration~~ may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of each board, subject to the approval of the board.

(3) Submit an annual budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the appropriate profession and with the structure of the department ~~or the Agency for Health Care Administration~~.

(5) Adopt all rules necessary to administer this *part* ~~chapter~~.

(6) Establish by *rule* ~~rules~~ procedures by which the department ~~and the Agency for Health Care Administration~~ shall use the expert or technical advice of the appropriate board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(7) Require all proceedings of any board or panel thereof and all formal or informal proceedings conducted by the department, ~~the Agency for Health Care Administration,~~ an administrative law judge, or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the respective boards.

(9) Allow applicants for new or renewal licenses and current licensees to be screened by the Title IV-D child support agency pursuant to s. 409.2598 to assure compliance with a support obligation. The purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. The department shall, when directed by the court, suspend or deny the license of any licensee found to have a delinquent support obligation. The department shall issue or reinstate the license

without additional charge to the licensee when notified by the court that the licensee has complied with the terms of the court order. The department shall not be held liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

Section 5. Section 455.205, Florida Statutes, is amended to read:

455.205 Contacting boards through department ~~or agency~~.—Each board under the jurisdiction of the department may be contacted through the headquarters of the department in the City of Tallahassee or at any regional office of the department. ~~Each board under the jurisdiction of the Agency for Health Care Administration may be contacted through the headquarters of the Agency for Health Care Administration in the City of Tallahassee.~~

Section 6. Subsections (1) and (3) of section 455.207, Florida Statutes, are amended to read:

455.207 Boards; organization; meetings; compensation and travel expenses.—

(1) Each board within the department ~~and each board within the Agency for Health Care Administration~~ shall comply with the provisions of this section.

(3) The board shall meet at least once annually and may meet as often as is necessary. The chairperson or a quorum of the board shall have the authority to call other meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this *part* ~~chapter~~ or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

Section 7. Section 455.208, Florida Statutes, is amended to read:

455.208 Publication of information.—The department~~, the Agency for Health Care Administration,~~ and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department~~, the Agency for Health Care Administration,~~ or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the boards shall publish a summary of final orders resulting in fines, suspensions, or revocations, and any other information the department or the board determines is of interest to the public.

Section 8. Subsection (2) of section 455.209, Florida Statutes, is amended to read:

455.209 Accountability and liability of board members.—

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department ~~or the Agency for Health Care Administration, as appropriate~~, or the Department of Legal Affairs shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department or the Department of Legal Affairs may defend the member's company or business in any action against the company or business if the department or the Department of Legal Affairs determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department, the agency, or the Department of Legal Affairs may employ or utilize the legal services of outside counsel.

Section 9. Subsections (1) and (2) of section 455.211, Florida Statutes, 1996 Supplement, are 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. ~~The Director of Health Care Administration shall have standing to challenge any rule or proposed rule of any 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 ~~or the Director of Health Care Administration~~, 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~~, the Director of Health Care Administration,~~ 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.

Section 10. Subsections (3), (7), and (8) of section 455.213, Florida Statutes, 1996 Supplement, are amended to read:

455.213 General licensing provisions.—

(3) The board, or the department when there is no board, may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this *part* ~~chapter~~ or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete.

(7) Notwithstanding anything to the contrary, any elected official who is licensed pursuant to any practice act within the purview of this *part* ~~chapter~~ may hold employment for compensation with any public agency concurrent with such public service. Such dual service shall be disclosed according to any disclosure required by applicable law.

(8) In any instance in which a licensee or applicant to the department ~~or the Agency for Health Care Administration~~ is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, then the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day which is not a Saturday, Sunday, or legal holiday.

Section 11. Subsections (3) and (6) of section 455.214, Florida Statutes, are amended to read:

455.214 Limited licenses.—

(3) The board, or the department when there is no board, may deny limited licensure to an applicant who has committed, or is under investigation or prosecution for, any act which would constitute the basis for discipline pursuant to the provisions of this *part* ~~chapter~~ or the applicable practice act.

(6) Each applicant granted a limited license is subject to all the provisions of this *part* ~~chapter~~ and the respective practice act under which the limited license is issued which are not in conflict with this section.

Section 12. Paragraph (e) of subsection (1) of section 455.217, Florida Statutes, 1996 Supplement, is amended to read:

455.217 Examinations.—

(1) The Division of Technology, Licensure, and Testing of the Department of Business and Professional Regulation shall provide services for the preparation and administration of all examinations.

(e) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority an examination developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this *part* ~~chapter~~. All fees paid by the user for professions not regulated by this *part* ~~chapter~~ shall be applied to offset the fees for the development and administration of that profession's examination.

Section 13. Section 455.2175, Florida Statutes, is amended to read:

455.2175 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department ~~or the Agency for Health Care Administration~~, whether *such* ~~said~~ examination is reproduced or copied in part or in whole and by any means, *constitutes* ~~shall constitute~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 14. Section 455.218, Florida Statutes, is amended to read:

455.218 Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, ~~within their respective jurisdictions, the Agency for Health Care Administration and~~ the department shall by rule provide procedures under which exiled professionals may be examined within each practice act. A person shall be eligible for such examination if the person:

(a) Immigrated to the United States after leaving the person's home country because of political reasons, provided such country is located in the Western Hemisphere and lacks diplomatic relations with the United States;

(b) Applies to the department ~~or the Agency for Health Care Administration, as appropriate,~~ and submits a fee;

(c) Was a Florida resident immediately preceding the person's application;

(d) Demonstrates to the department ~~or the Agency for Health Care Administration~~, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university; however, the department ~~or the Agency for Health Care Administration~~ may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department ~~and the Agency for Health Care Administration~~ shall develop rules for the approval of such programs for *its* ~~their respective~~ boards.

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the department ~~or the Agency for Health Care Administration~~, for *its* ~~their respective~~ boards, shall provide a written practical examination *that* ~~which~~ tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. Evidence of meeting the requirements of subsection (1) shall be treated by the department ~~or the Agency for Health Care Administration~~ as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant shall not be examined by the department ~~or the Agency for Health Care Administration~~ on such fundamentals.

(3) The fees charged for the examinations offered under subsection (2) shall be established by the department ~~and the Agency for Health Care Administration~~, for *its* ~~their respective~~ boards, by rule and shall be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4) The department ~~and the Agency for Health Care Administration~~ shall examine any applicant who meets the requirements of subsections (1) and (2). Upon passing the examination and the issuance of the license, a licensee is subject to the administrative requirements of this *part* ~~chapter~~ and the respective practice act under which the license is issued. Each applicant so licensed is subject to all provisions of this *part* ~~chapter~~ and the respective practice act under which the license was issued.

(5) Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language, provided that any translation costs are borne by the applicant.

(6) The department ~~and the Agency for Health Care Administration~~, for *its* ~~their respective~~ boards, shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action which would constitute a violation of this *part* ~~chapter~~ or the professional practice acts administered by the department or agency and the boards until such time as the investigation or prosecution is complete, at which time the provisions of the professional practice acts shall apply.

Section 15. Section 455.2185, Florida Statutes, is amended to read:

455.2185 Exemption for certain out-of-state or foreign professionals; limited practice permitted.—

(1) A professional of any other state or of any territory or other jurisdiction of the United States or of any other nation or foreign jurisdiction is exempt from the requirements of licensure under this *part* ~~chapter~~ and the applicable professional practice act under the agency with regulatory jurisdiction over the profession if that profession is regulated in this state under the agency with regulatory jurisdiction over the profession and if that person:

(a) Holds, if so required in the jurisdiction in which that person practices, an active license to practice that profession.

(b) Engages in the active practice of that profession outside the state.

(c) Is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event.

(2) A professional's practice under this section is limited to the members, coaches, and staff of the team for which that professional is employed or designated and to any animals used if the sporting event for which that professional is employed or designated involves animals. A professional practicing under authority of this section shall not have practice privileges in any licensed ~~health care facility or~~ veterinary facility without the approval of that facility.

Section 16. Subsections (1) and (2) of section 455.221, Florida Statutes, are amended to read:

455.221 Legal and investigative services.—

(1) A board shall retain, through the department's contract procedures, board counsel from the Department of Legal Affairs. The Department of Legal Affairs shall provide legal services to each board within the Department of Business and Professional Regulation ~~or the Agency for Health Care Administration~~, but the primary responsibility of the Department of Legal Affairs shall be to represent the interests of the citizens of the state by vigorously counseling the boards with respect to their obligations under the laws of the state. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. Subject to the prior approval of the Attorney General, any board may retain, through the department's contract procedures, independent legal counsel to provide legal advice to the board on a specific matter. Fees and costs of such counsel by the Department of Legal Affairs or

independent legal counsel approved by the Attorney General shall be paid from the Professional Regulation Trust Fund ~~or the Health Care Trust Fund, as appropriate~~. All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided.

(2) The Department of Business and Professional Regulation ~~or the Agency for Health Care Administration~~ may employ or utilize the legal services of outside counsel and the investigative services of outside personnel. However, no attorney employed or *used* ~~utilized~~ by the department ~~or the Agency for Health Care Administration~~ shall prosecute a matter and provide legal services to the board with respect to the same matter.

Section 17. Subsection (1) of section 455.2226, Florida Statutes, is amended to read:

455.2226 Requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) ~~As of July 1, 1991,~~ The ~~appropriate~~ Board *of Funeral Directors and Embalmers* shall require each person licensed or certified under ~~chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; part II, part III, or part V of chapter 468;~~ chapter 470~~; or chapter 486~~ to complete a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients.

Section 18. Subsection (1) of section 455.2228, Florida Statutes, is amended to read:

455.2228 Requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The board, or the department where there is no board, shall require each person licensed or certified under chapter 476 *or* ~~,~~ chapter 477~~, chapter 480, or part XIV of chapter 468~~ to complete a continuing educational course approved by the board, or the department where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome, with an emphasis on appropriate behavior and attitude change.

Section 19. Section 455.223, Florida Statutes, 1996 Supplement, is amended to read:

455.223 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of any investigation or proceeding conducted by the department ~~or the Agency for Health Care Administration~~, the department ~~or the agency~~ shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department ~~or the Agency for Health Care Administration~~ shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.569.

Section 20. Subsections (1), (2), (3), and (6) of section 455.224, Florida Statutes, are amended to read:

455.224 Authority to issue citations.—

(1) Notwithstanding s. 455.225, the board, or the department ~~or the Agency for Health Care Administration~~ when there is no board, shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department ~~or the agency, whichever has jurisdiction,~~ within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department ~~or the agency~~ when there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department ~~or the Agency for Health Care Administration~~ shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board *or*~~,~~ department~~, or agency~~ rule, as part of the penalty levied pursuant to the citation.

(6) Within *its jurisdiction* ~~their respective jurisdictions~~, the department *has* ~~and the Agency for Health Care Administration have~~ exclusive authority to, and shall adopt rules to, designate those violations for which the licensee is subject to the issuance of a citation and designate the penalties for those violations if any board fails to incorporate this section into rules by January 1, 1992. A board created on or after January 1, 1992, has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department ~~or the agency~~ exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

Section 21. Section 455.225, Florida Statutes, 1996 Supplement, is amended to read:

455.225 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department ~~or the Agency for Health Care Administration, as appropriate~~.

(1) The department ~~or the Agency for Health Care Administration~~, for the boards under *its jurisdiction* ~~their respective jurisdictions~~, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this *part* ~~chapter~~, of any of the practice acts relating to the professions regulated by the department ~~or the agency~~, or of any rule adopted by the department~~, the agency,~~ or a regulatory board in the department ~~or the agency~~ has occurred. In order to determine legal sufficiency, the department ~~or the agency~~ may require supporting information or documentation. The department ~~or the agency~~ may investigate, and the department~~, the agency,~~ or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department ~~or the agency~~ may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department ~~or the agency~~ has reason to believe, after preliminary inquiry, that the ~~alleged~~ violations *alleged* in the complaint are true. The department ~~or the agency~~ may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department ~~or the agency~~ has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department ~~or the agency~~ may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, ~~a rule of the agency,~~ or a rule of a board. ~~Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6),~~ When an investigation of any subject is undertaken, the department ~~or the agency~~ shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chairman of the respective board or the chairman of its probable cause panel agree

in writing that such notification would be detrimental to the investigation, the department ~~or the agency~~ may withhold notification. The department ~~or the agency~~ may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department ~~and the Agency for Health Care Administration~~ shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. When its investigation is complete and legally sufficient, the department ~~or the agency~~ shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department ~~or the agency~~. The report shall contain the investigative findings and the recommendations of the department ~~or the agency~~ concerning the existence of probable cause. At any time after legal sufficiency is found, the department ~~or the agency~~ may dismiss any case, or any part thereof, if the department ~~or the agency~~ determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department ~~or the agency~~ shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department ~~or the agency~~ dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department ~~or the agency~~ may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department ~~or the agency~~ if there is no board, shall establish by rule those minor violations under this provision which do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, ~~or by the department or the Agency for Health Care Administration~~, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department ~~or the agency~~. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chairman. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department ~~or the agency~~ shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department ~~or the agency~~. The probable cause panel or the department ~~or the agency~~, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department ~~or the agency~~. The secretary may grant extensions of the 15-day and the 30-day time limits. If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department ~~or the agency~~ may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists. In lieu of a finding of probable cause, the probable cause panel, or the department ~~or the agency~~ when there is no board, may issue a letter of guidance to the subject. If the probable cause panel finds that probable cause exists, it shall direct the department ~~or the agency~~ to file a formal complaint against the licensee. The department ~~or the agency~~ shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department ~~or the agency~~ shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department ~~or the agency~~ may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department ~~or the agency~~ shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department ~~or the agency~~ shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department ~~or the agency~~ within 1 year after the filing of a complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the ~~Health Care Trust Fund or the~~ Professional Regulation Trust Fund~~, as appropriate~~. All proceedings of the probable cause panel are exempt from s. 120.525.

(5) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The administrative law judge shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed settlement shall be subject to the approval of the department ~~or the agency~~.

(7) The department ~~or the Agency for Health Care Administration, as appropriate,~~ shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Secretary of Business and Professional Regulation or his designee ~~or the Director of Health Care Administration or his designee, as appropriate~~, who shall issue the final summary order.

(9) The department ~~or the Agency for Health Care Administration, as appropriate,~~ shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any civil action or administrative proceeding or appeal.

(10) The complaint and all information obtained pursuant to the investigation by the department ~~or the Agency for Health Care Administration~~ are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department ~~or the agency~~, or until the regulated professional or subject of the investigation waives his privilege of confidentiality, whichever occurs first. Upon completion of the investigation and pursuant to a written request by the subject, the department ~~or the agency~~ shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. ~~Notwithstanding s. 455.241, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation, if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 455.241.~~ The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department ~~or the agency~~. This subsection does not prohibit the department ~~or the Agency for Health Care Administration~~ from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

~~(12)(a) No person who reports in any capacity, whether or not required by law, information to the department or the Division of Health Quality Assurance of the Agency for Health Care Administration with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.~~

~~(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the agency about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.~~

~~(c) In any civil suit brought outside the protections of paragraphs (a) and (b), where intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.~~

Section 22. Paragraphs (b), (d), (g), (i), (j), and (q) of subsection (1) and subsection (4) of section 455.227, Florida Statutes, are amended to read:

455.227 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(b) Intentionally violating any rule adopted by the board *or*~~,~~ the department, ~~or the Agency for Health Care Administration,~~ as appropriate.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted pursuant to s. 501.122(2) governing the registration of such devices ~~with the Department of Health and Rehabilitative Services~~.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department ~~or the agency~~ against another licensee.

(i) ~~Except as provided in s. 465.016,~~ Failing to report to the department any person who the licensee knows is in violation of this *part* ~~chapter~~, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this *part* ~~chapter~~, the chapter regulating the profession, or the rules of the department or the board.

(q) Violating any provision of this *part* ~~chapter~~, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(4) In addition to, or in lieu of, any other remedy or criminal prosecution, the department ~~or the Agency for Health Care Administration, as appropriate,~~ may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this *part* ~~chapter~~, or any provision of law with respect to professions regulated by the department ~~or the agency~~, or any board therein, or the rules adopted pursuant thereto.

Section 23. Section 455.2273, Florida Statutes, 1996 Supplement, is amended to read:

455.2273 Disciplinary guidelines.—

(1) Each board, or the department when there is no board, shall adopt, by rule, and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department when there is no board, pursuant to this *part* ~~chapter~~, the respective practice acts, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department when there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department ~~or the Agency for Health Care Administration, as appropriate,~~ must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

~~(5) The rules provided for in this section shall be promulgated no later than January 1, 1993.~~

(5)~~(6)~~ The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

Section 24. Section 455.2275, Florida Statutes, is amended to read:

455.2275 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the act of knowingly giving false information in the course of applying for or obtaining a license from the department ~~or the Agency for Health Care Administration~~, or any board thereunder, with intent to mislead a public servant in the performance of his official duties, or the act of attempting to obtain or obtaining a license from either the department ~~or the agency~~, or any board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 25. Subsections (1), (2), and (5) of section 455.228, Florida Statutes, 1996 Supplement, are amended to read:

455.228 Unlicensed practice of a profession; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected.—

(1) When the department ~~or the Agency for Health Care Administration~~ has probable cause to believe that any person not licensed by the department ~~or the agency~~, or the appropriate regulatory board within the department ~~or the agency~~, has violated any provision of this *part* ~~chapter~~ or any statute that relates to the practice of a profession regulated by the department ~~or the agency~~, or any rule adopted pursuant thereto, the department ~~or the agency~~ may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department ~~or the agency~~ may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department ~~or the agency~~ may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order. In addition to the foregoing remedies, the department ~~or the agency~~ may impose an administrative penalty not to exceed $5,000 per incident pursuant to the provisions of chapter 120 or may issue a citation pursuant to the provisions of subsection (3). If the department ~~or the agency~~ is required to seek enforcement of the ~~agency~~ order for a penalty pursuant to s. 120.569, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department ~~or the agency~~ may seek the imposition of a civil penalty through the circuit court for any violation for which the department ~~or the agency~~ may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than $500 and no more than $5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department ~~or the agency~~ prevails, may also award reasonable costs of investigation.

(5) The provisions of this section apply only to the provisions of s. 455.217 and the professional practice acts administered by the department ~~or the Agency for Health Care Administration~~.

Section 26. Section 455.2285, Florida Statutes, is amended to read:

455.2285 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department *is* ~~and the Agency for Health Care Administration are each~~ directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(1) The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.

(2) The number of complaints received and investigated.

(3) The number of findings of probable cause made.

(4) The number of findings of no probable cause made.

(5) The number of administrative complaints filed.

(6) The disposition of all administrative complaints.

(7) A description of disciplinary actions taken.

(8) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 455.2273.

(9) Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

Section 27. Section 455.229, Florida Statutes, 1996 Supplement, is amended to read:

455.229 Public inspection of information required from applicants; exceptions; examination hearing.—

(1) All information required by the department ~~or the Agency for Health Care Administration~~ of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except members of the board, the department ~~or the Agency for Health Care Administration~~, and staff thereof, who have a bona fide need to know such information. Any information supplied to the department ~~or the Agency for Health Care Administration~~ by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential pursuant to applicable law while in the custody of the department ~~or the agency~~.

(2) The department ~~or the Agency for Health Care Administration~~ shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department ~~or the agency~~ shall provide challenged examination questions and answers to the administrative law judge. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the administrative law judge.

(3) Unless an applicant notifies the department ~~or the agency~~ at least 5 days prior to an examination hearing of the applicant's inability to attend, or unless an applicant can demonstrate an extreme emergency for failing to attend, the department ~~or the agency~~ may require an applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department ~~or the agency~~ for the examination hearing.

Section 28. Subsection (1) of section 455.232, Florida Statutes, is amended to read:

455.232 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the department ~~or the Agency for Health Care Administration~~, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

Section 29. Section 455.24, Florida Statutes, is amended to read:

455.24 Advertisement by a *veterinarian* ~~health care provider~~ of free or discounted services; required statement.—In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a *person* ~~health care provider~~ licensed under ~~chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 466,~~ chapter 474, ~~or chapter 486,~~ the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE ~~PATIENT AND ANY OTHER~~ PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT *THAT* ~~WHICH~~ IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care provider defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

Section 30. Section 455.242, Florida Statutes, is amended to read:

455.242 Disposition of records of deceased practitioners or practitioners relocating or terminating practice.—Each board created under the provisions of ~~chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, chapter 464, chapter 465, chapter 466,~~ chapter 474~~, part I of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462,~~ shall provide by rule for the disposition, under *that* ~~said~~ chapter, of the ~~medical~~ records *that* ~~or records of a psychological nature of practitioners which~~ are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available ~~to patients~~ and which records pertain to the practitioner's patients. The rules shall provide that the records be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

Section 31. Section 455.243, Florida Statutes, is amended to read:

455.243 Authority to inspect.—~~In addition to the authority specified in s. 465.017,~~ Duly authorized agents and employees of the department ~~and the Agency for Health Care Administration~~ shall have the power to inspect in a lawful manner at all reasonable hours~~:~~

~~(1) Any pharmacy; or~~

~~(2)~~ —any establishment at which the services of a licensee authorized to prescribe controlled substances specified in chapter 893 are offered, for the purpose of determining if any of the provisions of this *part* ~~chapter~~ or any practice act of a profession or any rule *adopted* ~~promulgated~~ thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

Section 32. Section 455.245, Florida Statutes, is amended to read:

455.245 Certain ~~health care~~ practitioners; immediate suspension of license.—

~~(1)~~ The department ~~or the Agency for Health Care Administration~~ shall issue an emergency order suspending the license of any person licensed under ~~chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466,~~ chapter 474~~, or chapter 484~~ who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409 or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

~~(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(x), in regard to his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the Director of Health Care Administration shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the authority of the secretary of the department or the Director of Health Care Administration to issue an emergency order.~~

Section 33. Section 455.501, Florida Statutes, is created to read:

455.501 Definitions.—As used in this part, the term:

(1) "Board" means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the department, except that, for ss. 455.517-455.707, "board" means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Medical Quality Assurance.

(2) "Consumer member" means a person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been, a member or practitioner of the profession, or of any closely related profession, regulated by such board.

(3) "Department" means the Department of Health.

(4) "Health care practitioner" means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; part I, part III, part V, or part X of chapter 468; chapter 480; chapter 484; chapter 486; chapter 490; or chapter 491.

(5) "License" means any permit, registration, certificate, or license issued by the department.

(6) "Licensee" means any person issued a permit, registration, certificate, or license by the department.

(7) "Profession" means any activity, occupation, profession, or vocation regulated by the department in the Division of Medical Quality Assurance.

Section 34. Section 455.504, Florida Statutes, is created to read:

455.504 Applicability of part.—This part applies only to the regulation by the department of professions.

Section 35. Section 455.507, Florida Statutes, is created to read:

455.507 Members of Armed Forces in good standing with administrative boards.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of his becoming such a member, was in good standing with any administrative board of the state and was entitled to practice or engage in his profession or vocation in the state shall be kept in good standing by such administrative board, without registering, paying dues or fees, or performing any other act on his part to be performed, as long as he is a member of the Armed Forces of the United States on active duty and for a period of 6 months after his discharge from active duty as a member of the Armed Forces of the United States, provided he is not engaged in his licensed profession or vocation in the private sector for profit.

(2) The boards listed in ss. 20.165 and 20.43 shall adopt rules exempting the spouses of members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

Section 36. Section 455.511, Florida Statutes, is created to read:

455.511 Restriction on requirement of citizenship.—A person is not disqualified from practicing an occupation or profession regulated by the state solely because he is not a United States citizen.

Section 37. Section 455.514, Florida Statutes, is created to read:

455.514 Qualification of immigrants for examination to practice a licensed profession or occupation.—

(1) It is the declared purpose of this section to encourage the use of foreign-speaking Florida residents duly qualified to become actively qualified in their professions so that all people of this state may receive better services.

(2) Any person who has successfully completed, or is currently enrolled in, an approved course of study created pursuant to chapters 74-105 and 75-177, Laws of Florida, shall be deemed qualified for examination and reexaminations for a professional or occupational license which shall be administered in the English language unless 15 or more such applicants request that the reexamination be administered in their native language. In the event that such reexamination is administered in a foreign language, the full cost to the board of preparing and administering it shall be borne by the applicants.

(3) Each board within the department shall adopt and implement programs designed to qualify for examination all persons who were resident nationals of the Republic of Cuba and who, on July 1, 1977, were residents of this state.

Section 38. Section 455.517, Florida Statutes, is created to read:

455.517 Professions and occupations regulated by department; legislative intent; requirements.—

(1) It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified.

(2) The Legislature further believes that such professions shall be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

(a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

(b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c) Less restrictive means of regulation are not available.

(3) It is further legislative intent that the use of the term "profession" with respect to those activities licensed and regulated by the department shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(4) No board, nor the department, shall create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. No board, nor the department, shall take any action which tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(5) Policies adopted by the department shall ensure that all expenditures are made in the most cost-effective manner to maximize competition, minimize licensure costs, and maximize public access to meetings conducted for the purpose of professional regulation. The long-range planning function of the department shall be implemented to facilitate effective operations and to eliminate inefficiencies.

Section 39. Section 455.521, Florida Statutes, is created to read:

455.521 Department; powers and duties.—The department, for the boards under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of each board, subject to the approval of the board.

(3) Submit an annual budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the appropriate profession and with the structure of the department.

(5) Adopt all rules necessary to administer this part.

(6) Establish by rules procedures by which the department shall use the expert or technical advice of the appropriate board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(7) Require all proceedings of any board or panel thereof and all formal or informal proceedings conducted by the department, an administrative law judge, or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the respective boards.

(9) Allow applicants for new or renewal licenses and current licensees to be screened by the Title IV-D child support agency pursuant to s. 409.2598 to assure compliance with a support obligation. The purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. The department shall, when directed by the court, suspend or deny the license of any licensee found to have a delinquent support obligation. The department shall issue or reinstate the license without additional charge to the licensee when notified by the court that the licensee has complied with the terms of the court order. The department shall not be held liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

Section 40. Section 455.524, Florida Statutes, is created to read:

455.524 Long-range policy planning; plans, reports, and recommendations.—To facilitate efficient and cost-effective regulation, the department and the board, where appropriate, shall develop and implement a long-range policy planning and monitoring process to include recommendations specific to each profession. Such process shall include estimates of revenues, expenditures, cash balances, and performance statistics for each profession. The period covered shall not be less than 5 years. The department, with input from the boards, shall develop the long-range plan and must obtain the approval of the secretary. The department shall monitor compliance with the approved long-range plan and, with input from the boards, shall annually update the plans for approval by the secretary. The department shall provide concise management reports to the boards quarterly. As part of the review process, the department shall evaluate:

(1) Whether the department, including the boards and the various functions performed by the department, is operating efficiently and effectively and if there is a need for a board or council to assist in cost-effective regulation.

(2) How and why the various professions are regulated.

(3) Whether there is a need to continue regulation, and to what degree.

(4) Whether or not consumer protection is adequate, and how it can be improved.

(5) Whether there is consistency between the various practice acts.

(6) Whether unlicensed activity is adequately enforced.

Such plans should include conclusions and recommendations on these and other issues as appropriate. Such plans shall be provided to the Governor and the Legislature by November 1 of each year.

Section 41. Section 455.527, Florida Statutes, is created to read:

455.527 Contacting boards through department.—Each board under the jurisdiction of the department may be contacted through the headquarters of the department in the City of Tallahassee.

Section 42. Section 455.206, Florida Statutes, is transferred and renumbered as section 455.531, Florida Statutes.

Section 43. Section 455.534, Florida Statutes, is created to read:

455.534 Boards; organization; meetings; compensation and travel expenses.—

(1) Each board within the department shall comply with the provisions of this section.

(2) The board shall annually elect from among its number a chairperson and vice chairperson.

(3) The board shall meet at least once annually and may meet as often as is necessary. The chairperson or a quorum of the board shall have the authority to call other meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this part or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

(4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated $50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the secretary.

(5) When two or more boards have differences between them, the boards may elect to, or the secretary may request that the boards, establish a special committee to settle those differences. The special committee shall consist of three members designated by each board, who may be members of the designating board or other experts designated by the board, and of one additional person designated and agreed to by the members of the special committee. In the event the special committee cannot agree on the additional designee, upon request of the special committee, the secretary may select the designee. The committee shall recommend rules necessary to resolve the differences. If a rule adopted pursuant to this provision is challenged, the participating boards shall share the costs associated with defending the rule or rules. The department shall provide legal representation for any special committee established pursuant to this section.

Section 44. Section 455.537, Florida Statutes, is created to read:

455.537 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the boards shall publish a summary of final orders resulting in fines, suspensions, or revocations, and any other information the department or the board determines is of interest to the public.

Section 45. Section 455.541, Florida Statutes, is created to read:

455.541 Accountability and liability of board members.—

(1) Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the actions of the board or its individual members. The Governor may suspend from office any board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or commission of a felony.

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department or the Department of Legal Affairs shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department or the Department of Legal Affairs may defend the member's company or business in any action against the company or business if the department or the Department of Legal Affairs determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department or the Department of Legal Affairs may employ or utilize the legal services of outside counsel.

Section 46. Section 455.544, Florida Statutes, is created to read:

455.544 Board rules; final agency action; challenges.—

(1) The secretary of the department shall have standing to challenge any rule or proposed rule of a board under its jurisdiction pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the secretary, may declare all or part of a rule or proposed rule invalid if it:

(a) Does not protect the public from any significant and discernible harm or damages;

(b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

(c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(2) In addition, either the secretary or the board shall be a substantially interested party for purposes of s. 120.54(7). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging the final agency action.

(3) No board created within the department shall have standing to challenge a rule or proposed rule of another board. However, if there is a dispute between boards concerning a rule or proposed rule, the boards may avail themselves of the provisions of s. 455.534(5).

Section 47. Section 455.547, Florida Statutes, is created to read:

455.547 Education; substituting demonstration of competency for clock-hour requirements.—Any board, or the department when there is no board, that requires student completion of a specific number of clock hours of classroom instruction for initial licensure purposes shall establish the minimal competencies that such students must demonstrate in order to be licensed. The demonstration of such competencies may be substituted for specific classroom clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. Student demonstration of the established minimum competencies shall be certified by the educational institution. The provisions of this section shall not apply to boards for which federal licensure standards are more restrictive or stringent than the standards prescribed in statute.

Section 48. Section 455.551, Florida Statutes, is created to read:

455.551 Education; accreditation.—Notwithstanding any other provision of law, educational programs and institutions which are required by statute to be accredited, but which were accredited by an agency that has since ceased to perform an accrediting function, shall be recognized until such programs and institutions are accredited by a qualified successor to the original accrediting agency, an accrediting agency recognized by the United States Department of Education, or an accrediting agency recognized by the board, or the department when there is no board.

Section 49. Section 455.554, Florida Statutes, is created to read:

455.554 Consultation with postsecondary education boards prior to adoption of changes to training requirements.—Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the State Board of Independent Colleges and Universities; the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools; the Board of Regents; and the State Board of Community Colleges prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

Section 50. Section 455.561, Florida Statutes, is created to read:

455.561 Limited licenses.—

(1) It is the intent of the Legislature that, absent a threat to the health, safety, and welfare of the public, the use of retired professionals in good standing to serve the indigent, underserved, or critical need populations of this state should be encouraged. To that end, the board, or the department when there is no board, may adopt rules to permit practice by retired professionals as limited licensees under this section.

(2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the board, or the department when there is no board, an application and fee, not to exceed $300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of his profession, the application and all licensure fees shall be waived.

(3) The board, or the department when there is no board, may deny limited licensure to an applicant who has committed, or is under investigation or prosecution for, any act which would constitute the basis for discipline pursuant to the provisions of this part or the applicable practice act.

(4) The recipient of a limited license may practice only in the employ of public agencies or institutions or nonprofit agencies or institutions which meet the requirements of s. 501(c)(3) of the Internal Revenue Code, and which provide professional liability coverage for acts or omissions of the limited licensee. A limited licensee may provide services only to the indigent, underserved, or critical need populations within the state. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The board, or the department when there is no board, may adopt rules to define underserved and critical need areas and to ensure implementation of this section.

(5) A board, or the department when there is no board, may provide by rule for supervision of limited licensees to protect the health, safety, and welfare of the public.

(6) Each applicant granted a limited license is subject to all the provisions of this part and the respective practice act under which the limited license is issued which are not in conflict with this section.

(7) This section does not apply to chapter 458 or chapter 459.

Section 51. Section 455.2141, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 455.564, Florida Statutes, and amended to read:

455.564 ~~455.2141~~ *Department* ~~Agency for Health Care Administration~~; general licensing provisions.—

(1) Any person desiring to be licensed in a profession within the jurisdiction of the *department* ~~Agency for Health Care Administration~~ shall apply to the *department* ~~agency~~ in writing to take the licensure examination. The application shall be made on a form prepared and furnished by the *department* ~~agency~~ and shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the *department* ~~agency~~.

(2) Before the issuance of any license, the *department* ~~Agency for Health Care Administration~~ may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the *department* ~~agency~~. Upon receipt of the appropriate license fee, the *department* ~~agency~~ shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule.

(3) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the *department* ~~Agency for Health Care Administration~~, the administrative law judge shall submit his recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for licensure may appeal the final order of the board in accordance with the provisions of chapter 120.

(4) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

(5) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years, which may include up to 1 hour of risk management or cost containment and up to 2 hours of other topics related to the applicable medical specialty, if required by board rule. Each of such boards shall determine whether any specific course requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any course mandated by such board.

(6) The respective boards within the jurisdiction of the *department* ~~Agency for Health Care Administration~~ may adopt rules to provide for the use of approved videocassette courses, not to exceed 5 hours per subject, to fulfill the continuing education requirements of the professions they regulate. Such rules shall provide for prior board approval of the criteria for and content of such courses and shall provide for a videocassette course validation form to be signed by the vendor and the licensee and submitted to the *department* ~~Agency for Health Care Administration~~, along with the license renewal application, for continuing education credit.

(7) Any board that currently requires continuing education for renewal of a license shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board, or the department if there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this subsection. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department if there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical-need areas or for training leading to advanced professional certification. The board, or the department if there is no board, may make rules to define underserved and critical-need areas. The department shall adopt rules for administering continuing education requirements adopted by the boards or the department if there is no board.

(8) Notwithstanding any law to the contrary, an elected official who is licensed under a practice act administered by the Division of Health Quality Assurance may hold employment for compensation with any public agency concurrent with such public service. Such dual service must be disclosed according to any disclosure required by applicable law.

(9) In any instance in which a licensee or applicant to the department is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, then the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day which is not a Saturday, Sunday, or legal holiday.

Section 52. Section 455.2142, Florida Statutes, is transferred, renumbered as section 455.567, Florida Statutes, and amended to read:

455.567 ~~455.2142~~ Sexual misconduct; disqualification for license, certificate, or registration.—Each board within the jurisdiction of the *department* ~~Agency for Health Care Administration~~, or the *department* ~~agency~~ if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant has:

(1) Had any license, certificate, or registration to practice any profession or occupation revoked or surrendered based on a violation of sexual misconduct in the practice of that profession under the laws of any other state or any territory or possession of the United States and has not had that license, certificate, or registration reinstated by the licensing authority of the jurisdiction that revoked the license, certificate, or registration; or

(2) Committed any act in any other state or any territory or possession of the United States which if committed in this state would constitute sexual misconduct.

A licensing authority's acceptance of a candidate's relinquishment of a license which is offered in response to or in anticipation of the filing of administrative charges against the candidate's license constitutes the surrender of the license.

Section 53. Section 455.571, Florida Statutes, is created to read:

455.571 Use of professional testing services.—Notwithstanding any other provision of law to the contrary, the department may use a professional testing service to prepare, administer, grade, and evaluate any computerized examination, when that service is available and approved by the board, or the department if there is no board.

Section 54. Section 455.2173, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 455.574, Florida Statutes, and amended to read:

455.574 ~~455.2173~~ *Department of Health* ~~Agency for Health Care Administration~~; examinations.—

(1)(a) The *department* ~~Agency for Health Care Administration~~ shall provide, *contract, or approve* services for the *development,* preparation, ~~and~~ administration, *scoring, score reporting, and evaluation* of all examinations, *in consultation with the appropriate board.* The *department* ~~agency~~ shall *certify* ~~ensure~~ that ~~the~~ examinations *developed and approved by the department* adequately and reliably measure an applicant's ability to practice the profession regulated by the *department* ~~agency and shall seek the advice of the appropriate board in the preparation and administration of the examinations~~. After an examination *developed or approved by the department* has been administered, the board, *or the department when there is no board,* may reject any question which does not reliably measure the general areas of competency specified in the rules of the board. The *department may contract for the preparation, administration, scoring, score reporting, and evaluation of* ~~agency shall use professional testing services to prepare, administer, grade, and evaluate the~~ examinations, when such services are available and approved by the board.

(b) *For each examination developed by the department or contracted vendor,* to the extent not otherwise specified by statute, the board, or *the department*~~,~~ when there is no board, ~~the Agency for Health Care Administration,~~ shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade, *and fees, where applicable, to cover the actual cost for any purchase, development, and administration of required examinations. This subsection does not apply to national examinations approved and administered pursuant to paragraph (c).* If a practical examination is deemed to be necessary, the rules shall specify the criteria by which examiners are to

be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board, *or the department when there is no board,* may conduct such exercise. Therefore, board members, *or employees of the department when there is no board,* may serve as examiners at a practical examination with the consent of the board *or department, as appropriate.*

(c) The *board, or the department when there is no board, may approve by rule the use of any national examination which the department has certified as meeting requirements of national examinations and generally accepted testing standards pursuant to department rules. Providers of examinations seeking certification by the department shall pay the actual costs incurred by the department in making a determination regarding the certification* ~~Agency for Health Care Administration shall use any national examination which is available and which is approved by the board~~. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or *department; or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination and supply test score information to the department* ~~agency~~. The *department* ~~agency~~ may delegate to the board the duty to provide and administer the examination. *Any national examination approved by a board, or the department when there is no board, prior to October 1, 1997, is deemed certified under this paragraph.*

(d) Each board, or *the department*~~,~~ when there is no board, ~~the Agency for Health Care Administration~~ shall adopt rules regarding the security and monitoring of examinations. The *department* ~~agency~~ shall implement those rules adopted by the respective boards. *In order to maintain the security of examinations, the department may employ the procedures set forth in s. 455.637 to seek fines and injunctive relief against an examinee who violates the provisions of s. 455.577 or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules.*

(e) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority an examination developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this part.

(2) *For each examination developed by the department or a contracted vendor,* the board, or *the department*~~,~~ when there is no board, ~~the Agency for Health Care Administration~~ shall adopt rules providing for reexamination of any applicants who ~~have~~ failed *an* ~~the~~ examination *developed by the department or a contracted vendor.* If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which *the applicant* ~~he~~ failed to achieve a passing grade, if *the applicant* ~~he~~ successfully passes that portion within a reasonable time, *as determined by rule of the board, or the department when there is no board,* of ~~his~~ passing the other portion. *Except for national examinations approved and administered pursuant to this section, the department shall provide procedures for applicants who fail an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection.* ~~The board or, when there is no board, the agency shall make available an examination review procedure for applicants and charge an examination review fee not to exceed $75 per review. Unless prohibited or limited by rules implementing security or access guidelines of national examinations, the applicant is entitled to review his examination questions, answers, papers, grades, and grading key.~~ An applicant may waive in writing the confidentiality of *the applicant's* ~~his~~ examination grades.

(3) *For each examination developed or administered by the department or a contracted vendor,* ~~The Agency for Health Care Administration shall make~~ an accurate record of each applicant's examination questions, answers, papers, grades, and grading key~~. The agency~~ shall *be kept* ~~keep such record~~ for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and *257* ~~267~~. *This subsection does not apply to national examinations approved and administered pursuant to this section.*

(4) Meetings of any member of the *department* ~~Agency for Health Care Administration~~ or of any board within the *department* ~~agency~~ held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. Any public records, such as tape recordings, minutes, or notes, generated during or as a result of such meetings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, these exemptions shall not affect the right of any person to review an examination as provided in subsection (2).

(5) For examinations developed by the department or a contracted vendor, each board, or the department when there is no board, may provide licensure examinations in an applicant's native language. Applicants for examination or reexamination pursuant to this subsection shall bear the full cost for the department's development, preparation, administration, grading, and evaluation of any examination in a language other than English. Requests for translated examinations must be on file in the board office at least 6 months prior to the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English, the board shall consider the percentage of the population who speak the applicant's native language. Applicants must apply for translation to the applicable board at least 6 months prior to the scheduled examination.

(6) In addition to meeting any other requirements for licensure by examination or by endorsement, an applicant may be required by a board, or the department when there is no board, to certify competency in state laws and rules relating to the applicable practice act.

Section 55. Section 455.577, Florida Statutes, is created to read:

455.577 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.624, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 56. Section 455.581, Florida Statutes, is created to read:

455.581 Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, within its jurisdiction, the department shall by rule provide procedures under which exiled professionals may be examined within each practice act. A person shall be eligible for such examination if the person:

(a) Immigrated to the United States after leaving the person's home country because of political reasons, provided such country is located in the Western Hemisphere and lacks diplomatic relations with the United States;

(b) Applies to the department and submits a fee;

(c) Was a Florida resident immediately preceding the person's application;

(d) Demonstrates to the department, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university; however, the department may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department shall develop rules for the approval of such programs for its boards.

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the department, for its boards, shall provide a written practical examination which tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. Evidence of meeting the requirements of subsection (1) shall be treated by the department as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant shall not be examined by the department on such fundamentals.

(3) The fees charged for the examinations offered under subsection (2) shall be established by the department, for its boards, by rule and shall be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4) The department shall examine any applicant who meets the requirements of subsections (1) and (2). Upon passing the examination and the issuance of the license, a licensee is subject to the administrative requirements of this part and the respective practice act under which the license is issued. Each applicant so licensed is subject to all provisions of this part and the respective practice act under which the license was issued.

(5) Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language, provided that any translation costs are borne by the applicant.

(6) The department, for its boards, shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action which would constitute a violation of this part or the professional practice acts administered by the department and the boards until such time as the investigation or prosecution is complete, at which time the provisions of the professional practice acts shall apply.

Section 57. Section 455.584, Florida Statutes, is created to read:

455.584 Exemption for certain out-of-state or foreign professionals; limited practice permitted.—

(1) A professional of any other state or of any territory or other jurisdiction of the United States or of any other nation or foreign jurisdiction is exempt from the requirements of licensure under this part and the applicable professional practice act under the agency with regulatory jurisdiction over the profession if that profession is regulated in this state under the agency with regulatory jurisdiction over the profession and if that person:

(a) Holds, if so required in the jurisdiction in which that person practices, an active license to practice that profession.

(b) Engages in the active practice of that profession outside the state.

(c) Is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event.

(2) A professional's practice under this section is limited to the members, coaches, and staff of the team for which that professional is employed or designated and to any animals used if the sporting event for which that professional is employed or designated involves animals. A professional practicing under authority of this section shall not have practice privileges in any licensed health care facility or veterinary facility without the approval of that facility.

Section 58. Section 455.220, Florida Statutes, is transferred, renumbered as section 455.587, Florida Statutes, and amended to read:

455.587 ~~455.220~~ Fees; receipts; disposition for boards within the *department* ~~Agency for Health Care Administration~~.—

(1) Each board within the jurisdiction of the *department* ~~Agency for Health Care Administration~~ shall determine by rule the amount of *license* ~~licensing~~ fees for its profession, based upon *long-range* estimates *prepared* by the *department* ~~agency~~ of the revenue required to implement *laws relating* ~~this part and the provisions of law with respect~~ to the regulation of professions by the *department* ~~agency~~ and *the* ~~any~~ board ~~within the agency~~. *Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this part. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.*

(2) Each board, or the department if there is no board, may, by rule, assess and collect a one-time fee from each active and each voluntary inactive licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the professions as required in this section. Not more than one such assessment may be made in any 4-year period without specific legislative authorization.

(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 renewal fee not to exceed $250 for the renewal of providership of such courses. This subsection does not apply to continuing education courses or providers approved by the board under chapter 465.

(4)~~(2)~~ All moneys collected by the *department* ~~Agency for Health Care Administration~~ from fees or fines or from costs awarded to the agency by a court shall be paid into *a trust fund used by the department to implement this part* ~~the Health Care Trust Fund~~. The Legislature shall appropriate funds from this trust fund sufficient to carry out ~~the provisions of~~ this part and the provisions of law with respect to professions regulated by *the Division of Medical Quality Assurance within* the *department* ~~Agency for Health Care Administration~~ and *the boards* ~~any board within the agency~~. *The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this part for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. The department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 455.644.*

(5) The department shall provide a condensed management report of budgets, finances, performance statistics, and recommendations to each board at least once a quarter. The department shall identify and include in such presentations any changes, or projected changes, made to the board's budget since the last presentation.

(6) If a duplicate license is required or requested by the licensee, the board or, if there is no board, the department may charge a fee as determined by rule not to exceed $25 before issuance of the duplicate license.

(7) The department or the appropriate board shall charge a fee not to exceed $25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the appropriate board shall assess a fee for duplicating a public record as provided in s. 119.07(1)(a) and (b).

Section 59. Section 455.2205, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 408.16, Florida Statutes, and amended to read:

408.16 ~~455.2205~~ Health Care Trust Fund; moneys to be deposited therein.—

(1) There is ~~hereby~~ created in the State Treasury a special fund to be designated as the Health Care Trust Fund, which shall be used in the operation of the Agency for Health Care Administration in the performance of the various functions and duties required of it by law.

(2) All fees, license fees, and other charges collected by the agency shall be deposited in the State Treasury to the credit of the Health Care Trust Fund, to be used in the operation of the agency as authorized by the Legislature. However, penalties and interest assessed and collected by the agency shall not be deposited in the trust fund but shall be deposited in the General Revenue Fund. The Health Care Trust Fund shall be subject to the service charge imposed pursuant to chapter 215.

(3) The agency shall maintain separate revenue and expenditure accounts in the Health Care Trust Fund for every ~~profession regulated and~~ provider licensed by the agency.

~~(4) The agency shall, to the extent practicable, provide for the proportionate allocation among the accounts of expenses incurred by the agency in the performance of its duties with respect to each regulated profession. The agency shall provide each board with an annual report of revenue expenditures and allocated expenses related to the regulation of that profession, and these reports shall be used by the board to determine the amount of licensing fees for each profession regulated by the agency.~~

(4)~~(5)~~ All other moneys in the Health Care Trust Fund shall be for the use of the agency in the performance of its functions and duties as provided by law, subject to the fiscal and budgetary provisions of general law and the General Appropriations Act.

Section 60. Section 455.594, Florida Statutes, is created to read:

455.594 Legal and investigative services.—

(1) A board shall retain, through the department's contract procedures, board counsel from the Department of Legal Affairs. The Department of Legal Affairs shall provide legal services to each board within the Department of Health, but the primary responsibility of the Department of Legal Affairs shall be to represent the interests of the citizens of the state by vigorously counseling the boards with respect to their obligations under the laws of the state. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. Subject to the prior approval of the Attorney General, any board may retain, through the department's contract procedures, independent legal counsel to provide legal advice to the board on a specific matter. Fees and costs of such counsel by the Department of Legal Affairs or independent legal counsel approved by the Attorney General shall be paid from a trust fund used by the department to implement this part. All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided.

(2) The department may employ or use the legal services of outside counsel and the investigative services of outside personnel. However, no attorney employed or utilized by the department shall prosecute a matter and provide legal services to the board with respect to the same matter.

(3) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to a profession under the jurisdiction of the department shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

Section 61. Section 455.222, Florida Statutes, is transferred, renumbered as section 455.597, Florida Statutes, and amended to read:

455.597 ~~455.222~~ Requirement for instruction on domestic violence.—

(1)(a) ~~As of July 1, 1995,~~ The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 1-hour continuing education course, approved by the board, on domestic violence, as defined in *s. 741.28* ~~s. 741.30~~, as part of biennial relicensure or recertification. The course shall consist of information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b) Each such licensee or certificateholder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for each biennial renewal.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that requires a licensee to complete an educational course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(d) Any person holding two or more licenses subject to the provisions of this subsection shall be permitted to show proof of having taken one board-approved course on domestic violence, for purposes of relicensure or recertification for additional licenses.

(e) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under *s. 455.624(1)(k)* ~~s. 455.227(1)(g)~~. In addition to discipline by the board, the licensee shall be required to complete such course.

(2) The board shall also require, as a condition of granting a license under any chapter specified in paragraph (1)(a), that each applicant for initial licensure under the appropriate chapter complete an educational course acceptable to the board on domestic violence which is substantially equivalent to the course required in subsection (1). An applicant who has not taken such course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete such requirement.

(3) Each board may adopt rules to carry out the provisions of this section.

(4) Each board shall report to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate substantive committees of the Legislature by March 1 of each year as to the implementation of and compliance with the requirements of this section.

Section 62. Section 455.2224, Florida Statutes, is transferred and renumbered as section 455.601, Florida Statutes.

Section 63. Section 455.604, Florida Statutes, is created to read:

455.604 Requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The appropriate board shall require each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; part II, part III, or part V of chapter 468; or chapter 486 to complete a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients.

(2) Each such licensee or certificateholder shall submit confirmation of having completed said course, on a form as provided by the board, when submitting fees for each biennial renewal.

(3) The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1). Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law.

(4) Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses.

(5) Failure to comply with the above requirements shall constitute grounds for disciplinary action under each respective licensing chapter and s. 455.624(1)(e). In addition to discipline by the board, the licensee shall be required to complete the course.

(6) The board shall require as a condition of granting a license under the chapters specified in subsection (1) that an applicant making initial application for licensure complete an educational course acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(7) The board shall have the authority to adopt rules to carry out the provisions of this section.

(8) The board shall report to the Legislature by March 1 of each year as to the implementation and compliance with the requirements of this section.

Section 64. Section 455.607, Florida Statutes, is created to read:

455.607 Requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The board, or the department where there is no board, shall require each person licensed or certified under chapter 480 or part XIV of chapter 468 to complete a continuing educational course approved by the board, or the department where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome, with an emphasis on appropriate behavior and attitude change.

(2) When filing fees for each biennial renewal, each licensee shall submit confirmation of having completed the course, on a form provided by the board or by the department if there is no board. At the time of the subsequent biennial renewal when coursework is to be completed, if the licensee has not submitted confirmation which has been received and recorded by the board, or department if there is no board, the department shall not renew the license.

(3) The board, or the department where there is no board, shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1).

(4) The board, or the department where there is no board, shall require, as a condition of granting a license under any of the chapters or parts thereof specified in subsection (1), that an applicant making initial application for licensure complete an educational course acceptable to the board, or the department where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(5) The board, or the department where there is no board, shall have the authority to adopt rules to carry out the provisions of this section.

(6) The board, or the department where there is no board, shall report to the Legislature by March 1 of each year as to the implementation and compliance with the requirements of this section.

(7) Any professional holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course, or one department-approved course where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses.

Section 65. Section 455.611, Florida Statutes, is created to read:

455.611 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of any investigation or proceeding conducted by the department, the department shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.569.

Section 66. Section 455.614, Florida Statutes, is created to read:

455.614 Mediation.—

(1) Notwithstanding the provisions of s. 455.621, the board, or the department when there is no board, shall adopt rules to designate which violations of the applicable professional practice act are appropriate for mediation. The board, or the department when there is no board, may designate as mediation offenses those complaints where harm caused by the licensee is economic in nature or can be remedied by the licensee.

(2) After the department determines a complaint is legally sufficient and the alleged violations are defined as mediation offenses, the department or any agent of the department may conduct informal mediation to resolve the complaint. If the complainant and the subject of the complaint agree to a resolution of a complaint within 14 days after contact by the mediator, the mediator shall notify the department of the terms of the resolution. The department or board shall take no further action unless the complainant and the subject each fail to record with the department an acknowledgment of satisfaction of the terms of mediation within 60 days of the mediator's notification to the department. In the event the complainant and subject fail to reach settlement terms or to record the required acknowledgment, the department shall process the complaint according to the provisions of s. 455.621.

(3) Conduct or statements made during mediation are inadmissible in any proceeding pursuant to s. 455.621. Further, any information relating to the mediation of a case shall be subject to the confidentiality provisions of s. 455.621.

(4) No licensee shall go through the mediation process more than three times without approval of the department. The department may consider the subject and dates of the earlier complaints in rendering its decision. Such decision shall not be considered a final agency action for purposes of chapter 120.

(5) Any board created on or after January 1, 1995, shall have 6 months to adopt rules designating which violations are appropriate for mediation, after which time the department shall have exclusive authority to adopt rules pursuant to this section. A board shall have continuing authority to amend its rules adopted pursuant to this section.

Section 67. Section 455.617, Florida Statutes, is created to read:

455.617 Authority to issue citations.—

(1) Notwithstanding s. 455.621, the board, or the department if there is no board, shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.621. If the subject disputes the matter in the citation, the procedures set forth in s. 455.621 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department if there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board or department rule, as part of the penalty levied pursuant to the citation.

(4) A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6) A board created on or after January 1, 1992, has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

Section 68. Section 455.621, Florida Statutes, is created to read:

455.621 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this part, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chairman of the respective board or the chairman of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department if there is no board, shall establish by rule those minor violations under this provision which do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chairman. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the

board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this part. All proceedings of the probable cause panel are exempt from s. 120.525.

(5) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The administrative law judge shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (5) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed-upon settlement shall be subject to the approval of the department.

(7) The department shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Secretary of the Department of Health or his or her designee, as appropriate, who shall issue the final summary order.

(9)(a) The department shall periodically notify the person who filed the complaint of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(b) In any disciplinary case for which probable cause has been found, the department shall provide to the person who filed the complaint a copy of the administrative complaint and:

1. A written explanation of how an administrative complaint is resolved by the disciplinary process.

2. A written explanation of how and when the person may participate in the disciplinary process.

3. A written notice of any hearing before the Division of Administrative Hearings or the regulatory board at which final agency action may be taken.

(c) In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the probable cause panel which may be relevant to the decision. In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his privilege of confidentiality, whichever occurs first. Upon completion of the investigation and pursuant to a written request by the subject, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 455.667, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 455.667. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a) No person who reports in any capacity, whether or not required by law, information to the department with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the department about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c) In any civil suit brought outside the protections of paragraphs (a) and (b) in which intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.

Section 69. Section 455.624, Florida Statutes, is created to read:

455.624 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted pursuant to s. 501.122(2) governing the registration of such devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this part, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this part, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating any provision of this part, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g) Corrective action.

(3) In addition to any other discipline imposed pursuant to this section or discipline imposed for a violation of any practice act, the board, or the department when there is no board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(4) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this part, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

(5) In the event the board, or the department when there is no board, determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish by rule requirements for reapplication by applicants whose licenses have been permanently revoked. Such requirements may include, but shall not be limited to, satisfying current requirements for an initial license.

Section 70. Section 455.627, Florida Statutes, is created to read:

455.627 Disciplinary guidelines.—

(1) Each board, or the department if there is no board, shall adopt by rule and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department if there is no board, pursuant to this part, the respective practice acts, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department if there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

Section 71. Section 455.631, Florida Statutes, is created to read:

455.631 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.624, the act of knowingly giving false information in the course of applying for or obtaining a license from the department, or any board thereunder, with intent to mislead a public servant in the performance of his official duties, or the act of attempting to obtain or obtaining a license from the department, or any board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 72. Section 455.634, Florida Statutes, is created to read:

455.634 Prosecution of criminal violations.—The department or the appropriate board shall report any criminal violation of any statute

relating to the practice of a profession regulated by the department or appropriate board to the proper prosecuting authority for prompt prosecution.

Section 73. Section 455.637, Florida Statutes, is created to read:

455.637 Unlicensed practice of a profession; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected.—

(1) When the department has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this part or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order. In addition to the foregoing remedies, the department may impose an administrative penalty not to exceed $5,000 per incident pursuant to the provisions of chapter 120 or may issue a citation pursuant to the provisions of subsection (3). If the department is required to seek enforcement of the agency order for a penalty pursuant to s. 120.569, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than $500 and no more than $5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation.

(3)(a) Notwithstanding the provisions of s. 455.621, the department shall adopt rules to permit the issuance of citations for unlicensed practice of a profession. The citation shall be issued to the subject and shall contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.621. If the subject disputes the matter in the citation, the procedures set forth in s. 455.621 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The penalty shall be a fine of not less than $500 or more than $5,000 or other conditions as established by rule.

(b) Each day that the unlicensed practice continues after issuance of a citation constitutes a separate violation.

(c) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to department rule as part of the penalty levied pursuant to the citation.

(d) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(4) All fines, fees, and costs collected through the procedures set forth in this section shall be allocated to the professions in the manner provided for in s. 455.641 for the allocation of the fees assessed and collected to combat unlicensed practice of a profession.

(5) The provisions of this section apply only to the professional practice acts administered by the department.

Section 74. Section 455.641, Florida Statutes, is created to read:

455.641 Unlicensed activities; fees; disposition.—In order to protect the public and to ensure a consumer-oriented department, it is the intent of the Legislature that vigorous enforcement of regulation for all professional activities is a state priority. All enforcement costs should be covered by professions regulated by the department. Therefore, the department shall impose, upon initial licensure and each renewal thereof, a special fee of $5 per licensee. Such fee shall be in addition to all other fees collected from each licensee and shall fund efforts to combat unlicensed activity. The board with concurrence of the department, or the department when there is no board, may earmark $5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash balance. The department shall make direct charges to this fund by profession and shall not allocate indirect overhead. The department shall seek board advice regarding enforcement methods and strategies prior to expenditure of funds. The department shall directly credit, by profession, revenues received from the department's efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 455.219. The department shall not charge the account of any profession for the costs incurred on behalf of any other profession. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession.

Section 75. Section 455.644, Florida Statutes, is created to read:

455.644 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department is directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(1) The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.

(2) The number of complaints received and investigated.

(3) The number of findings of probable cause made.

(4) The number of findings of no probable cause made.

(5) The number of administrative complaints filed.

(6) The disposition of all administrative complaints.

(7) A description of disciplinary actions taken.

(8) A description of any effort by the department to reduce or otherwise close any investigation or disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this part.

(9) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 455.627.

(10) Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

Section 76. Section 455.647, Florida Statutes, is created to read:

455.647 Public inspection of information required from applicants; exceptions; examination hearing.—

(1) All information required by the department of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except members of the board, the department, and staff thereof, who have a bona fide need to know such information. Any information supplied to the department by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential pursuant to applicable law while in the custody of the department or the agency.

(2) The department shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination ques-

tions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the administrative law judge. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the administrative law judge.

(3) Unless an applicant notifies the department at least 5 days prior to an examination hearing of the applicant's inability to attend, or unless an applicant can demonstrate an extreme emergency for failing to attend, the department may require an applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department for the examination hearing.

Section 77. Section 455.651, Florida Statutes, is created to read:

455.651 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the department, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 455.227, and, if applicable, shall be removed from office, employment, or the contractual relationship.

Section 78. Section 455.236, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 455.654, Florida Statutes, and amended to read:

455.654 ~~455.236~~ Financial arrangements between referring health care providers and providers of health care services.—

(1) SHORT TITLE.—This section ~~shall be known and~~ may be cited as the "Patient Self-Referral Act of 1992."

(2) LEGISLATIVE INTENT.—It is recognized by the Legislature that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest. The Legislature finds these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care. The Legislature also recognizes, however, that it may be appropriate for providers to own entities providing health care services, and to refer patients to such entities, as long as certain safeguards are present in the arrangement. It is the intent of the Legislature to provide guidance to health care providers regarding prohibited patient referrals between health care providers and entities providing health care services and to protect the *people* ~~citizens~~ of Florida from unnecessary and costly health care expenditures.

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

(a) "Board" means any of the following boards relating to the respective professions: the Board of Medicine as created in s. 458.307; the Board of Osteopathic Medicine as created in s. 459.004; the Board of Chiropractic as created in s. 460.404; the Board of Podiatric Medicine as created in s. 461.004; the Board of Optometry as created in s. 463.003; the Board of Pharmacy as created in s. 465.004; and the Board of Dentistry as created in s. 466.004.

(b) "Comprehensive rehabilitation services" means services that are provided by health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

(c) "Designated health services" means, for purposes of this section, clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic-imaging services, and radiation therapy services.

(d) "Entity" means any individual, partnership, firm, corporation, or other business entity.

(e) "Fair market value" means value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use, and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

(f) "Group practice" means a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

1. In which each health care provider who is a member of the group provides substantially the full range of services which the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

2. For which substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

3. In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(g) "Health care provider" means any physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or any health care provider licensed under chapter 463 or chapter 466.

(h) "Immediate family member" means a health care provider's spouse, child, child's spouse, grandchild, grandchild's spouse, parent, parent-in-law, or sibling.

(i) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments. Except for purposes of *s. 455.661* ~~s. 455.239~~, the following investment interests shall be excepted from this definition:

1. An investment interest in an entity that is the sole provider of designated health services in a rural area;

2. An investment interest in notes, bonds, debentures, or other debt instruments issued by an entity which provides designated health services, as an integral part of a plan by such entity to acquire such investor's equity investment interest in the entity, provided that the interest rate is consistent with fair market value, and that the maturity date of the notes, bonds, debentures, or other debt instruments issued by the entity to the investor is not later than October 1, 1996.

3. An investment interest in real property resulting in a landlord-tenant relationship between the health care provider and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or exceeds fair market value; or

4. An investment interest in an entity which owns or leases and operates a hospital licensed under chapter 395 or a nursing home facility licensed under chapter 400.

(j) "Investor" means a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. s. 413.17, in an entity.

(k) "Referral" means any referral of a patient by a health care provider for health care services, including, without limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. Except for the purposes of *s. 455.661* ~~s. 455.239~~, the following orders, recommendations, or plans of care shall not constitute a referral by a health care provider:

a. By a radiologist for diagnostic-imaging services.

b. By a physician specializing in the provision of radiation therapy services for such services.

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer and the complications thereof.

d. By a cardiologist for cardiac catheterization services.

e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician.

f. By a health care provider who is the sole provider or member of a group practice for designated health services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the direct supervision of such referring health care provider or group practice.

g. By a health care provider for services provided by an ambulatory surgical center licensed under chapter 395.

h. By a health care provider for diagnostic clinical laboratory services where such services are directly related to renal dialysis.

i. By a urologist for lithotripsy services.

j. By a dentist for dental services performed by an employee of or health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member.

k. By a physician for infusion therapy services to a patient of that physician or a member of that physician's group practice.

l. By a nephrologist for renal dialysis services and supplies.

(l) "Rural area" means a county with a population density of no greater than 100 persons per square mile, as defined by the United States Census.

(4) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as provided in this section:

(a) A health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor or has an investment interest.

(b) A health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:

1. The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:

a. Whose shares are traded on a national exchange or on the over-the-counter market; and

b. Whose total assets at the end of the corporation's most recent fiscal quarter exceeded $50 million; or

2. With respect to an entity other than a publicly held corporation described in subparagraph 1., and a referring provider's investment interest in such entity, each of the following requirements are met:

a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.

b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals.

c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity.

d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor.

3. With respect to either such entity or publicly held corporation:

a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest.

b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

4. Each board and, in the case of hospitals, the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~, shall encourage the use by licensees of the declaratory statement procedure to determine the applicability of this section or any rule adopted pursuant to this section as it applies solely to the licensee. Boards shall submit to the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ the name of any entity in which a provider investment interest has been approved pursuant to this section, and the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ shall adopt rules providing for periodic quality assurance and utilization review of such entities.

(c) No claim for payment may be presented by an entity to any individual, third-party payor, or other entity for a service furnished pursuant to a referral prohibited under this section.

(d) If an entity collects any amount that was billed in violation of this section, the entity shall refund such amount on a timely basis to the payor or individual, whichever is applicable.

(e) Any person that presents or causes to be presented a bill or a claim for service that such person knows or should know is for a service for which payment may not be made under paragraph (c), or for which a refund has not been made under paragraph (d), shall be subject to a civil penalty of not more than $15,000 for each such service to be imposed and collected by the appropriate board.

(f) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement, which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil penalty of not more than $100,000 for each such circumvention arrangement or scheme to be imposed and collected by the appropriate board.

(g) A violation of this section by a health care provider shall constitute grounds for disciplinary action to be taken by the applicable board pursuant to s. 458.331(2), s. 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s. 466.028(2). Any hospital licensed under chapter 395 found in violation of this section shall be subject to the rules adopted by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ pursuant to s. 395.0185(2).

(h) Any hospital licensed under chapter 395 that discriminates against or otherwise penalizes a health care provider for compliance with this act.

(i) The provision of paragraph (a) shall not apply to referrals to the offices of radiation therapy centers managed by an entity or subsidiary or general partner thereof, which performed radiation therapy services at those same offices prior to April 1, 1991, and shall not apply also to

referrals for radiation therapy to be performed at no more than one additional office of any entity qualifying for the foregoing exception which, prior to February 1, 1992, had a binding purchase contract on and a nonrefundable deposit paid for a linear accelerator to be used at the additional office. The physical site of the radiation treatment centers affected by this provision may be relocated as a result of the following factors: acts of God; fire; strike; accident; war; eminent domain actions by any governmental body; or refusal by the lessor to renew a lease. A relocation for the foregoing reasons is limited to relocation of an existing facility to a replacement location within the county of the existing facility upon written notification to the Office of Licensure and Certification.

(j) A health care provider who meets the requirements of paragraphs (b) and (i) must disclose his investment interest to his patients as provided in *s. 455.701* ~~s. 455.25~~.

Section 79. Section 455.237, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 455.657, Florida Statutes.

Section 80. Section 455.239, Florida Statutes, is transferred, renumbered as section 455.661, Florida Statutes, and amended to read:

455.661 ~~455.239~~ Designated health care services; licensure required.—

(1) An entity, as defined in *s. 455.654* ~~s. 455.236~~, which furnishes designated health care services may not operate in this state unless licensed by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ pursuant to subsection (2).

(2) The *agency* ~~department~~ shall adopt rules for licensing requirements for designated health care services including, but not limited to, rules providing for:

(a) A licensure fee of not less than $400 and not more than $1,500 to be assessed annually;

(b) Parameters of quality with respect to the provision of ancillary services by respective entities;

(c) Periodic inspection of the facilities of an entity for the purpose of evaluating the premises, operation, supervision, and procedures of the entity to ensure compliance with quality parameters as established in department rules; and

(d) The submission by an entity of information on its ownership, including identification of the owners who are health care providers, as defined in *s. 455.654* ~~s. 455.251~~, and each investor's percentage of ownership.

Section 81. Section 455.664, Florida Statutes, is created to read:

455.664 Advertisement by a health care provider of free or discounted services; required statement.—In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 466, or chapter 486, the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care provider defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

Section 82. Section 455.241, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 455.667, Florida Statutes, and amended to read:

455.667 ~~455.241~~ *Ownership and control of* patient records; report or copies of records to be furnished.—

(1) As used in this section, the term "records owner" means any health care practitioner who generates a medical record after making a physical or mental examination of, or administering treatment or dispensing legend drugs to, any person; any health care practitioner to whom records are transferred by a previous records owner; or any health care practitioner's employer, including, but not limited to, group practices and staff-model health maintenance organizations, provided the employment contract between the employer and the health care practitioner designates the employer as the records owner.

(2) As used in this section, the terms "records owner," "health care practitioner," and "health care practitioner's employer" do not include any of the following persons or entities; furthermore, any of the following persons or entities that employ such persons are not authorized to acquire or own medical records, but are authorized to maintain those documents required by the part or chapter under which they are licensed or regulated:

(a) Facilities licensed under chapter 395.

(b) Certified nursing assistants regulated under s. 400.211.

(c) Pharmacists and pharmacies licensed under chapter 465.

(d) Dental hygienists licensed under s. 466.023.

(e) Nursing home administrators licensed under part II of chapter 468.

(f) Respiratory therapists regulated under part V of chapter 468.

(g) Athletic trainers licensed under part XIV of chapter 468.

(h) Electrolysists licensed under chapter 478.

(i) Clinical laboratory personnel licensed under part III of chapter 483.

(j) Medical physicists licensed under part IV of chapter 483.

(k) Opticians licensed under part I of chapter 484.

(l) Persons or entities practicing under s. 627.736(7).

(3)~~(1)~~ Any health care practitioner licensed by the department or a board within the department who makes a physical or mental examination of, or administers treatment or dispenses legend drugs to, any person shall, upon request of such person or the person's legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information. However, when a patient's psychiatric, chapter 490 psychological, or chapter 491 psychotherapeutic records are requested by the patient or the patient's legal representative, the *health care* practitioner may provide a report of examination and treatment in lieu of copies of records. Upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.

(4)~~(2)~~ Except as otherwise provided in *this section and in* s. 440.13*(4)(c)*~~(2)~~, such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care *practitioners and* providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization *under the following circumstances:*

(a) To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

(b) ~~or~~ When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff.

(c) ~~Such records may be furnished~~ In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena

from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records.

(d) For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(5) Except in a medical negligence action *or administrative proceeding* when a health care *practitioner or* provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care *practitioners and* providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.

(6) The department ~~or the Agency for Health Care Administration, as appropriate,~~ may obtain patient records *and insurance information, if the complaint being investigated alleges inadequate medical care based on termination of insurance. The department may access these records* pursuant to a subpoena without written authorization from the patient if the department ~~or the Agency for Health Care Administration~~ and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a *health care* practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this *part* ~~chapter~~ or any professional practice act or that a *health care* practitioner has practiced his *or her* profession below that level of care, skill, and treatment required as defined by this *part* ~~chapter~~ or any professional practice act; provided, however, the patient record obtained by the department ~~or the agency~~ pursuant to this subsection shall be used solely for the purpose of the department ~~or the agency~~ and the appropriate regulatory board in disciplinary proceedings. The *records* ~~record~~ shall otherwise be confidential and exempt from s. 119.07(1). This section does not limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the *health care* practitioner shall release records of treatment for medical conditions even if the *health care* practitioner has also treated the patient for mental or nervous disorders. If the department ~~or the agency~~ has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department ~~or the agency~~ may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(7)~~(3)~~ All patient records obtained by the department ~~or the Agency for Health Care Administration~~ and any other documents maintained by the department ~~or the agency~~ which identify the patient by name are confidential and exempt from s. 119.07(1) and shall be used solely for the purpose of the department ~~or the Agency for Health Care Administration~~ and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the department ~~or the Agency for Health Care Administration~~ or the appropriate board.

(8) All records owners shall develop and implement policies, standards, and procedures to protect the confidentiality and security of the medical record. Employees of records owners shall be trained in these policies, standards, and procedures.

(9) Records owners are responsible for maintaining a record of all disclosures of information contained in the medical record to a third party, including the purpose of the disclosure request. The record of disclosure may be maintained in the medical record. The third party to whom information is disclosed is prohibited from further disclosing any information in the medical record without the expressed written consent of the patient or the patient's legal representative.

(10) Notwithstanding the provisions of s. 455.677, records owners shall place an advertisement in the local newspaper or notify patients, in writing, when they are terminating practice, retiring, or relocating, and no longer available to patients, and offer patients the opportunity to obtain a copy of their medical record.

(11) Notwithstanding the provisions of s. 455.677, records owners shall notify the appropriate board office when they are terminating practice, retiring, or relocating, and no longer available to patients, specifying who the new records owner is and where medical records can be found.

(12) Whenever a records owner has turned records over to a new records owner, the new records owner shall be responsible for providing a copy of the complete medical record, upon written request, of the patient or the patient's legal representative.

(13) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(14) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed $5,000 per violation.

(15)~~(4)~~ A health care practitioner 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 appropriate board, *or the department when there is no board.*

(16) Nothing in this section shall be construed to limit health care practitioner consultations, as necessary.

(17) A records owner shall release to a health care practitioner who, as an employee of the records owner, previously provided treatment to a patient, those records that the health care practitioner actually created or generated when the health care practitioner treated the patient. Records released pursuant to this subsection shall be released only upon written request of the health care practitioner and shall be limited to the notes, plans of care, and orders and summaries that were actually generated by the health care practitioner requesting the record.

Section 83. Section 455.2415, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 455.671, Florida Statutes, and amended to read:

455.671 ~~455.2415~~ Communications confidential; exceptions.—Communications between a patient and a psychiatrist, as defined in *s. 394.455* ~~s. 394.455(23)~~, shall be held confidential and shall not be disclosed except upon the request of the patient or the patient's legal representative. Provision of psychiatric records and reports shall be governed by *s. 455.667* ~~s. 455.241~~. Notwithstanding any other *provision* ~~provisions~~ of this section or s. 90.503, where:

(1) A patient is engaged in a treatment relationship with a psychiatrist;

(2) Such patient has made an actual threat to physically harm an identifiable victim or victims; and

(3) The treating psychiatrist makes a clinical judgment that the patient has the apparent capability to commit such an act and that it is more likely than not that in the near future the patient will carry out that threat,

the psychiatrist may disclose patient communications to the extent necessary to warn any potential victim or to communicate the threat to a law enforcement agency. No civil or criminal action shall be instituted, and there shall be no liability on account of disclosure of otherwise confidential communications by a psychiatrist in disclosing a threat pursuant to this section.

Section 84. Section 455.2416, Florida Statutes, is transferred and renumbered as section 455.674, Florida Statutes.

Section 85. Section 455.677, Florida Statutes, is created to read:

455.677 Disposition of records of deceased practitioners or practitioners relocating or terminating practice.—Each board created under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, chapter 464, chapter 465, chapter 466, part I of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462, shall provide by rule for the disposition, under that chapter, of the medical records or records of a psychological

nature of practitioners which are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available to patients and which records pertain to the practitioner's patients. The rules shall provide that the records be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

Section 86. Section 455.681, Florida Statutes, is created to read:

455.681 Authority to inspect.—In addition to the authority specified in s. 465.017, duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours:

(1) Any pharmacy; or

(2) Any establishment at which the services of a licensee authorized to prescribe controlled substances specified in chapter 893 are offered,

for the purpose of determining if any of the provisions of this part or any practice act of a profession or any rule adopted thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

Section 87. Section 455.244, Florida Statutes, is transferred and renumbered as section 455.684, Florida Statutes.

Section 88. Section 455.687, Florida Statutes, is created to read:

455.687 Certain health care practitioners; immediate suspension of license.—

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409 or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(x), in regard to his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the Secretary of Health shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the authority of the secretary of the department to issue an emergency order.

Section 89. Section 455.2455, Florida Statutes, is transferred and renumbered as section 455.691, Florida Statutes.

Section 90. Section 455.2456, Florida Statutes, is transferred, renumbered as section 455.694, Florida Statutes, and amended to read:

455.694 ~~455.2456~~ Boards regulating certain health care practitioners.—

(1) As a prerequisite for licensure or license renewal, the Board of Acupuncture, the Board of Chiropractic, the Board of Podiatric Medicine, and the Board of Dentistry shall, by rule, require that all health care practitioners licensed under the respective board, and the Board of Nursing shall, by rule, require that advanced registered nurse practitioners certified under s. 464.012, maintain medical malpractice insurance or provide proof of financial responsibility in an amount and in a manner determined by the board to be sufficient to cover claims arising out of the rendering of or failure to render professional care and services in this state.

(2) The board may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, or chapter 466 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of *s. 768.28(15)* ~~s. 768.28(14)~~ or who is a volunteer under s. 110.501(1).

(b) Any person whose license or certification has become inactive under chapter 457, chapter 460, chapter 461, chapter 464, or chapter 466 and who is not practicing in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after October 1, 1993, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to *s. 455.561* ~~s. 455.214~~, and practicing under the scope of such limited license.

(d) Any person licensed or certified under chapter 457, chapter 460, chapter 461, s. 464.012, or chapter 466 who practices only in conjunction with his teaching duties at an accredited school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the school.

(e) Any person holding an active license or certification under chapter 457, chapter 460, chapter 461, s. 464.012, or chapter 466 who is not practicing in this state. If such person initiates or resumes practice in this state, he must notify the department of such activity.

(f) Any person who can demonstrate to the board that he has no malpractice exposure in the state.

(3) Notwithstanding the provisions of this section, the financial responsibility requirements of ss. 458.320 and 459.0085 shall continue to apply to practitioners licensed under those chapters.

Section 91. Section 455.247, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 455.697, Florida Statutes.

Section 92. Section 455.25, Florida Statutes, is transferred and renumbered as section 455.701, Florida Statutes, and is amended to read:

455.701 ~~455.25~~ Disclosure of financial interest by production.—

(1) A health care provider shall not refer a patient to an entity in which such provider is an investor unless, prior to the referral, the provider furnishes the patient with a written disclosure form, informing the patient of:

(a) The existence of the investment interest.

(b) The name and address of each applicable entity in which the referring health care provider is an investor.

(c) The patient's right to obtain the items or services for which the patient has been referred at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor.

(d) The names and addresses of at least two alternative sources of such items or services available to the patient.

~~(2) An entity may not provide items or services to a patient unless, before providing the item or service, the entity obtains the signature of the patient on a written disclosure form informing the patient of:~~

~~(a) The existence or nonexistence of any financial relationship with the health care provider who referred the patient;~~

~~(b) A schedule of typical fees for items or services usually provided by the entity or, if impracticable because of the nature of the treatment, a written estimate specific to the patient;~~

~~(c) The patient's right to obtain the items or services for which the patient has been referred at a location or from a supplier of the patient's choice, including an entity with which the referring health care provider may have a financial relationship; and~~

~~(d) The names, addresses, and telephone numbers of at least two reasonable alternative sources of such items or services available to the patient.~~

(2)~~(3)~~ The *physician or* health care provider ~~and the entity~~ shall post a copy of *the* ~~their respective~~ disclosure forms in *a* conspicuous public *place* ~~places~~ in *his or her office* ~~the offices~~.

(3)~~(4)~~ A violation of this section shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by the respective board.

Section 93. Section 455.26, Florida Statutes, is transferred, renumbered as section 455.704, Florida Statutes, and amended to read:

455.704 ~~455.26~~ Impaired Practitioners Committee; duties.—

(1) There is created the Impaired Practitioners Committee to be composed of one representative appointed by each board under the jurisdiction of the Division of Medical Quality Assurance, of one addictionologist, and one lay member having an appropriate background in the area of impairment, each to be appointed by the agency head of the agency having jurisdiction over the professions,~~; one representative of the Agency for Health Care Administration, to be appointed by the Director of Health Care Administration;~~ and of one representative of the department appointed by the secretary of the department. Section *455.534* ~~455.207~~ applies to the activities of the committee.

(2) The committee shall:

(a) Establish policies and guidelines to be used in approving treatment providers for preventive and rehabilitative programs directed to impaired practitioners;

(b) Act as liaison between approved treatment providers and the department ~~and the Agency for Health Care Administration~~;

(c) Advise the department ~~and the agency~~ on the continuation and expansion of treatment programs for impaired practitioners; and

(d) Disseminate information concerning the impairment program.

Section 94. Section 455.261, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 455.707, Florida Statutes, and amended to read:

455.707 ~~455.261~~ Treatment programs for impaired practitioners.—

(1) For professions *that* ~~which~~ do not have impaired practitioner programs provided for in their practice acts, the department shall, by rule, designate approved treatment programs under this section. The department may adopt rules setting forth appropriate criteria for approval of treatment providers based on the policies and guidelines established by the Impaired Practitioners Committee. The department shall not compel any impaired practitioner program in existence on October 1, 1992, to serve additional professions.

(2) The department shall retain one or more impaired practitioner consultants as recommended by the committee. A consultant shall be a licensee or recovered licensee under the jurisdiction of the Division of Medical Quality Assurance within the department, and at least one consultant must be a practitioner or recovered practitioner licensed under chapter 458, chapter 459, or chapter 464. The consultant shall assist the probable cause panel and department in carrying out the responsibilities of this section. This shall include working with department investigators to determine whether a practitioner is, in fact, impaired.

(3)(a) Whenever the department receives a written or oral legally sufficient complaint alleging that a licensee under the jurisdiction of the Division of Medical Quality Assurance within the department is impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition which could affect the licensee's ability to practice with skill and safety, and no complaint against the licensee other than impairment exists, the reporting of such information shall not constitute a complaint within the meaning of *s. 455.621* ~~s. 455.225~~ if the probable cause panel of the appropriate board, or the department when there is no board, finds:

1. The licensee has acknowledged the impairment problem.

2. The licensee has voluntarily enrolled in an appropriate, approved treatment program.

3. The licensee has voluntarily withdrawn from practice or limited the scope of practice as determined by the panel, or the department when there is no board, in each case, until such time as the panel, or the department when there is no board, is satisfied the licensee has successfully completed an approved treatment program.

4. The licensee has executed releases for medical records, authorizing the release of all records of evaluations, diagnoses, and treatment of the licensee, including records of treatment for emotional or mental conditions, to the consultant. The consultant shall make no copies or reports of records that do not regard the issue of the licensee's impairment and his participation in a treatment program.

(b) If, however, the licensee agrees to withdraw from practice until such time as the consultant determines the licensee has satisfactorily completed an approved treatment program or evaluation, the probable cause panel, or the department when there is no board, shall not become involved in the licensee's case.

(c) Inquiries related to impairment treatment programs designed to provide information to the licensee and others and which do not indicate that the licensee presents a danger to the public shall not constitute a complaint within the meaning of *s. 455.621* ~~s. 455.225~~ and shall be exempt from the provisions of this subsection.

(d) Whenever the department receives a legally sufficient complaint alleging that a licensee is impaired as described in paragraph (a) and no complaint against the licensee other than impairment exists, the department shall forward all information in its possession regarding the impaired licensee to the consultant. For the purposes of this section, a suspension from hospital staff privileges due to the impairment does not constitute a complaint.

(e) The probable cause panel, or the department when there is no board, shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel, or the department when there is no board, shall remain confidential and exempt from the provisions of s. 119.07(1), subject to the provisions of subsections (5) and (6).

(f) A finding of probable cause shall not be made as long as the panel, or the department when there is no board, is satisfied, based upon information it receives from the consultant and the department, that the licensee is progressing satisfactorily in an approved treatment program.

(4) In any disciplinary action for a violation other than impairment in which a licensee establishes the violation for which the licensee is being prosecuted was due to or connected with impairment and further establishes the licensee is satisfactorily progressing through or has successfully completed an approved treatment program pursuant to this section, such information may be considered by the board, or the department when there is no board, as a mitigating factor in determining the appropriate penalty. This subsection does not limit mitigating factors the board may consider.

(5)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a licensee's impairment and participation in the treatment program. All information obtained by the consultant and department pursuant to this section is confidential and exempt from the provisions of s. 119.07(1), subject to the provisions of this subsection and subsection (6). Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

(b) If in the opinion of the consultant, after consultation with the treatment provider, an impaired licensee has not progressed satisfactorily in a treatment program, all information regarding the issue of a licensee's impairment and participation in a treatment program in the consultant's possession shall be disclosed to the department. Such disclosure shall constitute a complaint pursuant to the general provisions of *s. 455.621* ~~s. 455.225~~. Whenever the consultant concludes that impairment affects a licensee's practice and constitutes an immediate, serious danger to the public health, safety, or welfare, that conclusion shall be communicated to the secretary of the department.

(6) A consultant, licensee, or approved treatment provider who makes a disclosure pursuant to this section is not subject to civil liability for such disclosure or its consequences. The provisions of s. 766.101 apply to any officer, employee, or agent of the department or the board

and to any officer, employee, or agent of any entity with which the department has contracted pursuant to this section.

Section 95. Section 455.711, Florida Statutes, is created to read:

455.711 Inactive and delinquent status.—

(1) A licensee may practice a profession only if the licensee has an active-status license. A licensee who practices a profession without an active-status license is in violation of this section and s. 455.624, and the board, or the department if there is no board, may impose discipline on the licensee.

(2) Each board, or the department if there is no board, shall permit a licensee to choose, at the time of licensure renewal, an active or inactive status. However, a licensee who changes from inactive to active status is not eligible to return to inactive status until the licensee thereafter completes a licensure cycle on active status.

(3) Each board, or the department if there is no board, shall by rule impose a fee for an inactive-status license which is no greater than the fee for an active-status license.

(4) An inactive-status licensee may change to active status at any time, if the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active-status licensee, pays any applicable reactivation fees as set by the board, or the department if there is no board, and meets all continuing education requirements as specified in this section.

(5) A licensee must apply with a complete application, as defined by rule of the board, or the department if there is no board, to renew an active-status or inactive-status license before the license expires. If a licensee fails to renew before the license expires, the license becomes delinquent in the license cycle following expiration.

(6) A delinquent-status licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department if there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent-status licensee to become active or inactive before the expiration of the current licensure cycle renders the license null without any further action by the board or the department. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure.

(7) Each board, or the department if there is no board, shall by rule impose an additional delinquency fee, not to exceed the biennial renewal fee for an active-status license, on a delinquent-status licensee when such licensee applies for active or inactive status.

(8) Each board, or the department if there is no board, shall by rule impose an additional fee, not to exceed the biennial renewal fee for an active-status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) Each board, or the department if there is no board, may by rule impose reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination to assess current competency, necessary to ensure that a licensee who has been on inactive status for more than two consecutive biennial licensure cycles and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive. The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) Before reactivation, an inactive or delinquent licensee must meet the same continuing education requirements, if any, imposed on an active-status licensee for all biennial licensure periods in which the licensee was inactive or delinquent.

(11) The status or a change in status of a licensee does not alter in any way the right of the board, or of the department if there is no board, to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent.

(12) This section does not apply to a business establishment registered, permitted, or licensed by the department to do business.

Section 96. Section 455.714, Florida Statutes, is created to read:

455.714 Renewal and cancellation notices.—

(1) At least 90 days before the end of a licensure cycle, the department shall:

(a) Forward a licensure renewal notification to an active or inactive licensee at the licensee's last known address of record with the department.

(b) Forward a notice of pending cancellation of licensure to a delinquent-status licensee at the licensee's last known address of record with the department.

(2) Each licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than two consecutive biennial licensure cycles and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the board or the department if there is no board.

Section 97. Section 455.717, Florida Statutes, is created to read:

455.717 Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

(2) Notwithstanding any other law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required under s. 455.261.

Section 98. Section 455.277, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 408.18, Florida Statutes, and amended to read:

408.18 ~~455.277~~ Health Care Community Antitrust Guidance Act; antitrust no-action letter; market-information collection and education.—

(1) This section may be cited as the "Florida Health Care Community Antitrust Guidance Act."

(2) This section is created to provide instruction to the health care community in a time of tremendous change, and to resolve, as completely as possible, the problem of antitrust uncertainty that may deter mergers, joint ventures, or other business activities that can improve the delivery of health care, without creating costly, time-consuming regulations that can lead to more litigation and delay.

(3) For purposes of this section, the term:

(a) "Health care community" means all licensed health care providers, insurers, networks, purchasers, and other participants in the health care system.

(b) "Antitrust no-action letter" means a letter that states the intention of the Attorney General's office not to take antitrust enforcement actions with respect to the requesting party, based on the specific facts then presented, as of the date the letter is issued.

(4)(a) Members of the health care community who seek antitrust guidance may request a review of their proposed business activity by the Attorney General's office. In conducting its review, the Attorney General's office may seek whatever documentation, data, or other material it deems necessary from the Agency for Health Care Administration, the State Center for Health Statistics, and the Department of Insurance.

(b) In order to receive an antitrust no-action letter, a member of the health care community must submit in writing to the Attorney General's office a request for an antitrust no-action letter.

(c) The requesting parties are under an affirmative obligation to make full, true, and accurate disclosure with respect to the activities for which the antitrust no-action letter is requested. Requests relating to unnamed persons or companies may not be answered. Each request must be accompanied by all relevant material information; relevant data, including background information; complete copies of all operative documents; the provisions of law under which the request arises; and detailed statements of all collateral oral understandings, if any.

(d) All parties requesting the antitrust no-action letter must provide the Attorney General's office with whatever additional information or documents the Attorney General's office requests for its review of the matter.

(5) The Attorney General's office shall act on the no-action letter request within 90 days after it receives all information necessary to complete its review.

(6) At the completion of its review of a request for an antitrust no-action letter, the Attorney General's office shall do one of the following:

(a) Issue the antitrust no-action letter;

(b) Decline to issue any type of letter; or

(c) Take such other position or action as it considers appropriate.

(7) The recipient of a no-action letter must annually file with the Attorney General's office an affidavit stating that there has been no change in the facts the recipient has presented, at which time the Attorney General may renew the no-action letter. As long as there is no change in any material fact, the Attorney General's office is estopped from bringing any action pursuant to the antitrust laws concerning any specific conduct that is the subject of the no-action letter. Further, the no-action letter, if it meets the requirements of the Florida Evidence Code, is admissible in any court proceeding in this state. The Attorney General's office remains free to bring an action or proceeding based on a different set of facts presented.

(8) The Agency for Health Care Administration shall coordinate all existing data received, such as the hospital patient discharge database, ambulatory patient database, ambulatory facilities' financial data, health facility licensure and certification tracking system, health facility plans and construction data, local health council data, Medicaid data, provider claims data, psychiatric hospital discharge data, pharmaceutical data, licensure data of health maintenance organizations, licensure data of health insurers, health care practitioner licensure data, hospital financial database, health facility utilization and projected need data, nursing home financial database, nursing home patient database, and joint venture database. This information shall be made available to the Attorney General's office, as needed.

(9) When the member of the health care community seeking the no-action letter is regulated by the Department of Insurance, the Department of Insurance shall make available to the Attorney General's office, as needed, any information it maintains in its regulatory capacity.

~~(10) The Agency for Health Care Administration is appropriated $142,487 in nonoperating transfer authority from the Health Care Trust Fund to be transferred to the Department of Legal Affairs to implement the provisions of this act. Transferred funds shall be taken from the unappropriated cash balance available from licensure and renewal fees assessed on physicians regulated by the Division of Medical Quality Assurance.~~

~~(11) There is appropriated to the Department of Legal Affairs, Office of the Attorney General, $142,487 from the Legal Services Trust Fund and two full-time equivalent positions to implement the provisions of this act.~~

Section 99. Section 455.2775, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 408.185, Florida Statutes.

Section 100. *Section 455.2055, Florida Statutes, as created by section 13 of chapter 96-403, Laws of Florida, is repealed.*

Section 101. *Sections 455.01-455.275, Florida Statutes, are designated as part I of that chapter, and the Division of Statutory Revision is requested to title that part: "Department of Business and Professional Regulation." Sections 455.501-455.724, Florida Statutes, are designated as part II of that chapter, and the Division of Statutory Revision is requested to title that part: "Department of Health."*

Section 102. Paragraph (g) of subsection (5) of s. 459.0085, Florida Statutes, 1996 Supplement, is amended to read:

459.0085 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the osteopathic physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or $250,000, if the osteopathic physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment, pending disposition of the appeal.

2. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

3. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the osteopathic physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

4. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes strict penalties against noninsured osteopathic physicians who fail to satisfy adverse judgments arising from

claims of medical malpractice. This notice is provided pursuant to Florida law.

5. The Department of Health shall issue an emergency order suspending the license of any licensee who fails after 30 days after receipt of notice from the department to satisfy a medical malpractice claim against him or her; furnish the department a copy of a timely filed notice of appeal; furnish the department a copy of a supercedeas bond properly posted in the amount required by law; or furnish the department an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

Section 103. *The Secretary of Health shall appoint a task force to develop uniform procedures to standardize the validation of health care practitioner credentials in order to ensure that once credentials are validated they can be accepted by licensed health care providers and facilities throughout the state. The task force shall include, but not be limited to, representatives from the Florida Hospital Association, the Florida League of Hospitals, the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Dental Association, the Florida Health Care Association, the Florida Association for the Homes for the Aging, the Florida Association of Health Maintenance Organizations, and the Florida Association of Managed Care Organizations.*

Section 104. Subsection (5) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(14).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 458.317 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at an accredited medical school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the medical school.

(e) Any person holding an active license under this chapter who is not practicing medicine in this state. If such person initiates or resumes any practice of medicine in this state, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of medicine or maintains a part-time practice of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding *$25,000* ~~$10,000~~ within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the medical practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time; probation for a period of 3 years or longer; or a fine of $500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or $250,000, if the physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

2. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

3. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must

make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

4. The licensee has completed a form supplying necessary information as required by the department.

5. The Department of Health shall issue an emergency order suspending the license of any licensee who fails, after 30 days after receipt of notice from the department, to: satisfy a medical malpractice claim against him or her; furnish the department a copy of a timely filed notice of appeal; furnish the department a copy of a supersedeas bond properly posted in the amount required by law; or furnish the department an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.

Section 105. This act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to regulation of professions; dividing ch. 455, F.S., into parts; transferring those provisions of ch. 455, F.S., that pertain to health-related professions into the second part; duplicating publication of extant provisions affecting both health-related professions and other professions in the second part; amending s. 11, ch. 96-403, Laws of Florida; transferring certain functions from the Agency for Health Care Administration to the Department of Health; amending s. 20.43, F.S.; prescribing guidelines for appointments to boards within the Department of Health; amending ss. 455.01, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.213, 455.214, 455.217, 455.2175, 455.218, 455.2185, 455.221, 455.2226, 455.2228, 455.223, 455.224, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.24, 455.242, 455.243, 455.245, F.S.; conforming those sections to the transfer of regulatory authority over health-related professions from the Agency for Health Care Administration to the Department of Health; conforming those sections to the subdivision of ch. 455, F.S.; creating s. 455.501, F.S.; providing definitions; creating s. 455.504, F.S.; providing applicability; creating s. 455.507, F.S.; providing for continuing licensure of members of the Armed Forces; creating s. 455.511, F.S.; prohibiting disqualification from professional licensure on account of citizenship; creating s. 455.514, F.S.; providing for qualification of immigrants for professional licensure examination; creating s. 455.517, F.S.; providing legislative intent; creating s. 455.521, F.S.; prescribing powers and duties of the Department of Health; creating s. 455.524, F.S.; providing for long-range policy planning; creating s. 455.527, F.S.; providing method of contacting regulatory boards; renumbering s. 455.206, F.S., relating to conditions for board membership; creating s. 455.534, F.S.; providing for organization, meetings, compensation, and travel expense for boards; creating s. 455.537, F.S.; providing for publication of information; creating s. 455.541, F.S.; providing accountability and liability of board members; creating s. 455.544, F.S.; providing for board rules, final agency action, and challenges; creating s. 455.547, F.S.; providing requirements with respect to continuing education; creating s. 455.551, F.S.; providing for continued recognition of certain education programs; creating s. 455.554, F.S.; providing for consultation with postsecondary education boards; creating s. 455.561, F.S.; providing for limited licenses; renumbering and amending s. 455.2141, F.S., relating to general licensing provisions for health-related professions; prescribing additional guidelines with respect to continuing education; renumbering and amending s. 455.2142, F.S., relating to sexual misconduct by applicants for licensure; creating s. 455.571, F.S.; providing for use of professional testing services; renumbering and amending s. 455.2173, F.S., relating to examinations; prescribing additional powers and duties of the respective boards and the department; creating s. 455.577, F.S.; providing a penalty for theft or reproduction of an examination; creating s. 455.581, F.S.; prescribing additional provisions with respect to examination and licensure of foreign-trained professionals; creating s. 455.584, F.S.; providing exemptions and limited license authorization for certain foreign professionals; renumbering and amending s. 455.220, F.S., relating to fees and receipts; prescribing additional powers and duties of the respective boards and the department; renumbering and amending s. 455.2205, F.S., relating to the Health Care Trust Fund; creating s. 455.594, F.S.; providing for legal and investigative services; renumbering and amending s. 455.222, F.S., relating to instruction on domestic violence; renumbering s. 455.2224, F.S., relating to hepatitis B and HIV carriers; creating s. 455.604, F.S.; providing for instruction on HIV and AIDS; creating s. 455.607, F.S.; providing for instruction on HIV and AIDS; creating s. 455.611, F.S.; providing for oaths, depositions, and subpoenas; creating s. 455.614, F.S.; providing for mediation; creating s. 455.617, F.S.; providing authority to issue citations; creating s. 455.621, F.S.; providing for disciplinary proceedings; creating s. 455.624, F.S.; providing grounds for discipline; prescribing penalties; creating s. 455.627, F.S.; providing disciplinary guidelines; creating s. 455.631, F.S.; prescribing a penalty for giving false information; creating s. 455.634, F.S.; providing for prosecution of criminal violations; creating s. 455.637, F.S.; providing sanctions against unlicensed practice of a profession; creating s. 455.641, F.S.; providing for enforcement of prohibition against unlicensed practice; providing a fee; creating s. 455.644, F.S.; requiring an annual report; creating s. 455.647, F.S.; providing for public inspection of certain information; creating s. 455.651, F.S.; providing a penalty for disclosure of confidential information; renumbering and amending s. 455.236, F.S., relating to financial arrangements between referring health care providers and providers of health care services; renumbering s. 455.237, F.S., relating to prohibiting kickbacks; renumbering and amending s. 455.239, F.S., relating to licensure of designated health care services; creating s. 455.664, F.S.; providing requirements with respect to advertising by health care providers; renumbering and amending s. 455.241, F.S., relating to patient records; renumbering and amending s. 455.2415, F.S., relating to confidential communications between a patient and a psychiatrist; renumbering s. 455.2416, F.S., relating to practitioner disclosure of confidential information; creating s. 455.677, F.S.; providing for disposition of records of deceased, relocated, or retired practitioners; creating s. 455.681, F.S.; providing for inspections; renumbering s. 455.244, F.S., relating to chiropractic and podiatric health care; creating s. 455.687, F.S.; providing for immediate suspension of certain licenses; renumbering s. 455.2455, F.S., relating to treatment of Medicare beneficiaries; renumbering and amending s. 455.2456, F.S., relating to financial responsibility; renumbering s. 455.247, F.S., relating to reports on professional liability claims; renumbering and amending s. 455.25, F.S., relating to disclosure of certain financial interests; renumbering and amending s. 455.26, F.S., relating to the Impaired Practitioners Committee; renumbering and amending s. 455.261, F.S., relating to the treatment program for impaired practitioners; creating s. 455.711, F.S.; providing for inactive and delinquent status; creating s. 455.714, F.S.; providing for renewal and cancellation notices; creating s. 455.717, F.S.; requiring an address of record; renumbering and amending s. 455.277, F.S., relating to the Health Care Community Antitrust Guidance Act; renumbering s. 455.2775, F.S., relating to information submitted in relation to antitrust issues; repealing s. 455.2055, F.S., relating to membership of practice boards, the provisions of which were incorporated into s. 20.43, F.S.; requiring the Secretary of Health to appoint a task force to study the validation of health care practitioner credentials; amending s. 459.0085, F.S.; directing the Department of Health to suspend a license under certain circumstances; providing membership of the task force; amending s. 458.320, F.S.; increasing malpractice indemnity limits and providing for financial responsibility; providing an effective date.

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 6, lines 27-31, delete those lines and insert:

The department *may* ~~shall~~ contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

Senator Myers moved the following amendments to **Amendment 1** which were adopted:

Amendment 1B—On page 118, line 4 through page 124, line 17, delete those lines and insert:

(1) As used in this section, the term "records owner" means any health care practitioner who generates a medical record after making a physical or mental examination of, or administering treatment or dispensing legend drugs to, any person; any health care practitioner to whom records are transferred by a previous records owner; or any health care practitioner's employer, including, but not limited to, group practices and staff-model health maintenance organizations, provided the employment contract or agreement between the employer and the health care practitioner designates the employer as the records owner.

(2) As used in this section, the terms "records owner," "health care practitioner," and "health care practitioner's employer" do not include any of the following persons or entities; furthermore, the following persons or entities are not authorized to acquire or own medical records, but are authorized to maintain those documents required by the part or chapter under which they are licensed or regulated:

(a) Certified nursing assistants regulated under s. 400.211.

(b) Pharmacists and pharmacies licensed under chapter 465.

(c) Dental hygienists licensed under s. 466.023.

(d) Nursing home administrators licensed under part II of chapter 468.

(e) Respiratory therapists regulated under part V of chapter 468.

(f) Athletic trainers licensed under part XIV of chapter 468.

(g) Electrolysists licensed under chapter 478.

(h) Clinical laboratory personnel licensed under part III of chapter 483.

(i) Medical physicists licensed under part IV of chapter 483.

(j) Opticians and optical establishments licensed or permitted under part I of chapter 484.

(k) Persons or entities practicing under s. 627.736(7).

(3) This section does not apply to facilities licensed under chapter 395.

(4)~~(1)~~ Any health care practitioner licensed by the department or a board within the department who makes a physical or mental examination of, or administers treatment or dispenses legend drugs to, any person shall, upon request of such person or the person's legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information. However, when a patient's psychiatric, chapter 490 psychological, or chapter 491 psychotherapeutic records are requested by the patient or the patient's legal representative, the *health care* practitioner may provide a report of examination and treatment in lieu of copies of records. Upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.

(5)~~(2)~~ Except as otherwise provided in *this section and in* s. 440.13*(4)(c)*~~(2)~~, such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care *practitioners and* providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization *under the following circumstances:*

(a) To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

(b) ~~or~~ When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff.

(c) ~~Such records may be furnished~~ In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records.

(d) For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(6) Except in a medical negligence action *or administrative proceeding* when a health care *practitioner or* provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care *practitioners and* providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.

(7) The department ~~or the Agency for Health Care Administration, as appropriate,~~ may obtain patient records *and insurance information, if the complaint being investigated alleges inadequate medical care based on termination of insurance. The department may access these records* pursuant to a subpoena without written authorization from the patient if the department ~~or the Agency for Health Care Administration~~ and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a *health care* practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this *part* ~~chapter~~ or any professional practice act or that a *health care* practitioner has practiced his profession below that level of care, skill, and treatment required as defined by this *part* ~~chapter~~ or any professional practice act; provided, however, the patient record obtained by the department ~~or the agency~~ pursuant to this subsection shall be used solely for the purpose of the department ~~or the agency~~ and the appropriate regulatory board in disciplinary proceedings. The *records* ~~record~~ shall otherwise be confidential and exempt from s. 119.07(1). This section does not limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the *health care* practitioner shall release records of treatment for medical conditions even if the *health care* practitioner has also treated the patient for mental or nervous disorders. If the department ~~or the agency~~ has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department ~~or the agency~~ may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(8)~~(3)~~ All patient records obtained by the department ~~or the Agency for Health Care Administration~~ and any other documents maintained by the department ~~or the agency~~ which identify the patient by name are confidential and exempt from s. 119.07(1) and shall be used solely for the purpose of the department ~~or the Agency for Health Care Administration~~ and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the department ~~or the Agency for Health Care Administration~~ or the appropriate board.

(9) All records owners shall develop and implement policies, standards, and procedures to protect the confidentiality and security of the medical record. Employees of records owners shall be trained in these policies, standards, and procedures.

(10) Records owners are responsible for maintaining a record of all disclosures of information contained in the medical record to a third party, including the purpose of the disclosure request. The record of disclosure may be maintained in the medical record. The third party to whom information is disclosed is prohibited from further disclosing any information in the medical record without the expressed written consent of the patient or the patient's legal representative.

(11) Notwithstanding the provisions of s. 455.677, records owners shall place an advertisement in the local newspaper or notify patients, in

writing, when they are terminating practice, retiring, or relocating, and no longer available to patients, and offer patients the opportunity to obtain a copy of their medical record.

(12) Notwithstanding the provisions of s. 455.677, records owners shall notify the appropriate board office when they are terminating practice, retiring, or relocating, and no longer available to patients, specifying who the new records owner is and where medical records can be found.

(13) Whenever a records owner has turned records over to a new records owner, the new records owner shall be responsible for providing a copy of the complete medical record, upon written request, of the patient or the patient's legal representative.

(14) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(15) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed $5,000 per violation.

(16)~~(4)~~ A health care practitioner *or 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 appropriate board, *or the department when there is no board.*

(17) Nothing in this section shall be construed to limit health care practitioner consultations, as necessary.

(18) A records owner shall release to a health care practitioner who, as an employee of the records owner, previously provided treatment to a patient, those records that the health care practitioner actually created or generated when the health care practitioner treated the patient. Records released pursuant to this subsection shall be released only upon written request of the health care practitioner and shall be limited to the notes, plans of care, and orders and summaries that were actually generated by the health care practitioner requesting the record.

Amendment 1C (with title amendment)—On page 143, lines 26-31, delete those lines and insert:

Section 102. Paragraphs (f) and (g) of subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, are amended to read:

459.0085 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding *$25,000* ~~$10,000~~ within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time, probation for a period of 3 years or longer, or a fine of $500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department a certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

And the title is amended as follows:

On page 158, line 6, after the semicolon (;) insert: increasing malpractice indemnity limits for osteopathic physicians;

Senator Brown-Waite moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D (with title amendment)—On page 152, delete line 13 and insert:

Section 105. *(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 46l, Florida Statutes, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:*

(a)1. The name of each medical school that the applicant has attended, with the dates of attendance and the date of graduation, and a description of all graduate medical education completed by the applicant, excluding any coursework taken to satisfy medical licensure continuing education requirements.

2. The name of each hospital at which the applicant has privileges.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification that the applicant has received from a specialty board that is recognized by the board to which the applicant is applying.

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent l0 years.

7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, upon disposition of the appeal, submit to the department a copy of the final written order of disposition.

8. A description of any final disciplinary action taken within the previous 10 years against the applicant by the agency regulating the

profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialities, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of medical staff membership or the restriction of privileges at a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

(b) In addition to the information required under paragraph (a), each applicant who seeks licensure under chapter 458, chapter 459, or chapter 461, Florida Statutes, and who has practiced previously in this state or in another jurisdiction or a foreign country must provide the information required of licensees under those chapters pursuant to section 455.247, Florida Statutes. An applicant for licensure under chapter 460, Florida Statutes, who has practiced previously in this state or in another jurisdiction or a foreign country must provide the same information as is required of licensees under chapter 458, Florida Statutes, pursuant to section 455.247, Florida Statutes.

(2) Before the issuance of the licensure renewal notice required by section 455.273, Florida Statutes, the Department of Health shall send a notice to each person licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, at the licensee's last known address of record with the department, regarding the requirements for information to be submitted by those practitioners pursuant to this section in conjunction with the renewal of such license and under procedures adopted by the department.

(3) Each person who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under each respective licensing chapter and section 455.227(1)(k), Florida Statutes. For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

(a) Refuse to issue a license to any person applying for initial licensure who fails to submit and update the required information.

(b) Issue a citation to any licensee who fails to submit and update the required information and may fine the licensee up to $50 for each day that the licensee is not in compliance with this subsection. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to follow the procedure under section 455.225, Florida Statutes. If the licensee disputes the matter in the citation, the procedures set forth in section 455.225, Florida Statutes, must be followed. However, if the licensee does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the licensee's last known address.

(4)(a) An applicant for initial licensure must submit a set of fingerprints to the Department of Health in accordance with section 458.311, section 458.313, section 459.0055, section 460.406, or section 461.006, Florida Statutes.

(b) An applicant for renewed licensure must submit a set of fingerprints for the initial renewal of his or her license after January 1, 2000, to the agency regulating that profession in accordance with procedures established under section 458.3l9, section 459.008, section 460.407, or section 461.007, Florida Statutes.

(c) The Department of Health shall submit the fingerprints provided by an applicant for initial licensure to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The department shall submit the fingerprints provided by an applicant for a renewed license to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check for the initial renewal of the applicant's license after January 1, 2000; for any subsequent renewal of the applicant's license the department shall submit the required information for a statewide criminal history check of the applicant.

(5) Each person who is required to submit information pursuant to this section may submit additional information. Such information may include, but is not limited to:

(a) Information regarding publications in peer-reviewed medical literature within the previous l0 years.

(b) Information regarding professional or community-service activities or awards.

(c) Languages, other than English, used by the applicant to communicate with patients and identification of any translating service that may be available at the place where the applicant primarily conducts his or her practice.

(d) An indication of whether the person participates in the Medicaid program.

Section 106. *(1) Beginning July 1, 1999, the Department of Health shall compile the information submitted pursuant to section 1 into a practitioner profile of the applicant submitting the information, except that the Department of Health may develop a format to compile uniformly any information submitted under paragraph 1(4)(b).*

(2) On the profile required under subsection (1), the department shall indicate if the information provided under section 1(1)(a)7. is not corroborated by a criminal history check conducted according to this subsection. If the information provided under section 1(1)(a)7. is corroborated by the criminal history check, the fact that the criminal history check was performed need not be indicated on the profile. The department, or the board having regulatory authority over the practitioner acting on behalf of the department, shall investigate any information received by the department or the board when it has reasonable grounds to believe that the practitioner has violated any law that relates to the practitioner's practice.

(3) The Department of Health may include in each practitioner's practitioner profile that criminal information that directly relates to the practitioner's ability to competently practice his or her profession. The department must include in each practitioner's practitioner profile the following statement: "The criminal history information, if any exists, may be incomplete; federal criminal history information is not available to the public."

(4) The Department of Health shall include, with respect to a practitioner licensed under chapter 458 or chapter 459, Florida Statutes, a statement of how the practitioner has elected to comply with the financial responsibility requirements of section 458.320 or section 459.0085, Florida Statutes. The department shall include, with respect to practitioners licensed under chapter 458, chapter 459, or chapter 461, Florida Statutes, information relating to liability actions which has been reported under section 455.247 or section 627.912, Florida Statutes, within the previous 10 years for any paid claim that exceeds $5,000. Such claims information shall be reported in the context of comparing an individual practitioner's claims to the experience of other physicians within the same specialty to the extent such information is available to the Department of Health. If information relating to a liability action is included in a practitioner's practitioner profile, the profile must also include the following statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

(5) The Department of Health may include in the practitioner's practitioner profile any other information that is a public record of any governmental entity and that relates to a practitioner's ability to competently practice his or her profession. However, the department must consult with

the board having regulatory authority over the practitioner before such information is included in his or her profile.

(6) Upon the completion of a practitioner profile under this section, the Department of Health shall furnish the practitioner who is the subject of the profile a copy of it. The practitioner has a period of 30 days in which to review the profile and to correct any factual inaccuracies in it. The Department of Health shall make the profile available to the public at the end of the 30-day period. The department shall make the profiles available to the public through the World Wide Web and other commonly used means of distribution.

(7) Making a practitioner profile available to the public under this section does not constitute agency action for which a hearing under section 120.57, Florida Statutes, may be sought.

Section 107. *The Department of Health shall update each practitioner's practitioner profile periodically. An updated profile is subject to the same requirements as an original profile with respect to the period within which the practitioner may review the profile for the purpose of correcting factual inaccuracies.*

Section 108. *Effective upon this act becoming a law, the Department of Health must develop or contract for a computer system to accommodate the new data collection and storage requirements under this act pending the development and operation of a computer system by the Department of Health for handling the collection, input, revision, and update of data submitted by physicians as a part of their initial licensure or renewal to be compiled into individual practitioner profiles. The Department of Health must incorporate any data required by this act into the computer system used in conjunction with the regulation of health care professions under its jurisdiction. The department must develop, by the year 2000, a schedule and procedures for each practitioner within a health care profession regulated within the Division of Medical Quality Assurance to submit relevant information to be compiled into a profile to be made available to the public. The Department of Health is authorized to contract with and negotiate any interagency agreement necessary to develop and implement the practitioner profiles. The Department of Health shall have access to any information or record maintained by the Agency for Health Care Administration, including any information or record that is otherwise confidential and exempt from the provisions of chapter 119, Florida Statutes, and Section 24(a), Article I of the State Constitution, so that the Department of Health may corroborate any information that physicians are required to report under section 1 of this act.*

Section 109. *Effective upon this act becoming a law, the Department of Health shall adopt rules for the form of a practitioner profile that the agency is required to prepare. The Department of Health, pursuant to chapter 120, Florida Statutes, must hold public workshops for purposes of rule development to implement this section. An agency to which information is to be submitted under this act may adopt by rule a form for the submission of the information required under section 1.*

Section 110. *Information in superseded practitioner profiles must be maintained by the Department of Health, in accordance with general law and the rules of the Department of State.*

Section 111. Paragraph (g) is added to subsection (1) of section 458.311, Florida Statutes, 1996 Supplement, to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician shall apply to the department to take the licensure examination. The department shall examine each applicant whom the board certifies:

(g) Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 112. Subsection (1) of section 458.313, Florida Statutes, 1996 Supplement, is amended to read:

458.313 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee not to exceed $500 set by the board, demonstrates to the board that he:

(a) Has met the qualifications for licensure in *s. 458.311(1)(b)-(g)* ~~s. 458.311(1)(b)-(f)~~;

(b) Has obtained a passing score, as established by rule of the board, on the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), the United States Medical Licensing Examination (USMLE), or the examination of the National Board of Medical Examiners, or on a combination thereof, provided that said examination or combination of examinations required shall have been so taken within the 10 years immediately preceding the filing of his application for licensure under this section; and

(c) Shows evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year preceding the filing of an application for licensure.

Section 113. Subsection (1) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, evidence that the applicant has actively practiced medicine or has been on the active teaching faculty of an accredited medical school within the previous 4 years, and a fee not to exceed $500; provided, however, that if the licensee is either a resident physician, assistant resident physician, fellow, house physician, or intern in an approved postgraduate training program, as defined by the board by rule, the fee shall not exceed $100 per annum. If the licensee has not actively practiced medicine within the previous 4 years, the board shall require that the licensee successfully complete a board-approved clinical competency examination prior to renewal of the license. "Actively practiced medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, including physicians practicing administrative medicine. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 114. Subsection (1) of section 459.0055, Florida Statutes, 1996 Supplement, is amended to read:

459.0055 General licensure requirements.—

(1) Except as otherwise provided herein, any person desiring to be licensed or certified as an osteopathic physician pursuant to this chapter shall:

(a) Complete an application form and submit the appropriate fee to the department;

(b) Be at least 21 years of age;

(c) Be of good moral character;

(d) Have completed at least 3 years of preprofessional postsecondary education;

(e) Have not previously committed any act which would constitute a violation of this chapter, unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(f) Not be under investigation in any jurisdiction for an act which would constitute a violation of this chapter. If, upon completion of such investigation, it is determined that the applicant has committed an act which would constitute a violation of this chapter, the applicant shall be ineligible for licensure unless the board determines that such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;

(g) Have not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction unless the board determines that the grounds on which such action was taken do not adversely affect the applicant's present ability and fitness to practice osteopathic medicine. A licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician, shall be considered action against the osteopathic physician's license;

(h) Have met the criteria set forth in s. 459.006, s. 459.007, s. 459.0075, s. 459.0077, or s. 459.021, whichever is applicable;~~.~~

(i) Submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 115. Subsection (1) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(1) The department shall renew a license or certificate upon receipt of the renewal application and fee. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 116. Paragraph (g) is added to subsection (1) of section 460.406, Florida Statutes, 1996 Supplement, to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician shall apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed $100 which shall be nonrefundable. There shall also be an examination fee not to exceed $500 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has:

(g) Submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 117. Subsection (1) of section 460.407, Florida Statutes, is amended to read:

460.407 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed $500. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.*

Section 118. Paragraph (f) is added to subsection (1) of section 461.006, Florida Statutes, to read:

461.006 Licensure by examination.—

(1) Any person desiring to be licensed as a podiatrist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies:

(f) Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 119. Subsection (1) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and a fee not to exceed $350 set by the board. *An applicant for a renewed license must also submit the information required under section 1 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs*

incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under section 1 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of section 1 of this act. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 120. Section 455.225, Florida Statutes, 1996 Supplement, is amended to read:

455.225 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department or the Agency for Health Care Administration, as appropriate.

(1)*(a)* The department or the Agency for Health Care Administration, for the boards under their respective jurisdictions, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department or the agency, or of any rule adopted by the department, the agency, or a regulatory board in the department or the agency has occurred. In order to determine legal sufficiency, the department or the agency may require supporting information or documentation. The department or the agency may investigate, and the department, the agency, or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department or the agency may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department or the agency has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department or the agency may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department or the agency has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department or the agency may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, a rule of the agency, or a rule of a board.

(b) Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department or the agency shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chairman of the respective board or the chairman of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department or the agency may withhold notification. The department or the agency may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department and the Agency for Health Care Administration shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. *For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the agency, for disciplinary cases under its jurisdiction, should complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the agency, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure.* When its investigation is complete and legally sufficient, the department or the agency shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department or the agency. The report shall contain the investigative findings and the recommendations of the department or the agency concerning the existence of probable cause. At any time after legal sufficiency is found, the department or the agency may dismiss any case, or any part thereof, if the department or the agency determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department or the agency shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department or the agency dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department or the agency may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department or the agency if there is no board, shall establish by rule those minor violations under this provision which do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department or the Agency for Health Care Administration, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department or the agency. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chairman. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department or the agency shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department or the agency, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department or the agency. The secretary may grant extensions of the 15-day and the 30-day time limits. ~~If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the~~

~~department or the agency may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists.~~ In lieu of a finding of probable cause, the probable cause panel, or the department or the agency when there is no board, may issue a letter of guidance to the subject. *If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the agency, for disciplinary cases under its jurisdiction, must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit.* If the probable cause panel finds that probable cause exists, it shall direct the department or the agency to file a formal complaint against the licensee. The department or the agency shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department or the agency shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department or the agency may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department or the agency shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department or the agency shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department or the agency within 1 year after the filing of a complaint. *The agency, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department or agency within 1 year after the filing of the complaint. Annually, the agency, for disciplinary cases under its jurisdiction if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the agency within 1 year after the filing of the complaint.* A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the Health Care Trust Fund or the Professional Regulation Trust Fund, as appropriate. All proceedings of the probable cause panel are exempt from s. 120.525.

(5) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The administrative law judge shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed settlement shall be subject to the approval of the department or the agency.

(7) The department or the Agency for Health Care Administration, as appropriate, shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Secretary of Business and Professional Regulation or his designee or the Director of Health Care Administration or his designee, as appropriate, who shall issue the final summary order.

(9)*(a)* The department or the Agency for Health Care Administration, as appropriate, shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any civil action or administrative proceeding or appeal.

(b) In any disciplinary case under the jurisdiction of the Agency for Health Care Administration for which probable cause has been found, the Agency for Health Care Administration shall provide to the person who filed the complaint a copy of the administrative complaint and:

1. A written explanation of how an administrative complaint is resolved by the disciplinary process.

2. A written explanation of how and when the person may participate in the disciplinary process.

3. A written notice of any hearing before the Division of Administrative Hearings or the regulatory board at which final agency action may be taken.

(c) In any disciplinary case for which probable cause is not found, the Agency for Health Care Administration shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the probable cause panel which may be relevant to the decision. In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(10) The complaint and all information obtained pursuant to the investigation by the department or the Agency for Health Care Administration are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department or the agency, or until the regulated professional or subject of the investigation waives his privilege of confidentiality, whichever occurs first. Upon completion of the investigation and pursuant to a written request by the subject, the department or the agency shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 455.241, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation, if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 455.241. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department or the agency. This subsection does not prohibit the department or the Agency for Health Care Administration from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a) No person who reports in any capacity, whether or not required by law, information to the department or the Division of Health Quality Assurance of the Agency for Health Care Administration with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the agency about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c) In any civil suit brought outside the protections of paragraphs (a) and (b), where intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.

Section 121. Present subsections (8) and (9) of section 455.2285, Florida Statutes, are renumbered as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

455.2285 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department and the Agency for Health Care Administration are each directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(8) A description of any effort by the agency, for any disciplinary cases under its jurisdiction, to reduce or otherwise close any investigation or disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this chapter.

Section 122. Subsection (5) of section 458.320, Florida Statutes, 1996 Supplement, is amended to read:

458.320 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(14).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 458.317 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at an accredited medical school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the medical school.

(e) Any person holding an active license under this chapter who is not practicing medicine in this state. If such person initiates or resumes any practice of medicine in this state, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of medicine or maintains a part-time practice of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding $10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the medical practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time; probation for a period of 3 years or longer; or a fine of $500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or $250,000, if the physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

2. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

3.~~2.~~ Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

4.~~3.~~ If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a

minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

5.~~4.~~ The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.

Section 123. Subsection (5) of section 459.0085, Florida Statutes, 1996 Supplement, is amended to read:

459.0085 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(a) Any person licensed under this chapter who practices medicine exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, and subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(14).

(b) Any person whose license has become inactive under this chapter and who is not practicing medicine in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after January 1, 1987, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 459.0075 and practicing under the scope of such limited license.

(d) Any person licensed or certified under this chapter who practices only in conjunction with his teaching duties at a college of osteopathic medicine. Such person may engage in the practice of osteopathic medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the college of osteopathic medicine.

(e) Any person holding an active license under this chapter who is not practicing osteopathic medicine in this state. If such person initiates or resumes any practice of osteopathic medicine in this state, he must notify the department of such activity.

(f) Any person holding an active license under this chapter who meets all of the following criteria:

1. The licensee has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

2. The licensee has either retired from the practice of osteopathic medicine or maintains a part-time practice of osteopathic medicine of no more than 1,000 patient contact hours per year.

3. The licensee has had no more than two claims for medical malpractice resulting in an indemnity exceeding $10,000 within the previous 5-year period.

4. The licensee has not been convicted of, or pled guilty or nolo contendere to, any criminal violation specified in this chapter or the practice act of any other state.

5. The licensee has not been subject within the last 10 years of practice to license revocation or suspension for any period of time, probation for a period of 3 years or longer, or a fine of $500 or more for a violation of this chapter or the medical practice act of another jurisdiction. The regulatory agency's acceptance of an osteopathic physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the osteopathic physician's license, shall be construed as action against the physician's license for the purposes of this paragraph.

6. The licensee has submitted a form supplying necessary information as required by the department and an affidavit affirming compliance with the provisions of this paragraph.

7. The licensee shall submit biennially to the department a certification stating compliance with the provisions of this paragraph. The licensee shall, upon request, demonstrate to the department information verifying compliance with this paragraph.

A licensee who meets the requirements of this paragraph shall be required either to post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or to provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time osteopathic physicians who meet state requirements are exempt from the financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either $100,000, if the osteopathic physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or $250,000, if the osteopathic physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he shall be subject to disciplinary action unless, within 30 days from the date of mailing, he either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment, pending disposition of the appeal.

2. The Department of Health shall issue an emergency order suspending the license of any licensee who, after 30 days following receipt of a notice from the Department of Health, has failed to: satisfy a medical malpractice claim against him or her; furnish the Department of Health a copy of a timely filed notice of appeal; furnish the Department of Health a copy of a supersedeas bond properly posted in the amount required by law; or furnish the Department of Health an order from a court of compe-

tent jurisdiction staying execution on the final judgment pending disposition of the appeal.

3.~~2.~~ Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

4.~~3.~~ If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the osteopathic physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

5.~~4.~~ The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes strict penalties against noninsured osteopathic physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.

Section 124. Section 455.2478, Florida Statutes, is created to read:

455.2478 Reports of professional liability actions; bankruptcies; Department of Health's responsibility to provide.—

(1) The report of a claim or action for damages for personal injury which is required to be provided to the Department of Health under s. 455.247 or s. 627.912 is public information except for the name of the claimant or injured person, which remains confidential as provided in s. 455.247(2)(d) and s. 627.912(2)(e). The Department of Health shall, upon request, make such report available to any person.

(2) Any information in the possession of the Department of Health which relates to a bankruptcy proceeding by a practitioner of medicine licensed under chapter 458, a practitioner of osteopathic medicine licensed under chapter 459, a podiatrist licensed under chapter 461, or a dentist licensed under chapter 466 is public information. The Department of Health shall, upon request, make such information available to any person.

Section 125. Section 627.912, Florida Statutes, 1996 Supplement, is amended to read:

627.912 Professional liability claims and actions; reports by insurers.—

(1) Each self-insurer authorized under s. 627.357 and each insurer or joint underwriting association providing professional liability insurance to a practitioner of medicine licensed *under* ~~pursuant to the provisions of~~ chapter 458, to a practitioner of osteopathic medicine licensed *under* ~~pursuant to the provisions of~~ chapter 459, to a podiatrist licensed *under* ~~pursuant to the provisions of~~ chapter 461, to a dentist licensed *under* ~~pursuant to the provisions of~~ chapter 466, to a hospital licensed *under* ~~pursuant to the provisions of~~ chapter 395, to a crisis stabilization unit licensed under part IV of chapter 394, to a health maintenance organization certificated under part I of chapter 641, to clinics included in chapter 390, to an ambulatory surgical center as defined in s. 395.002, or to a member of The Florida Bar shall report in duplicate to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:

(a) A final judgment in any amount.

(b) A settlement in any amount.

(c) A final disposition not resulting in payment on behalf of the insured.

Reports shall be filed with the department and, if the insured party is licensed *under* ~~pursuant to~~ chapter 458, chapter 459, chapter 461, or chapter 466, with the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, no later than *30* ~~60~~ days following the occurrence of any event listed in paragraph (a), paragraph (b), or paragraph (c). The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~ shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply. The *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, as part of the annual report required by s. 455.2285, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the *agency* ~~Department of Business and Professional Regulation~~ or the appropriate regulatory board.

(2) The reports required by subsection (1) shall contain:

(a) The name, address, and specialty coverage of the insured.

(b) The insured's policy number.

(c) The date of the occurrence which created the claim.

(d) The date the claim was reported to the insurer or self-insurer.

(e) The name and address of the injured person. This information is confidential and exempt from the provisions of s. 119.07(1), and must not be disclosed by the department without the injured person's consent, except for disclosure by the department to the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~. This information may be used by the department for purposes of identifying multiple or duplicate claims arising out of the same occurrence.

(f) The date of suit, if filed.

(g) The injured person's age and sex.

(h) The total number and names of all defendants involved in the claim.

(i) The date and amount of judgment or settlement, if any, including the itemization of the verdict ~~as required under s. 768.48~~, together with a copy of the settlement or judgment.

(j) In the case of a settlement, such information as the department may require with regard to the injured person's incurred and anticipated medical expense, wage loss, and other expenses.

(k) The loss adjustment expense paid to defense counsel, and all other allocated loss adjustment expense paid.

(l) The date and reason for final disposition, if no judgment or settlement.

(m) A summary of the occurrence which created the claim, which shall include:

1. The name of the institution, if any, and the location within the institution at which the injury occurred.

2. The final diagnosis for which treatment was sought or rendered, including the patient's actual condition.

3. A description of the misdiagnosis made, if any, of the patient's actual condition.

4. The operation, diagnostic, or treatment procedure causing the injury.

5. A description of the principal injury giving rise to the claim.

6. The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future.

(n) Any other information required by the department to analyze and evaluate the nature, causes, location, cost, and damages involved in professional liability cases.

(3) Upon request by the *Agency for Health Care Administration* ~~Department of Business and Professional Regulation~~, the department shall provide *the* ~~that~~ *agency* ~~department~~ with any information received *under* ~~pursuant to~~ this section related to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466. For purposes of safety management, the department shall annually provide the Department of Health ~~and Rehabilitative Services~~ with copies of the reports in cases resulting in an indemnity being paid to the claimants.

(4) ~~There shall be no liability on the part of, and no cause of action of any nature shall arise against,~~ Any insurer reporting hereunder or its agents or employees or the department or its employees *is not liable* for any action taken by them *under* ~~pursuant to~~ this section*, except that the department shall impose a fine of $250 per day per case against an insurer that violates the requirements of this section. This subsection applies to claims accruing on or after October 1, 1997.*

Section 126. *The Agency for Health Care Administration shall establish a toll-free telephone number for public reporting of complaints relating to medical treatment or services provided by health care professionals.*

Section 127. Subsection (1) of section 458.316, Florida Statutes, is amended to read:

458.316 Public health certificate.—

(1) Any person desiring to obtain a public health certificate shall submit an application fee not to exceed $300 and shall demonstrate to the board that he is a graduate of an accredited medical school and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, or is licensed to practice medicine without restriction in another jurisdiction in the United States and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, and shall meet the requirements in *s. 458.311(1)(a)-(g)* ~~s. 458.311(1)(a)-(f)~~ and (5).

Section 128. Section 458.3165, Florida Statutes, is amended to read:

458.3165 Public psychiatry certificate.—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed $300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in *s. 458.311(1)(a)-(g)* ~~s. 458.311(1)(a)-(f)~~ and (5).

(1) Such certificate shall:

(a) Authorize the holder to practice only in a public mental health facility or program funded in part or entirely by state funds.

(b) Be issued and renewable biennially if the secretary of the Department of Health and Rehabilitative Services and the chairman of the department of psychiatry at one of the public medical schools or the chairman of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

(c) Automatically expire if the holder's relationship with a public mental health facility or program expires.

(d) Not be issued to a person who has been adjudged unqualified or guilty of any of the prohibited acts in this chapter.

(2) The board may take disciplinary action against a certificate-holder for noncompliance with any part of this section or for any reason for which a regular licensee may be subject to discipline.

Section 129. Paragraph (a) of subsection (1) of section 458.317, Florida Statutes, is amended to read:

458.317 Limited licenses.—

(1)(a) Any person desiring to obtain a limited license shall:

1. Submit to the board, with an application and fee not to exceed $300, an affidavit stating that he has been licensed to practice medicine in any jurisdiction in the United States for at least 10 years and has retired or intends to retire from the practice of medicine and intends to practice only pursuant to the restrictions of a limited license granted pursuant to this section. If the person applying for a limited license submits a notarized statement from the employing agency or institution stating that he will not receive monetary compensation for any service involving the practice of medicine, the application fee and all licensure fees shall be waived.

2. Meet the requirements in *s. 458.311(1)(b)-(g)* ~~s. 458.311(1)(b)-(f)~~ and (5). If the applicant graduated from medical school prior to 1946, the board or its appropriate committee may accept military medical training or medical experience as a substitute for the approved 1-year residency requirement in s. 458.311(1)(f).

Section 130. Except as otherwise provided in this act, this act shall take effect July 1, 1997.

And the title is amended as follows:

On page 158, line 9, after the semicolon (;) insert: requiring physicians, osteopathic physicians, podiatrists, and chiropractors to furnish specified biographical and other data to the Department of Health; requiring the department to verify certain of the information and compile the information submitted and other public record information into a practitioner profile of each licensee and to make the profiles available to the public; providing for rules; providing duties of practitioners to update information and duties of the department to update profiles; providing for retention of information in superseded profiles; amending ss. 458.311, 458.313, 458.319, F.S.; requiring applicants for licensure or relicensure as physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 459.0055, 459.008, F.S.; requiring applicants for licensure or relicensure as osteopathic physicians to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 460.406, 460.407, F.S.; requiring applicants for licensure or relicensure as chiropractors to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending ss. 461.006, 461.007, F.S.; requiring applicants for licensure or relicensure as podiatrists to submit information, fingerprints, and fees; providing for citations to, and fines of, certain practitioners; amending s. 455.225, F.S.; providing legislative intent; revising procedures to discipline professionals; requiring the Agency for Health Care Administration or appropriate regulatory boards to establish plans to resolve incomplete investigations or disciplinary proceedings; amending ss. 458.320, 459.0085, F.S.; requiring the agency to issue an emergency order suspending the license of a physician or osteopathic physician for certain violations; amending s. 455.2285, F.S.; requiring additional information in the annual report by the department and by the agency; creating s. 455.2478, F.S.; providing that reports on professional liability actions and information relating to bankruptcy proceedings of specified health care practitioners which are in the possession of the Department of Health are public records; requiring the department to make such information available to persons who request it; amending s. 627.912, F.S.; providing for insurer reporting of professional liability claims and actions; revising the timeframe for reporting; providing penalties; providing for a toll-free telephone number for reporting complaints relating to medical care; providing applicability; amending ss. 458.316, 458.3165, 458.317, F.S.; conforming cross-references;

Senator Casas moved the following amendments to **Amendment 1** which were adopted:

Amendment 1E (with title amendment)—On page 152, delete line 13 and insert:

Section 262. Paragraph (a) of subsection (1) of section 458.3115, Florida Statutes, 1996 Supplement, is amended to read:

458.3115 Restricted license; certain foreign-licensed physicians; United States Medical Licensing Examination (USMLE) or agency-developed examination; restrictions on practice; full licensure.—

(1)

(a) Notwithstanding any other provision of law, the agency shall provide procedures under which certain physicians who are or were foreign-licensed and have practiced medicine no less than 2 years may take the USMLE or an agency-developed examination to qualify for a restricted license to practice medicine in this state. The agency and board-developed examination shall test the same areas of medical knowledge as the Federation of State Medical Boards of the United States, Inc. (FLEX) previously administered by the Florida Board of Medicine to grant medical licensure in Florida. Said examination shall be in the same form and content and shall be administered in the same manner as the FLEX. *The agency-developed examination must be made available no later than September 1, 1998, to a physician who qualifies for licensure.* A person who is eligible to take and elects to take the agency and board-developed examination, who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the agency-developed examination, and may sit for the agency and board-developed examination five times within 5 years.

(Renumber subsequent section.)

And the title is amended as follows:

On page 158, line 9, after the semicolon (;) insert: amending s. 498.3115, F.S.; revising requirements for the availability of examinations administered to certain foreign-licensed physicians;

Amendment 1F (with title amendment)—On page 152, delete line 13 and insert:

Section 262. Section 458.3124, Florida Statutes, is created to read:

458.3124 Restricted license; certain experienced foreign-trained physicians.—

(1) A person who was trained in a medical school that is listed in the World Directory of Medical Schools published by the World Health Organization and is located in a country other than the United States, Canada, or Puerto Rico may apply to take Step III of the United States Medical Licensing Examination, if the person:

(a) Legally practiced medicine for at least 5 years in the country in which the school is located;

(b) Has passed Steps I and II of the United States Medical Licensing Examination;

(c) Is certified by the Education Commission for Foreign Medical Graduates as qualified for a restricted license to practice medicine;

(d) Is not subject to discipline, investigation, or prosecution in any jurisdiction for acts that threaten the public health, safety, or welfare or violate chapters 455 or 458; and

(e) Has been a resident of this state since July 1, 1996.

(2) A person applying for licensure under this section must submit to the Department of Health on or before December 31, 1998:

(a) A completed application and documentation required by the Board of Medicine to prove compliance with subsection (1); and

(b) A nonrefundable application fee not to exceed $500 and a nonrefundable examination fee not to exceed $300 plus the actual cost to purchase and administer the examination.

(3) A person applying under this section may take the examination a maximum of 5 times within 5 years.

(4) A restricted licensee under this section must practice under the supervision of a licensee approved by the board, with the first year of licensure under direct supervision and the second year in community service under indirect supervision, including practicing with organizations that serve indigent populations, such as section 501(c)(3) agencies, public health units, prisons, or other organizations approved by the board.

(5) Notwithstanding s. 458.311(1)(f), a person who successfully meets the requirements of this section and who successfully passes Step III of the United States Medical Licensing Examination is eligible for full licensure as a physician.

(6) The board shall adopt rules to implement this section.

(Renumber subsequent section.)

And the title is amended as follows:

On page 158, line 9, after the semicolon (;) insert: creating s. 458.3124, F.S.; providing for certain foreign-trained and licensed physicians to take certain licensure examinations; providing restrictions and establishing fees; restricting the practice of such persons; providing for eligibility for full licensure; providing for the adoption of rules;

On motion by Senator Myers, further consideration of **HB 1925**, with pending **Amendment 1** as amended was deferred.

MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until consideration of **HB 1925** and **SB 1158** and completion of messages and announcements.

THE PRESIDENT PRESIDING

On motion by Senator Williams, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

The Senate resumed consideration of—

SB 1158—A bill to be entitled An act relating to taxation administration; amending ss. 20.04, 20.21, F.S., relating to the internal structure of the Department of Revenue; amending ss. 189.412, 195.087, 195.096, 195.097, 200.068, 200.0684, 213.015, 213.053, 213.2201, 409.2599, F.S., relating to powers and duties of the department; repealing s. 213.0451, F.S., relating to duties of division directors in the department; restoring those sections to the language and form in which they existed before their amendment by ss. 15-27, ch. 95-272, Laws of Florida; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; providing for retroactive effect; amending s. 199.103, F.S.; including middle tier stock holding companies in provisions which provide for valuation of stocks or shares of certain savings associations for intangible personal property tax purposes; correcting a reference; providing effective dates.

—which was previously considered this day.

On motion by Senator Williams, by two-thirds vote **SB 1158** as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Kirkpatrick	Scott
Burt	Dyer	Klein	Silver
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Jones, Sullivan

SPECIAL ORDER CALENDAR, continued

On motion by Senator Myers, the Senate resumed consideration of—

HB 1925—A bill to be entitled An act relating to regulation of health care practitioners; creating part II of chapter 455, F.S., to provide regulatory provisions applicable to the Department of Health that are separate from those applicable to the Department of Business and Professional Regulation; creating ss. 455.401, 455.402, 455.403, 455.404, 455.405, 455.406, 455.407, 455.408, 455.409, 455.411, 455.412, 455.414, 455.415, 455.416, 455.417, 455.418, 455.419, 455.421, 455.422, 455.424, 455.427, 455.428, 455.429, 455.431, 455.432, 455.433, 455.436, 455.438, 455.439, 455.441, 455.442, 455.443, 455.444, 455.445, 455.446, 455.447, 455.448, 455.449, 455.451, 455.452, 455.453, 455.457, 455.458, 455.461, 455.465, 455.466, 455.467, 455.468, and 455.469, F.S., to conform; providing intent; providing for a procedure for updating boards on major public health policy; providing for appointment of a task force to develop uniform procedures to standardize the validation of health care practitioner credentials; providing requirements with respect to examinations, including requirements for national, contracted, and shared examinations and translations of examinations; restricting board meetings to those determined to be in the public interest; providing for appointment of nonboard members to board committees under certain circumstances; requiring applicants for initial licensure to submit a full set of fingerprints; providing additional grounds for disciplinary action relating to keeping legible records, payments on federally or state guaranteed educational loans or service-conditional scholarships, providing proper identification to patients, and reporting of disciplinary actions of another jurisdiction; revising provisions relating to ownership and control of patient records; transferring s. 455.247, F.S., to conform; transferring and amending ss. 455.2055, 455.2141, 455.2142, 455.2173, 455.222, 455.2224, 455.241, 455.2415, 455.2416, 455.244, 455.2455, and 455.2456, F.S., to conform; amending ss. 455.01, 455.017, 455.10, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.213, 455.214, 455.217, 455.2175, 455.218, 455.219, 455.221, 455.2228, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.26, 455.261, and 455.273, F.S., to conform; transferring and amending s. 455.2205, F.S., relating to the Health Care Trust Fund, to conform; amending ss. 215.20, 391.208, 391.217, 400.5575, and 408.20, F.S.; correcting cross references, to conform; transferring and amending ss. 455.24, 455.242, 455.243, and 455.245, F.S., relating to veterinary medical practice, to conform; amending s. 455.25, F.S., relating to disclosure of financial interest; requiring physicians or other health care providers to disclose their financial interest in certain entities; eliminating entity disclosure of financial interest; repealing s. 455.220, F.S., relating to fees required by the boards to cover the costs of regulation, to conform; repealing s. 455.2226, F.S., relating to instruction on human immunodeficiency virus and acquired immune deficiency syndrome; creating part I of the remaining provisions of chapter 455, F.S., as amended, to conform; amending ss. 120.80, 212.08, 215.37, 240.215, 310.102, 337.162, 381.0039, 383.32, 395.0193, 395.0197, 395.3025, 400.491, 408.061, 408.704, 415.1055, 415.5055, 415.51, 440.13, 457.103, 458.307, 458.3115, 458.331, 458.343, 458.347, 459.004, 459.015, 459.019, 459.022, 460.404, 460.4061, 461.004, 461.013, 463.003, 463.016, 464.004, 465.004, 465.006, 466.004, 466.007, 466.018, 466.022, 466.028, 468.1135, 468.1145, 468.1185, 468.1295, 468.1665, 468.1755, 468.1756, 468.205, 468.219, 468.364, 468.365, 468.402, 468.4315, 468.453, 468.456, 468.4571, 468.506, 468.507, 468.513, 468.523, 468.526, 468.532, 468.535, 468.703, 468.707, 468.711, 468.719, 469.009, 470.003, 470.036, 471.008, 471.015, 471.033, 472.015, 473.3035, 473.308, 473.311, 473.323, 474.204, 474.214, 474.2145, 475.021, 475.181, 475.25, 475.624, 476.204, 477.029, 480.044, 481.2055, 481.213, 481.225, 481.2251, 481.306, 481.311, 481.325, 483.805, 483.807, 483.901, 484.014, 484.042, 484.056, 486.023, 486.115, 486.172, 489.129, 489.533, 490.004, 490.009, 490.015, 491.004, 491.009, 491.015, 492.103, 492.113, 627.668, 627.912, 636.039, 641.27, 641.55, 766.106, 766.305, 766.308, 766.314, and 937.031, F.S.; correcting cross references and terminology, to conform; amending ss. 20.43, 381.81, 400.211, 402.48, 457.102, 458.305, 459.003, 460.403, 461.003, 462.01, 463.002, 465.003, 466.003, 467.003, 468.1125, 468.1655, 468.352, 468.518, 468.701, 478.42, 480.033, 483.803, 484.002, 484.003, 484.041, 484.042, 484.051, 486.021, 490.003, and 491.003, F.S.; correcting cross references and definitions, to conform; providing an effective date.

—with pending **Amendment 1** as amended by Senator Myers.

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1925** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Bankhead, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has returned as requested CS for SB 1376.

John B. Phelps, Clerk

CS for SB 1376—A bill to be entitled An act relating to education; amending s. 230.03, F.S.; conforming a cross-reference; repealing s. 230.105(9), F.S., relating to ballot proposition wording for single-member representation for district school boards; amending s. 230.22, F.S.; revising provisions relating to general powers of school boards; amending s. 230.23, F.S.; revising provisions relating to powers and duties of school boards; amending s. 230.2301, F.S.; revising provisions relating to parent meetings with school district personnel; amending s. 230.2303, F.S.; revising provisions relating to the Florida First Start Program; deleting provisions relating to evaluation, monitoring, and coordination; amending s. 230.2305, F.S.; revising provisions relating to the prekindergarten early intervention program; deleting provisions relating to plans, plan approval, monitoring, and annual reports; repealing s. 230.23135, F.S., relating to the Florida Council on Student Services; amending s. 230.2316, F.S.; revising provisions relating to dropout prevention; deleting definitions, certain program criteria, and provisions requiring program plans and staff development; amending s. 230.23161, F.S.; conforming a cross-reference; amending s. 230.2317, F.S.; revising provisions relating to a multiagency service network for students with severe emotional disturbance; amending s. 230.2318, F.S.; authorizing school resource officer programs; deleting program plan requirements; amending s. 230.303, F.S., relating to compensation for school superintendents; deleting obsolete language; amending s. 230.33, F.S.; revising provisions relating to duties and responsibilities of superintendents; amending s. 230.331, F.S., relating to reproduction and destruction of district school records; amending s. 230.35, F.S., relating to schools under the control of the school board and superintendent; repealing ss. 230.59, 230.643, 230.655, and 230.71, F.S., relating to educational communications systems, transcripts for vocational-technical center students, education programs in correctional facilities, and intergenerational school volunteer programs; amending s. 232.01, F.S., and repealing ss. 232.04 and 232.045, F.S.; combining provisions relating to school attendance requirements; amending s. 232.021, F.S.; conforming provisions; amending s. 232.0225, F.S.; revising provisions relating to absence for religious instruction or holidays; repealing s. 232.023, F.S., relating to falsification of attendance records; amending s. 232.03, F.S.; conforming cross-references; repealing s. 232.032(2) and 232.034, F.S., relating to an investigation of tuberculosis incidence and a medical exemption for transporting students; amending s. 232.06, F.S.; revising provisions relating to school attendance certificates of exemption; amending s. 232.09, F.S.; conforming a cross-reference; repealing ss. 232.10, 232.13, and 232.165, F.S., relating to explanation of student absence, reports of exceptional children, and nonissuance or suspension of driver's license based on student enrollment; amending s. 232.17, F.S.; revising provisions relating to enforcement of school attendance; deleting reference to attendance assistants; amending s. 232.19, F.S.; conforming provisions; repealing ss. 232.245(2) and (3) and 232.2452, F.S., relating to requirements for school district programs for pupil progression and report cards; repealing s. 232.2461, F.S., relating to model curriculum standards; amending s. 232.2462, F.S.; deleting attendance requirements for receipt of high school credit; amending s. 232.2465, F.S.; revising a requirement for qualification as a Florida Academic Scholar; repealing s. 232.2468, F.S., relating to graduation, habitual truancy, and dropout rates; amending s. 228.041, F.S.; defining the terms “graduation rate,” “habitual truancy rate,” and “dropout rate”; repealing ss. 232.257 and 232.258, F.S., relating to the School Safety Program and school and community resource grants; amending s. 232.271, F.S.; conforming provisions; repealing ss. 232.276, 232.3015, 232.303, and 232.304, F.S., relating to parenting workshops, outreach programs, interagency student services, and multiagency coordinating councils; amending s.

232.425, F.S., relating to student standards for participation in interscholastic extracurricular student activities; providing for the accessibility of such activities to home education students; repealing s. 233.011, F.S., relating to accountability in curriculum, instructional materials, and testing; amending s. 233.061, F.S.; revising provisions relating to required instruction; creating s. 233.0612, F.S.; providing authorized instruction; repealing ss. 233.0615, 233.06411, 233.0645, 233.065, 233.0661, 233.0662, 233.0663(2), (3), (4), (5), (6), and (7), 233.067, 233.0671, 233.0672, and 233.068(3) and (4), F.S., relating to a character development and law education program, a free enterprise and consumer education program, voting instruction, patriotic programs, certain requirements of the drug abuse and resistance education program, comprehensive health education and substance abuse prevention, courses of study in the care of nursing home patients, instruction in acquired immune deficiency syndrome, and planning and implementation of a career development and applied technology program; amending s. 233.07, F.S.; deleting obsolete language; renumbering s. 234.041, F.S., relating to school buses; repealing s. 234.0515, F.S., relating to transportation of students by private transportation companies; repealing ss. 234.061 and 234.091, F.S., relating to designation of routes and school bus driver qualifications, to conform; amending and renumbering s. 234.302, F.S., relating to school crossing guards; amending ss. 24.121, 39.01, 228.053, 228.061, 228.121, 229.0535, 229.565, 229.58, 229.592, 229.594, 229.8055, 231.085, 231.095, 231.1725, 231.381, 236.013, 236.081, 236.0811, 236.0812, 236.1228, 239.101, 239.229, 397.405, 402.22, 415.5015, 450.121, 493.6102, and 561.025, F.S.; conforming cross-references and conforming provisions; repealing s. 236.0842, F.S., relating to approval for dropout prevention programs, to conform; providing an effective date.

RECONSIDERATION OF BILL

On motion by Senator Bankhead, the Senate reconsidered the vote by which **CS for SB 1376** as amended passed April 10.

On motion by Senator Bankhead, consideration of **CS for SB 1376** as amended was deferred.

MOTION

On motion by Senator Bankhead, the rules were waived and by two-thirds vote all bills remaining on the Special Order Calendar this day and **CS for CS for SB 976** were placed on the Special Order Calendar for Wednesday, April 30.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, April 29, 1997: CS for SB 1464, CS for SB 1958, SB 2252, CS for CS for SB 64, CS for HB 703, CS for SB 1956, CS for SB 544 and CS for SB 1904, SB 1648, CS for SB 62, CS for CS for SB's 552, 1960 and 822, CS for CS for SB 892, CS for CS for SB 698, CS for SB 1632, CS for SB 508, CS for SB 716, CS for CS for SB 2142, CS for CS for SB 1814, CS for SB 1836, CS for CS for CS for SB's 2028 and 394, CS for SB 1288, CS for SB 918, CS for SB 972, CS for CS for SB 1548 and CS for SB 1434, CS for SB's 1414 and 228, CS for CS for CS for SB 336 and CS for SB's 1216 and 2024, CS for CS for SB 546, CS for SB 2086, SB 1830, CS for CS for SB 526, SB 840, CS for SB 2436, CS for SB 888, SB 450, SB 354, CS for SB 1360, CS for SB 238, SB 1270, SB 252, CS for CS for SB 514, CS for SB 774, CS for SB 2310, SB 126, SB 162, SB 1784, SB 2346, SB 2062, SB 2058, CS for SB 1686, CS for CS for SB 1532, CS for SB 998, CS for SB's 818, 1136 and 1242, CS for SB 2450, CS for SB 1148, CS for SB 250, SB 14, CS for SB 402, SB 678, CS for SB 1244, SB 388, CS for SB 1592, CS for SB 490, CS for SB 724, CS for SB 1012, CS for SB 612, SB 824, SB 826, SB 382, CS for SB 2228, CS for SB 1128, CS for SB 74, CS for SB 112, SB 864 SB 996, SB 2002, SB 1028, CS for SB 1006, CS for SB 936, CS for SB 1822, SB 2272, SB 1470, CS for CS for SB 1020, SB 190, CS for CS for SB 722, CS for CS for SB 170, CS for SB 1228, CS for SB 2374, CS for SB's 234 and 456, CS for SB 680, CS for SB 598, SB 1372, CS for SB's 1428, 1388, 1562 and 1252, CS for SB 564, CS for CS for SB 1074, SB 1038, CS for SB 1094, CS for SB 1132, CS for SB 1346, CS for SB 770, SB 1030, CS for SB 1456, CS for SB 748, CS for SB 914, CS for SB 650, SB 830, SB 42, CS for SB 470, CS for SB's 1678 and 2404, SB 56, CS for SB 1598, CS for SB 1214, SB 1496, SB 1016, SB 1484, CS for CS for SB 1234, SB 686, CS for SB 894, CS for SB 1248, CS for SB 1466, SB 1092, CS for SB 876, SB 172, CS for SB 1362, SB 400, CS for SB 1422

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 198 and CS for CS for SB 1154 which he approved on April 29, 1997.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 161, CS for CS for HB 271, HB 653, CS for CS for HB 725, HB 871, HB 897, HB 959, HB 961, CS for HB 1033, HB 1083, HB 1269, HB 1285, HB 1305, HB 1365, HB 1383, HB 1401, HB 1431, HB 1459, HB 1477, HB 1517, CS for HB 1597, HB 1659, HB 1875, HB 1893, HB 1901, HB 1925, HB 1939, HB 1945; has passed as amended HB 41, HB 63, CS for HB 159, CS for HB 209, HB 259, HB 367, CS for HB 513, CS for HB 533, CS for HB 539, HB 637, HB 651, HB 655, CS for HB's 715, 1249, 1321 and 1339, HB 755, CS for HB's 845 and 1255, HB 951, CS for HB 1005, HB 1009, CS for HB 1091, HB 1097, CS for HB 1129, HB 1179, CS for HB 1205, CS for HB 1227, HB 1233, HB 1265, HB 1291, CS for HB 1347, HB 1349, HB 1447, HB 1465, HB 1529, HB 1545, HB 1619, CS for HB 1643, HB 1655, HB 1679, CS for HB 1683, HB 1705, HB 1753, HB 1785, HB 1873, HB 1905, HB 1933, HB 2011, HB 2013, HB 2027, HB 2031 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Education/K-12 and Representative Dennis—

CS for HB 161—A bill to be entitled An act relating to education paraprofessionals; amending ss. 228.041, 228.056, 230.23, 231.141, 231.15, 231.3605, 231.40, 240.40685, and 121.091, F.S.; replacing the term "teacher aide" with the term "education paraprofessional"; requiring the State Board of Education to classify school services and prescribe rules; creating s. 231.143, F.S.; authorizing school districts to adopt a program for the career development of education paraprofessionals; specifying levels of achievement that paraprofessionals can attain through the program; providing restrictions; providing an effective date.

—was referred to the Committee on Education.

By the Committees on Health and Human Services Appropriations; Children and Family Empowerment; and Representative Arnall and others—

CS for CS for HB 271—A bill to be entitled An act relating to public assistance; creating s. 414.103, F.S.; providing for drug testing under the "Work and Gain Economic Self-sufficiency (WAGES) Act" for illegal use of controlled substances; providing legislative intent and findings; directing the Department of Children and Family Services to implement a program to screen and test WAGES Program applicants; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; requiring the department to provide a rehabilitation treatment program for certain persons; specifying circumstances resulting in termination of temporary assistance or services; providing limitations; providing for rules; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; Children, Families and Seniors; and Ways and Means.

By Representative Lawson and others—

HB 653—A bill to be entitled An act relating to the City of Tallahassee and the Leon County School Board; providing for the relief of Dena Sheryl Steels; providing for an appropriation by the City of Tallahassee and the Leon County School Board to compensate her for the wrongful death of Kenneth Michael Pyles, her son, resulting from the negligence of the City of Tallahassee and the Leon County School Board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Governmental Rules and Regulations; Regulated Services; and Representative Villalobos and others—

CS for CS for HB 725—A bill to be entitled An act relating to the Beverage Law; amending s. 561.14, F.S.; allowing vendor-to-vendor sales; establishing limits; requiring maintenance of certain records; amending s. 561.24, F.S.; including manufacturers of wine within a group of manufacturers who may not be licensed as distributors or registered exporters; providing exceptions; creating s. 561.5101, F.S.; requiring all alcoholic beverages brought into this state to come to rest at a wholesaler's licensed premises prior to sale; providing exceptions; providing penalties; amending s. 561.54, F.S.; providing for injunctive relief; providing for confiscation and destruction of certain alcoholic beverages; providing for treble damages; providing for costs and attorney fees; creating s. 561.545, F.S.; providing legislative intent; prohibiting the direct shipment of alcoholic beverages to any person in the state other than a licensed manufacturer or wholesaler, registered exporter, or state bonded warehouse; providing penalties; providing an exception for sacramental alcoholic beverages; amending s. 561.68, F.S., relating to the licensure of salesmen of spirituous or vinous beverages; providing an exception; providing an effective date.

—was referred to the Committees on Regulated Industries; Commerce and Economic Opportunities; and Ways and Means.

By Representative Kosmas and others—

HB 871—A bill to be entitled An act relating to Volusia County; providing for members of the Volusia County School Board to be elected on an nonpartisan basis; prescribing procedures for qualification for office and for conducting elections for members of the board; ratifying referendum election; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Barreiro—

HB 897—A bill to be entitled An act relating to taxation; amending s. 196.012, F.S.; redefining the term "educational institution," for purposes of the exemption of such institutions from ad valorem taxation, to include certain schools providing postgraduate dental education; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Ways and Means.

By Representative Miller and others—

HB 959—A bill to be entitled An act relating to Hillsborough County; amending chapter 96-519, Laws of Florida; revising the powers and duties of the Hillsborough County Civil Service Board to include provisions relating to employee grievances; providing a definition; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Miller and others—

HB 961—A bill to be entitled An act relating to Hillsborough County; amending chapter 96-519, Laws of Florida; amending provisions relating to suspension or dismissal of employees under the Civil Service Act of Hillsborough County; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Crime and Punishment; and Representative Crist and others—

CS for HB 1033—A bill to be entitled An act relating to sentencing; amending s. 921.001, F.S.; authorizing the court to sentence a defendant to a specified term of incarceration if the defendant is convicted of a felony committed on or after a certain date, the defendant has previously been convicted of a felony, and the defendant has a lesser recommended sentence under the sentencing guidelines; providing that a determination of guilt is a conviction for purposes of imposing such sentence, regardless of whether adjudication is withheld; providing that the sentence may not be appealed except upon grounds of illegality; reenacting s. 948.034(1) and (2), F.S., relating to terms and conditions of probation and residential drug punishment centers, to incorporate said amendment in references; amending s. 921.0016, F.S., relating to recommended sentences and departure sentences; revising aggravating circumstances under which a departure sentence is justified to include certain circumstances when the defendant has committed an offense within 6 months after release from county jail, private correctional facility, Department of Corrections work camp, road prison, or other incarceration; reenacting s. 921.001(6), F.S., relating to Sentencing Commission and sentencing guidelines, generally, to incorporate said amendment in a reference; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By the Committee on Financial Services and Representative Safley and others—

HB 1083—A bill to be entitled An act relating to the Uniform Commercial Code; revising chapter 678, F.S.; revising part I, relating to general matters; providing a short title; providing definitions; providing rules for determining whether certain obligations and interests are securities or financial assets; providing for acquisition of security or financial assets or interests; providing for notice of adverse claim; providing for control of certain securities; providing for effect of certain actions; providing for warranties in direct holding; providing for warranties in indirect holding; providing for applicability of law; providing clearing corporation rules; providing for creditor's legal process; providing for inapplication of statute of frauds; providing for evidentiary rules concerning certificated securities; providing for nonliability to adverse claimant under certain circumstances; providing for securities intermediary as purchaser for value; revising part II, relating to issue and issuer; providing a definition of issuer; providing for issuer's responsibilities and defenses; providing for notice; specifying staleness as notice of defect or defense; providing effect of issuer's restriction on transfer; providing for effect of unauthorized signatures; providing for completion or alteration of security certificates; providing rights and duties of issuer with respect to registered owners; providing for effect of signature of certain persons; providing for issuer's liens; specifying conditions of overissue; revising part III, relating to transfer of certificated and uncertificated securities; providing for delivery of certain securities; providing for rights of purchaser; providing for protected purchasers; providing for indorsement; providing for certain instructions; providing for effect of guaranteeing certain actions; providing purchaser's right to certain requisites; revising part IV, relating to registration; providing duties of issuer to register transfers; requiring certain assurance of effectiveness of certain actions; providing for demand that issuer not register transfer; providing for liability for wrongful registration; providing for replacement of certain certificates; providing for obligation to notify issuer of certain certificates; providing for authenticating certain persons; revising part V, relating to security entitlements; providing for securities

accounts; providing for acquisition of security entitlement from a securities intermediary; providing for assertion of adverse claim against entitlement holder; providing for property interest of entitlement holder in certain assets; providing duties of securities intermediary; providing for certain rights of purchaser of security entitlement; providing priority among security interests and entitlement holders; amending s. 679.103, F.S.; providing for perfection of security interests relating to investment property; amending ss. 679.105 and 679.106, F.S., to conform; creating s. 679.115, F.S.; providing for perfection of security interests in certain investment properties; providing definitions; providing criteria; providing procedures; creating s. 679.116, F.S.; providing for perfection of security interests arising in purchase or delivery of financial interests; amending ss. 679.203, 679.301, 679.302, 679.303, 679.304, 679.305, 679.306, 679.309, and 679.312, F.S., to conform; amending ss. 671.105, 671.206, 674.104, and 675.114, F.S., to conform; providing for applicability; repealing ss. 610.011, 610.021, 610.031, 610.041, 610.051, 610.061, 610.071, 610.081, 610.091, 610.101, 610.111, and 671.304(2)(b), F.S., relating to the Uniform Act for Simplification of Fiduciary Security Transfers; repealing ss. 678.101, 678.102, 678.103, 678.104, 678.105, 678.106, 678.107, 678.108, 678.201, 678.202, 678.203, 678.204, 678.205, 678.206, 678.207, 678.208, 678.301, 678.302, 678.303, 678.304, 678.305, 678.306, 678.307, 678.308, 678.309, 678.310, 678.311, 678.312, 678.313, 678.314, 678.315, 678.316, 678.317, 678.318, 678.319, 678.320, 678.321, 678.401, 678.402, 678.403, 678.404, 678.405, 678.406, 678.407, and 678.408, F.S., relating to investment securities under the Uniform Commercial Code; revising provisions of chapter 680, F.S., relating to leases under the Uniform Commercial Code; amending s. 680.1031, F.S.; redefining the terms "consumer lease" and "finance lease"; amending s. 680.1041, F.S.; revising language with respect to other statutes to which leases are subject; amending s. 680.303, F.S.; revising language with respect to the alienability of a party's interest under a lease contract or of a lessor's residual interest in goods; amending s. 680.304, F.S.; revising language with respect to the subsequent lease of goods by the lessor; amending s. 680.307, F.S.; revising language with respect to priority of liens arising by attachment or levy on security interests in and other claims to goods; amending s. 680.309, F.S.; revising language with respect to lessor's and lessee's rights when goods become fixtures; creating s. 680.32, F.S.; providing that nothing in chapter 680, F.S., prevents subordination by agreement by any person entitled to priority; amending s. 680.501, F.S.; revising language with respect to the procedure governing default; amending s. 680.503, F.S.; revising language with respect to modification or impairment of rights and remedies; amending s. 680.507, F.S.; revising language with respect to proof of market rent; amending s. 680.508, F.S.; revising language with respect to lessee's remedies; amending s. 680.516, F.S.; revising language with respect to the effect of acceptance of goods, notice of default, the burden of establishing default after acceptance, and notice of claim or litigation to persons answerable over; amending s. 680.518, F.S.; revising language with respect to cover and substitute goods; amending s. 680.519, F.S.; revising language with respect to lessee's damages for nondelivery, repudiation, default, or breach of warranty in regard to accepted goods; amending s. 680.523, F.S.; revising language with respect to lessor's remedies; amending s. 680.524, F.S.; revising language with respect to lessor's right to identify goods to lease contract; amending s. 680.525, F.S.; revising language with respect to lessor's right to possession of goods; amending s. 680.527, F.S.; revising language with respect to lessor's rights to dispose of goods; amending s. 680.528, F.S.; revising language with respect to lessor's damages for nonacceptance or repudiation; amending s. 680.529, F.S.; revising language with respect to lessor's action for rent; amending s. 680.532, F.S.; revising language with respect to lessor recovery for loss of residual interest; providing for the application of the act; repealing s. 679.111, F.S., relating to applicability of bulk transfer laws; providing an effective date.

—was referred to the Committees on Judiciary; Commerce and Economic Opportunities; and Ways and Means.

By Representative Healey—

HB 1269—A bill to be entitled An act relating to vehicular homicide; amending s. 782.071, F.S.; redefining the offense of "vehicular homicide" to include the killing of an unborn quick child by any injury to the mother which would be vehicular homicide if it resulted in the death of the mother; providing penalties; reenacting ss. 921.0012(3)(h) and 960.03(3), F.S., relating to the offense severity ranking chart and the definition of "crime" with respect to the Florida Crimes Compensation Act, respectively, to incorporate said amendment in references; amending s. 921.0012, F.S., relating to the offense severity ranking chart, to conform terminology; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By Representative Wallace and others—

HB 1285—A bill to be entitled An act relating to the Hillsborough County City-County Planning Commission; consolidating, compiling, and codifying extant laws pertaining to the district; providing legislative intent; conforming terminology and improving clarity; deleting provisions that have had their effect; deleting provisions duplicative of chapter 163, part II, F.S., relating to comprehensive planning; providing notice with respect to the effect of the Hillsborough County Charter; providing notice with respect to duties and responsibilities prescribed by chapter 163, part II, F.S.; amending special requirements for local governments and providing an exception; providing for review and recodification; repealing chapters 78-523, 81-392, and 82-303, Laws of Florida, relating to the Hillsborough County City-County Planning Commission, chapters 75-390, 77-564, 83-421, 84-442, and 86-407, Laws of Florida, relating to the Hillsborough County Local Government Comprehensive Planning Act of 1975, chapters 67-1507, 75-399, and 77-566, Laws of Florida, relating to review of the capital improvements budgets of local governments by the Hillsborough County City-County Planning Commission, and chapters 94-406 and 96-517, Laws of Florida, relating to the requirement for performance audits of the Hillsborough County City-County Planning Commission; providing a saving clause; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative K. Pruitt—

HB 1305—A bill to be entitled An act relating to the St. Lucie County Erosion District; amending ch. 67-2001, Laws of Florida; providing the board of the district shall be the St. Lucie County Commission; providing for meetings and applicability of ch. 189, F.S.; providing definitions; providing district powers; providing that employees of the district shall be considered employees of St. Lucie County; providing that contracts for services, supplies and materials shall be entered into as provided by the act and general law; providing district board authorizations to amend, abolish, or consolidate existing district zone boundaries and determine benefits for the purpose of levying ad valorem taxes; providing district board authorization to levy and collect non-ad valorem assessments; providing district board authorization for issuance of bonds pursuant to general law and this act; providing that the purchase of commodities and services shall be in accordance with the purchasing policies of St. Lucie County; repealing sections 25 and 26 of ch. 67-2001, Laws of Florida, relating to a required referendum for the creation of the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative K. Pruitt—

HB 1365—A bill to be entitled An act relating to the St. Lucie County Fire District; amending ch. 96-532, Laws of Florida, revising the responsibilities of the clerk-treasurer of the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Flanagan and others—

HB 1383—A bill to be entitled An act relating to the Bayshore Gardens Park and Recreation District; amending chapter 79-509, Laws of

Florida; increasing the minimum cost price or consideration of contracts involving the acquisition of real or tangible personal property which would require a two-thirds vote of district trustees and a referendum election; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 1401—A bill to be entitled An act relating to the City of Lauderdale-by-the-Sea, Broward County; extending and enlarging the corporate limits of the City of Lauderdale-by-the-Sea to include specified unincorporated lands within said corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 1431—A bill to be entitled An act relating to the City of Deerfield Beach, Broward County; extending and enlarging the corporate limits of the City of Deerfield Beach to include specified unincorporated lands within said corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Maygarden and others—

HB 1459—A bill to be entitled An act relating to Escambia County; conveying an easement in sovereignty submerged lands to the county; permitting the maintenance and operation of the Old Pensacola Bay Bridge for public recreational use; providing for private entities to maintain and operate the bridge under contract with the county; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Maygarden and others—

HB 1477—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending chapter 15425, Laws of Florida, 1931, as amended; revising the charter of the city to provide that the city council may adopt its budget, and amendments thereto, by ordinance or resolution; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Maygarden and others—

HB 1517—A bill to be entitled An act relating to Escambia County; amending chapter 92-248, Laws of Florida; providing for partisan election of members of the Escambia County Utilities Authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Civil Justice and Claims; and Representative Thrasher—

CS for HB 1597—A bill to be entitled An act relating to evidence; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; providing an effective date.

—was referred to the Committee on Judiciary.

By Representative Rayson—

HB 1659—A bill to be entitled An act relating to the City of Coconut Creek, Broward County; extending and enlarging the corporate limits of the City of Coconut Creek to include specified unincorporated lands within said corporate limits; redefining city limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 1875—A bill to be entitled An act relating to the North Lauderdale Water Control District, Broward County; amending chapter 63-661, Laws of Florida, as amended; reducing the number of members of the Board of Supervisors of the North Lauderdale Water Control District from a board of seven members to a board of five members to be composed of sitting members of the City Council of the City of North Lauderdale within 30 days after this act becomes a law; providing intent with respect to the election of supervisors; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Fasano and others—

HB 1893—A bill to be entitled An act relating to designation of state buildings; designating a state veterans' nursing home in Land O' Lakes, Pasco County, as the "Baldomero Lopez State Veterans' Nursing Home"; providing an effective date.

—was referred to the Committee on Community Affairs.

By the Committee on Education Innovation and Representative Melvin and others—

HB 1901—A bill to be entitled An act relating to job training; creating s. 446.609, F.S.; creating a school-to-work program entitled "Jobs for Florida's Graduates"; providing definitions and intent; providing requirements for school and student participation; creating an endowment fund and providing for appropriations and gifts; providing for the investment and deposit of funds in an operating account; creating an endowment foundation as a direct-support organization; providing duties of the foundation and a foundation board of directors; providing program outcome goals; providing for use of funds and startup funding; providing for accreditation; requiring an annual audit; providing for assessment of program results; requiring an annual report; providing for rules; requiring legislative review of the program; creating a pilot apprenticeship program; providing for positions and funding; providing an effective date.

—was referred to the Committees on Education; Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Jones and others—

HB 1925—A bill to be entitled An act relating to regulation of health care practitioners; creating part II of chapter 455, F.S., to provide regu-

latory provisions applicable to the Department of Health that are separate from those applicable to the Department of Business and Professional Regulation; creating ss. 455.401, 455.402, 455.403, 455.404, 455.405, 455.406, 455.407, 455.408, 455.409, 455.411, 455.412, 455.414, 455.415, 455.416, 455.417, 455.418, 455.419, 455.421, 455.422, 455.424, 455.427, 455.428, 455.429, 455.431, 455.432, 455.433, 455.436, 455.438, 455.439, 455.441, 455.442, 455.443, 455.444, 455.445, 455.446, 455.447, 455.448, 455.449, 455.451, 455.452, 455.453, 455.457, 455.458, 455.461, 455.465, 455.466, 455.467, 455.468, and 455.469, F.S., to conform; providing intent; providing for a procedure for updating boards on major public health policy; providing for appointment of a task force to develop uniform procedures to standardize the validation of health care practitioner credentials; providing requirements with respect to examinations, including requirements for national, contracted, and shared examinations and translations of examinations; restricting board meetings to those determined to be in the public interest; providing for appointment of nonboard members to board committees under certain circumstances; requiring applicants for initial licensure to submit a full set of fingerprints; providing additional grounds for disciplinary action relating to keeping legible records, payments on federally or state guaranteed educational loans or service-conditional scholarships, providing proper identification to patients, and reporting of disciplinary actions of another jurisdiction; revising provisions relating to ownership and control of patient records; transferring s. 455.247, F.S., to conform; transferring and amending ss. 455.2055, 455.2141, 455.2142, 455.2173, 455.222, 455.2224, 455.241, 455.2415, 455.2416, 455.244, 455.2455, and 455.2456, F.S., to conform; amending ss. 455.01, 455.017, 455.10, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, 455.213, 455.214, 455.217, 455.2175, 455.218, 455.219, 455.221, 455.2228, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.26, 455.261, and 455.273, F.S., to conform; transferring and amending s. 455.2205, F.S., relating to the Health Care Trust Fund, to conform; amending ss. 215.20, 391.208, 391.217, 400.5575, and 408.20, F.S.; correcting cross references, to conform; transferring and amending ss. 455.24, 455.242, 455.243, and 455.245, F.S., relating to veterinary medical practice, to conform; amending s. 455.25, F.S., relating to disclosure of financial interest; requiring physicians or other health care providers to disclose their financial interest in certain entities; eliminating entity disclosure of financial interest; repealing s. 455.220, F.S., relating to fees required by the boards to cover the costs of regulation, to conform; repealing s. 455.2226, F.S., relating to instruction on human immunodeficiency virus and acquired immune deficiency syndrome; creating part I of the remaining provisions of chapter 455, F.S., as amended, to conform; amending ss. 120.80, 212.08, 215.37, 240.215, 310.102, 337.162, 381.0039, 383.32, 395.0193, 395.0197, 395.3025, 400.491, 408.061, 408.704, 415.1055, 415.5055, 415.51, 440.13, 457.103, 458.307, 458.3115, 458.331, 458.343, 458.347, 459.004, 459.015, 459.019, 459.022, 460.404, 460.4061, 461.004, 461.013, 463.003, 463.016, 464.004, 465.004, 465.006, 466.004, 466.007, 466.018, 466.022, 466.028, 468.1135, 468.1145, 468.1185, 468.1295, 468.1665, 468.1755, 468.1756, 468.205, 468.219, 468.364, 468.365, 468.402, 468.4315, 468.453, 468.456, 468.4571, 468.506, 468.507, 468.513, 468.523, 468.526, 468.532, 468.535, 468.703, 468.707, 468.711, 468.719, 469.009, 470.003, 470.036, 471.008, 471.015, 471.033, 472.015, 473.3035, 473.308, 473.311, 473.323, 474.204, 474.214, 474.2145, 475.021, 475.181, 475.25, 475.624, 476.204, 477.029, 480.044, 481.2055, 481.213, 481.225, 481.2251, 481.306, 481.311, 481.325, 483.805, 483.807, 483.901, 484.014, 484.042, 484.056, 486.023, 486.115, 486.172, 489.129, 489.533, 490.004, 490.009, 490.015, 491.004, 491.009, 491.015, 492.103, 492.113, 627.668, 627.912, 636.039, 641.27, 641.55, 766.106, 766.305, 766.308, 766.314, and 937.031, F.S.; correcting cross references and terminology, to conform; amending ss. 20.43, 381.81, 400.211, 402.48, 457.102, 458.305, 459.003, 460.403, 461.003, 462.01, 463.002, 465.003, 466.003, 467.003, 468.1125, 468.1655, 468.352, 468.518, 468.701, 478.42, 480.033, 483.803, 484.002, 484.003, 484.041, 484.042, 484.051, 486.021, 490.003, and 491.003, F.S.; correcting cross references and definitions, to conform; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on Governmental Operations and Representative Posey—

HB 1939—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing an exemption from public records requirements for bank account numbers and debit, charge, and credit card numbers in the possession of an agency of state or local government; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was referred to the Committee on Governmental Reform and Oversight.

By the Committee on Education Innovation and Representative Melvin and others—

HB 1945—A bill to be entitled An act relating to public records; amending s. 446.609, F.S.; providing an exemption from public records requirements for the identity of donors to the Florida Endowment Foundation for Florida's Graduates; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was referred to the Committees on Education; and Commerce and Economic Opportunities.

By Representative Brennan and others—

HB 41—A bill to be entitled An act relating to health insurance; providing a short title; providing application; amending s. 627.668, F.S.; providing that the current requirement for group insurers to offer coverage for mental health conditions does not apply to serious mental illness; creating s. 627.6681, F.S.; requiring group health insurers and health maintenance organizations to provide coverage for serious mental illness; requiring benefits to be the same as for physical illness generally; requiring the health benefit plan committee to consider and recommend modifications to standard, basic, and limited health benefit plans; requiring rate filings; providing a definition; providing rulemaking authority; authorizing an insurer to establish certain compliance functions; amending ss. 627.6472, 627.6515, 641.31, F.S., relating to exclusive provider organizations, out-of-state groups, and health maintenance contracts; providing requirements for coverage compliance; providing an appropriation; providing a description of state interest; providing an effective date.

—was referred to the Committees on Banking and Insurance; Health Care; and Ways and Means.

By Representative Constantine and others—

HB 63—A bill to be entitled An act relating to tax administration; amending s. 193.063, F.S., which authorizes the property appraiser to grant an extension for filing tangible personal property tax returns; revising requirements for the request for an extension; amending s. 199.282, F.S.; reducing the penalties for failure to timely pay annual or nonrecurring intangible personal property tax and failure to timely file an annual tax return; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Community Colleges and Career Prep; and Representative Dennis and others—

CS for HB 159—A bill to be entitled An act relating to community colleges; amending s. 240.498, F.S., relating to the Florida Education Fund; establishing the Community Faculty Diversity Program; providing for fellowships; requiring service or repayment; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By the Committee on Agriculture and Representative Ziebarth and others—

CS for HB 209—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing a definition of "self-propelled farm equipment," "power-drawn farm equipment," "power-driven farm equipment," and "forest"; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled or power-drawn farm equipment; including power-driven farm equipment within such exemption; reducing the rate of tax on such equipment; amending s. 212.12, F.S., relating to promulgation of tax brackets by the Department of Revenue, to conform; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Ways and Means.

By Representative Sublette and others—

HB 259—A bill to be entitled An act relating to alcohol, drug abuse, and mental health services; providing a process for achieving equity in the funding of such services among the service districts of the Department of Children and Family Services; providing an effective date.

—was referred to the Committees on Children, Families and Seniors; and Ways and Means.

By Representative Rayson and others—

HB 367—A bill to be entitled An act relating to education; creating the "Florida Maximum Class Size Goals Act"; providing intent; providing goals relating to class size in certain grade levels; providing for funding; providing for review of statutory mandates; requiring annual reports and a study based on class size reductions; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By the Committee on Juvenile Justice and Representative Rayson and others—

CS for HB 513—A bill to be entitled An act relating to juvenile and criminal justice; amending s. 39.0145, F.S., relating to punishment of a delinquent child for contempt of court and alternative sanctions; removing certain time limitations upon placement of delinquent child held in contempt in a secure detention facility or secure residential commitment facility; amending s. 39.025, F.S., relating to district juvenile justice boards; conforming provisions to reflect the creation of the Department of Children and Family Services; requiring that specified entities participate in the interagency agreement developed by the county juvenile justice council; specifying information to be included in the agreement; clarifying the minimum requirements to be included in an application for a community juvenile justice partnership grant; revising requirements for application for a community juvenile justice partnership grant to remove requirement for participation of the Department of Health and Rehabilitative Services; amending s. 39.044, F.S., relating to detention; providing for continued detention of a child who has failed to appear in court on two separate occasions on the same case; providing for extension up to 30 days of the time limits upon detention of a child, under specified circumstances; reenacting ss. 39.038(4), 39.042(2)(b), 39.0445, 39.049(5), 39.064(1), 790.22(8), relating to release or delivery from custody, use of detention, juvenile domestic violence offenders, release or delivery from custody, process and service, detention of furloughed or escaped child, and weapons or firearms offenses by minors to incorporate said amendment in references; amending s. 39.0471, F.S.; authorizing establishment of truancy programs by juvenile justice assessment centers; defining "truant student" to include enrolled students between 6 years of age and 18 years of age; amending s. 230.2316, F.S., relating to dropout prevention; providing a maximum limitation upon school district costs for administering juvenile justice purchase-of-service contracts without specified written justification agreed upon by the Department of Juvenile Justice and the Department of Education; amending s. 230.23161, F.S., relating to educational services in Department of Juvenile Justice programs; providing a maximum limitation on administrative costs under certain contracts by school districts for such programs; amending s. 806.13, F.S., relating to criminal mischief; redefining first degree misdemeanor criminal mischief offense to include damage to property greater than $200 but less than $500, and providing penalties therefor; redefining third degree felony criminal mischief to include certain damages of $500 or greater, and providing penalties therefor; amending s. 921.0012, F.S., relating to the sentencing guidelines offense penalties, to conform a cross reference; amending s. 812.014, F.S., relating to theft; providing second degree felony penalties for a person who commits grand theft of a motor vehicle and who has previously been convicted two or more times of motor vehicle theft; reenacting ss. 39.052(3)(a) and 538.23(2), F.S., relating to transfer of child for prosecution and offenses by secondary metal recyclers, to incorporate said amendment in references; requiring cooperative agreements between the Department of Juvenile Justice and the Department of Children and Family Services for the provision of mental health and substance abuse treatment services to youth in the juvenile justice system; requiring the Office of Program Policy Analysis and Government Accountability to conduct a performance review of the provision of mental health and substance abuse treatment services to youth in the juvenile justice system; requiring a report; amending s. 39.069, F.S.; providing for appeal by the state of an order denying restitution, under certain circumstances when the order affects a party to a case involving delinquency; providing effective dates.

—was referred to the Committees on Criminal Justice; Children, Families and Seniors; and Ways and Means.

By the Committee on Regulated Services and Representative Gay and others—

CS for HB 533—A bill to be entitled An act relating to alcoholic beverages; repealing s. 561.501, F.S., relating to the surcharge on the sale of alcoholic beverages for consumption on the premises contingent upon certain conditions being met; amending s. 561.025, F.S.; conforming to the act contingent upon the repeal of s. 561.501, F.S.; amending s. 561.121, F.S.; conforming to the act contingent upon the repeal of s. 562.501, F.S.; providing for a portion of funds from the excise taxes on alcoholic beverages to be transferred to the Children and Adolescents Substance Abuse Trust Fund; providing an effective date.

—was referred to the Committees on Regulated Industries; Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Education Innovation and Representative Ziebarth and others—

CS for HB 539—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; revising provisions relating to proposals; providing additional application and denial of application requirements; revising appeal procedures in the case of denial of an application; revising enrollment and charter provisions; revising annual reporting requirements; authorizing waiver of statutes; revising provisions relating to employees; revising provisions relating to distribution of funds to charter schools; providing for use of facilities, property, goods, and services; providing requirements; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By Representative Sindler and others—

HB 637—A bill to be entitled An act relating to the Orlando Utilities Commission; amending chapter 9861, Laws of Florida, 1923, as amended; authorizing the establishment, construction, maintenance, and operation of energy services, all grades of water, and plants, lines, and facilities within Orange and Osceola Counties; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Community Affairs; and Rules and Calendar.

By Representative Posey and others—

HB 651—A bill to be entitled An act relating to elections; providing a short title; providing a statement of legislative intent; amending s. 104.271, F.S.; expanding applicability of the prohibition against making false or malicious charges against, or false statements about, candidates; eliminating the requirement of actual malice in the prohibition against making false statements about candidates and providing for personal liability with respect thereto; clarifying and providing penalties; providing an effective date.

—was referred to the Committee on Executive Business, Ethics and Elections.

By Representative Frankel—

HB 655—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending ch. 24981, Laws of Florida, 1947, as amended, relating to the West Palm Beach Police Pension and Relief Fund; providing definitions; providing for chapter 185 share accounts; providing for a Deferred Retirement Option Plan; providing for investments; providing for Internal Revenue Code limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Water and Resource Management; and Representative Laurent and others—

CS for HB's 715, 1249, 1321 and 1339—A bill to be entitled An act relating to water resources; amending s. 373.016, F.S.; revising legislative policy; providing construction and application; amending s. 373.019, F.S.; revising definitions; defining "district water management plan," "Florida water plan," "regional water supply plan," "water resource development," "water resource implementation rule," and "water supply development;" amending s. 373.036, F.S.; eliminating the state water use plan; providing for development of the Florida water plan, to include the water resource implementation rule; providing procedure for rule amendment; requiring water management district governing boards to develop district water management plans; creating s. 373.0361, F.S.; providing requirements for regional water supply plans for regions identified in district water management plans; requiring an annual report; amending s. 373.042, F.S.; revising minimum flows and levels timing requirements; providing for independent scientific peer review; creating s. 373.0421, F.S.; requiring certain considerations in establishment and implementation of minimum flows and levels; providing for implementation of recovery or prevention strategies; amending s. 373.046, F.S.; providing for interdistrict agreements for implementation of certain regulatory responsibilities; amending s. 373.0693, F.S.; correcting a cross reference; amending s. 373.073, F.S.; revising procedure for appointment of members to the water management district governing boards; providing a timetable; amending s. 373.079, F.S.; requiring the Governor to select a governing board member as chair of the governing board; revising procedure for appointment of district executive directors; providing respective authority of the Governor and governing boards; authorizing employment of governing board ombudsmen; revising duties of governing board legal staff; creating s. 373.0831, F.S.; specifying governing board responsibilities for water resource development and responsibilities of other entities for water supply development; providing for priorities for funding; requiring a report; amending s. 373.223, F.S.; providing requirements in considering authorization to transport ground or surface water under a permit for consumptive use of water; providing restrictions; amending s. 373.236, F.S.; revising provisions relating to duration of consumptive use permits; requiring compliance reports and permit modification, under certain circumstances; requiring a proposal for reevaluation of certain areas with contaminated water supplies; amending s. 373.507, F.S.; revising provisions relating to district and basin audits, budgets, and expense reports; requiring districts to furnish copies of documents to specified entities and to respond to comments; amending s. 373.536, F.S.; providing requirements for notice and advertisement of district budget hearings and workshops; providing requirements for budget identification of administrative and operating expenses; providing for certain analysis of budgets; revising requirements for submittal of tentative budgets; amending s. 373.59, F.S.; deleting obsolete language; correcting a cross reference; authorizing use of interests in property acquired under the Water Management Lands Trust Fund for permittable water resource development and water supply development purposes; amending ss. 186.007, 186.009, 373.103, 373.114, 373.418, 373.456, 403.031, and 403.0891, F.S., to conform to the act; repealing ss. 373.026(10), 373.039, and 403.061(33), F.S., relating to state water policy and the Florida water plan; repealing s. 373.0735, F.S., relating to appointment of members to the governing board of the Southwest Florida Water Management District; providing for grandfathering-in of minimum flows and levels for priority waters in Pasco County and Hillsborough County pursuant to provisions of chapter 96-339, Laws of Florida; providing for application of act to Hillsborough River and the Palm River/Tampa By-Pass Canal; amending s. 373.1963, F.S.; providing for supplemental report from the West Coast Regional Water Supply Authority; providing an effective date.

—was referred to the Committees on Natural Resources; and Ways and Means.

By Representative Constantine and others—

HB 755—A bill to be entitled An act relating to postsecondary education; amending s. 110.131, F.S.; deleting the requirement that the Board of Regents comply with recordkeeping and reporting requirements for other-personal-services employment; amending s. 235.055, F.S.; deleting authority of the Board of Regents to construct facilities on leased property and enter into certain leases; amending s. 235.195, F.S.; modifying provisions relating to joint-use facilities; amending s. 240.1201, F.S.; classifying specified Canadian military personnel as residents for tuition purposes; amending s. 240.147, F.S.; correcting a cross reference; amending s. 240.205, F.S.; revising the acquisition and contracting authority of the Board of Regents; amending s. 240.209, F.S.; authorizing procedures to administer an acquisition program; authorizing the Board of Regents to sell, convey, transfer, exchange, trade, or purchase real property and related improvements; providing requirements; amending s. 240.214, F.S.; revising provisions relating to the State University System accountability process; amending s. 240.227, F.S.; revising the acquisition and contracting authority of university presidents; authorizing adjustment of property records and disposal of certain tangible personal property; amending s. 240.289, F.S.; revising rulemaking for credit card use; amending s. 243.151, F.S.; providing a procedure under which a university may construct facilities on leased property; amending s. 287.012, F.S.; excluding the Board of Regents and the State University System from the term "agency" for purposes of state procurement of commodities and services; repealing ss. 240.225, 240.247, 240.4988(4), and 287.017(3), F.S., relating to delegation of authority by the Department of Management Services to the State University System, eradication of salary discrimination, Board of Regents' rules for the Theodore R. and Vivian M. Johnson Scholarship Program, and applicability of purchasing category rules to the State University System; amending s. 240.2475, F.S., relating to the State University System equity accountability program; requiring each state university to maintain an equity plan to increase the representation of women and minorities in faculty and administrative positions; providing for the submission of reports; requiring the development of a plan for achievement of equity; providing for administrative evaluations; requiring the development of a budgetary incentive plan; providing for an appropriation; amending s. 240.3355, F.S., relating to the State Community College System equity accountability program; requiring each community college to maintain a plan to increase the representation of women and minorities in faculty and administrative positions; providing contents of an employment accountability plan; requiring the development of a plan for corrective action; providing for administrative evaluations; providing for submission of reports; requiring the development of a budgetary incentive plan; providing an effective date.

—was referred to the Committees on Education; Governmental Reform and Oversight; and Ways and Means.

By the Committee on Regulated Services and Representative Morroni and others—

CS for HB's 845 and 1255—A bill to be entitled An act relating to tobacco products; amending s. 20.165, F.S.; authorizing employees of the Division of Alcoholic Beverages and Tobacco who are certified as law enforcement officers to investigate, enforce, and prosecute certain violations relating to tobacco products; redesignating chapter 569, F.S., as "Tobacco Products"; amending and renumbering s. 859.06, F.S., to clarify language; providing increased penalty for a second or subsequent violation for illegally selling or giving tobacco products to certain persons; amending s. 569.002, F.S.; revising the definition of "tobacco products"; revising definition language to exclude certain classes of persons from definition of "under age 18"; creating s. 569.11, F.S.; making it unlawful for any person under age 18 to knowingly possess any tobacco product or to misrepresent age or military service to acquire or purchase any tobacco product; providing for civil citation and imposition of sanctions by court; providing for the disposition of fines; creating s. 569.12, F.S.; providing for jurisdiction and enforcement and local tobacco product enforcement officers; providing for enforcement by correctional probation officers; providing necessary information for civil citation form; amending ss. 569.003, 569.004, and 569.006, F.S.; clarifying language; renumbering and amending s. 859.061, F.S., relating to posting of signs to conform and clarify language; providing for instructional material; authorizing use of electronic or automated systems upon approval by the division; providing penalties; amending s. 569.007, F.S.; providing restrictions on the sale or delivery of tobacco products; providing exceptions; creating s. 569.0075, F.S.; prohibiting the gift of sample tobacco products to persons under the age of 18; providing for penalties; amending s. 569.008, F.S.; requiring tobacco products dealers to exercise diligent management and supervision in the management and supervision of their premises and in supervision and training of their employees, agents, or servants; conforming and clarifying language relating to responsible tobacco product dealers; amending s. 569.009, F.S.; conforming and clarifying language relating to rulemaking authority; amending s. 322.056, F.S.; providing for mandatory revocation or suspension of, or delay of eligibility for, drivers' licenses for persons under age 18 who commit noncriminal tobacco violations and fail to comply with corresponding sanctions; providing a suspended or revoked driver's license as a result of violation, shall not result in increased automobile insurance premiums or in assessment of points against person's driving record; creating s. 569.19, F.S.; providing for an annual report; requiring notification to licensees and permittees of the provisions included in this legislation; providing an appropriation; providing an effective date.

—was referred to the Committees on Regulated Industries; Criminal Justice; and Ways and Means.

By Representative Miller and others—

HB 951—A bill to be entitled An act relating to Hillsborough County; amending chapter 95-488, Laws of Florida; authorizing the Tampa Port Authority to delegate control and regulation of submerged lands; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Saunders—

CS for HB 1005—A bill to be entitled An act relating to the Statewide Provider and Subscriber Assistance Program; amending s. 408.7056, F.S.; providing definitions; revising criteria and procedures for review of grievances against a managed care entity by the statewide provider and subscriber assistance panel; providing for initial review by the Agency for Health Care Administration; providing time requirements for panel hearings and recommendations, and final orders of the agency or the Department of Insurance; providing for notice; providing requirements for expedited or emergency hearings; providing an exemption from the Administrative Procedures Act; providing for requests for patient records; authorizing an administrative fine for failure to timely provide records; providing for furnishing of evidence in opposition to panel recommendations; providing for adoption of panel recommendations in final orders of the agency or department; authorizing imposition of fines and sanctions; specifying conditions for rejection of panel recommendations; requiring certain notice to subscribers and providers of their right to file grievances; creating s. 408.7057, F.S.; providing for appeals; providing for attorney's fees and costs; amending s. 641.511, F.S.; correcting a cross reference; providing an appropriation; providing an effective date.

—was referred to the Committees on Banking and Insurance; Health Care; and Ways and Means.

By Representative Morse and others—

HB 1009—A bill to be entitled An act relating to postsecondary education; creating the minority teacher education scholars program; providing for enrollment in the program; authorizing scholarships to certain students; providing for repayment of scholarships; providing exceptions; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By the Committee on Civil Justice and Claims; and Representative Crist and others—

CS for HB 1091—A bill to be entitled An act relating to the representation of persons sentenced to death; amending s. 27.701, F.S.; providing for the office of capital collateral representative to be replaced by three capital collateral regional counsels appointed within the northern, middle, and southern regions of the state; providing for nominations of the regional counsels by the Supreme Court Judicial Nominating Commission; requiring the Governor to appoint the regional counsels; providing for terms of office; prohibiting a regional counsel from running for or accepting appointment to a state office for a specified period after leaving office; amending s. 27.702, F.S.; specifying the duties of the capital collateral regional counsel; establishing the independence of the regional offices but consolidating the administrative functions of three offices within the Justice Administrative Commission; authorizing the court to assess attorney's fees and costs against a nonindigent or indigent-but-able-to-contribute defendant; providing for a determination of indigency; requiring the regional counsel to provide certain reports to the President of the Senate, the Speaker of the House of Representatives, and the Commission on the Administration of Justice in Capital Cases; amending s. 27.703, F.S.; providing for the appointment of substitute counsel in instances of conflict of interest; establishing qualifications for appointed counsel; establishing a rate of compensation for attorney's fees in such cases; amending s. 27.704, F.S.; authorizing the capital collateral regional counsel to appoint assistant counsel, investigators, and support personnel; providing for employment of law school graduates; providing employment qualifications for certain positions; providing for contracts with private counsel or public defenders; amending s. 27.705, F.S.; providing for the capital collateral counsel to be paid under the General Appropriations Act; providing for the payment of office and travel expenses; requiring the regional counsel to submit a pay plan each year; amending s. 27.706, F.S.; prohibiting the capital collateral regional counsel and full-time assistants from engaging in the private practice of law; amending s. 27.707, F.S.; authorizing investigators employed by the capital collateral regional counsel to serve subpoenas and court orders; amending s. 27.708, F.S.; providing for access to persons sentenced to death who are incarcerated; requiring the regional counsel and contracted private counsel to comply with the Rules of Criminal Procedure; requiring the regional counsel to approve requests for public records made by assistant counsel or appointed counsel; creating the Commission on the Administration of Justice in Capital Cases; providing for membership; setting terms of membership; providing for the selection of a chair; providing for per diem and travel expenses; requiring quarterly meetings of the commission; providing for the Joint Legislative Management Committee to staff the commission; requiring the commission to review the administration of justice in capital collateral cases, receive relevant public input, review the operation of the regional offices of capital collateral counsel, and advise and make recommendations to the Governor, Legislature, and Supreme Court; requiring that the commission hear complaints regarding the practice of any such office; amending s. 16.01, F.S.; requiring that the Attorney General act as co-counsel in capital collateral proceedings; amending s. 924.051,

F.S.; providing circumstances under which a motion for collateral or postconviction relief in any capital case may be considered after a specified date; prohibiting the testimony of an expert witness in any such case unless approved by the court; providing recommendations for the Supreme Court; providing a transition period; authorizing the Governor to appoint interim and regional counsel by specified dates; authorizing attorneys to continue representation of clients during the transitional period; providing an effective date.

—was referred to the Committees on Criminal Justice; Ways and Means; and Rules and Calendar.

By the Committee on Financial Services and Representative Safley and others—

HB 1097—A bill to be entitled An act relating to securities transactions; amending s. 517.021, F.S.; revising definitions; amending s. 517.051, F.S.; deleting an exemption from securities registration requirements for investment companies; amending s. 517.07, F.S.; prohibiting the sale of certain securities; requiring the Department of Banking and Finance to issue a permit upon granting a registration; amending s. 517.081, F.S.; providing additional authority to the Department of Banking and Finance relating to registration requirements; providing for filing certain alternative information; providing requirements; amending ss. 517.082 and 517.101, F.S.; deleting obsolete cross references; amending s. 517.12, F.S.; exempting commodity trading advisers from certain registration requirements under certain circumstances; providing for a reduced assessment fee under certain circumstances; amending s. 517.1203, F.S.; providing for termination of allocation of certain assessment fee revenues to the Securities Guaranty Fund under certain circumstances; amending s. 517.131, F.S.; specifying an allocation of certain assessment fee revenues to the Securities Guaranty Fund under certain circumstances; providing effective dates.

—was referred to the Committees on Banking and Insurance; and Ways and Means.

By the Committee on Corrections and Representative Peaden and others—

CS for HB 1129—A bill to be entitled An act relating to correctional work programs; amending s. 212.08, F.S., relating to specified exemptions from retail sale, rental, use, consumption, distribution, and storage taxes; providing an exemption for products sold by the corporation authorized to operate correctional work programs; providing for applicability of the exemption retroactive to July 1, 1983; amending s. 946.503, F.S.; redefining "facilities" with respect to correctional work programs; amending s. 946.504, F.S., relating to lease of facilities by the Department of Corrections to corporation authorized to operate correctional work programs, to conform; amending s. 946.505, F.S., relating to reversion of property to the department upon dissolution of corporation or termination of lease, and reenacting s. 946.509(1), F.S., relating to insurance of property leased or acquired by the corporation, to incorporate said amendment in a reference; providing for reversion of certain facilities subsequently constructed or otherwise acquired after the original lease; amending s. 946.511, F.S.; revising objectives and priorities for assignment of inmates to programs to specify priority with respect to essential operational functions and "revenue-generating contracts," as defined; amending s. 946.512, F.S., relating to inmate compensation plan, and reenacting s. 946.513(1), F.S., relating to disposition of compensation received for private employment of inmates, to incorporate said amendment in a reference; providing for certain payments to the Correctional Work Program Trust Fund in lieu of the Grants and Donations Trust Fund; removing provision for annual appropriation; amending s. 946.515, F.S., and reenacting s. 946.518, F.S., relating to prohibitions on sale of goods by prisoners, to incorporate said amendment in a reference; permitting the furnishing or sale of services or items produced by the corporation when not otherwise prohibited by law; creating s. 946.520, F.S.; providing for assignment of certain inmates to specified work programs; requiring the department to assign a certain percentage of specified inmates collectively to the specified work programs; providing an exclusion to the percentage requirement for certain institutions; prohibiting the department from removing inmates from specified work assignments except under certain circumstances; repealing s. 945.04(4) & (5), F.S., relating to certain requirements for assignments of inmates within a specified period of their release dates, and report by the department thereon; repealing s. 946.009, F.S., relating to operational guidelines for correctional work programs; providing an effective date.

—was referred to the Committees on Criminal Justice; Governmental Reform and Oversight; and Ways and Means.

By Representative Brown—

HB 1179—A bill to be entitled An act relating to regulation of professions and occupations; amending s. 455.213, F.S., relating to general licensing provisions; providing for direct payment of organization-related or vendor-related fees associated with the examination to the organization or vendor; providing that passing a required examination does not entitle a person to licensure if the person is not otherwise qualified; amending s. 455.217, F.S., relating to examinations; authorizing the contracting for examinations and services related to examinations; providing requirements with respect to examinations developed by the department or a contracted vendor and to national examinations; amending s. 455.225, F.S.; providing that complaints or actions against unlicensed persons or persons operating outside their scope of practice are not confidential; amending s. 489.109, F.S.; revising language relating to fees applicable to regulation of construction contracting, to conform to changes authorizing contracted examinations; amending s. 489.111, F.S.; revising provisions relating to licensure by examination; amending s. 489.113, F.S.; authorizing a local construction regulation board to deny, suspend, or revoke the authority of a certified contractor to obtain a building permit or limit such authority to obtaining a permit or permits with specific conditions; providing for notices of noncompliance for minor violations of regulatory law; amending s. 489.114, F.S., relating to evidence of workers' compensation coverage; conforming terminology; amending s. 489.115, F.S.; providing for licensure by endorsement reciprocity with other jurisdictions; providing for rules covering requirements relating to the content of continuing education courses and standards for approval of continuing education providers; requiring submission of a credit report reflecting financial responsibility as a prerequisite to the initial issuance of a certificate; amending s. 489.119, F.S.; requiring business organizations other than sole proprietorships to secure a certificate of authority rather than registration or certification; amending s. 489.1195, F.S.; specifying requirements for financially responsible officers; amending s. 489.127, F.S., relating to prohibitions and penalties; including reference to certificates of authority; specifying that a local occupational license issued under authority of chapter 205, F.S., is not a license for purposes of part I of chapter 489, F.S., relating to construction contracting; amending s. 489.129, F.S., relating to disciplinary proceedings; including reference to certificates of authority; prohibiting issuance or renewal of licensure until restitution is paid in full, if restitution has been ordered, or until all terms and conditions of the final order have been satisfied; amending s. 489.131, F.S.; providing applicability of the part to the authority of local authorities to issue and the requirement of specified contractors to obtain local occupational license tax certificates; providing for payment of local bonds into the Construction Industry Recovery Fund; providing for issuance of notices of noncompliance for minor violations of regulatory law; amending s. 489.132, F.S., relating to prohibited acts by unlicensed principals; conforming terminology; creating ss. 489.1455 and 489.5335, F.S.; providing requirements for local reciprocity of licensed journeymen; providing for a fee; creating s. 489.146, F.S.; requiring privatization of services of the Department of Business and Professional Regulation; providing requirements and rulemaking authority for such purpose; providing effective dates.

—was referred to the Committees on Regulated Industries; Governmental Reform and Oversight; and Ways and Means.

By the Committee on Health Care Services and Representative Brooks and others—

CS for HB 1205—A bill to be entitled An act relating to informed consent; creating the "Woman's Right-To-Know-Act; amending and renumbering s. 390.001, F.S.; requiring the voluntary and informed consent of a woman upon whom a termination of pregnancy is to be performed or induced; providing requirements of informed consent; provid-

ing that a physician provide certain information; requiring written acknowledgment that the pregnant woman has been provided with certain information; providing requirements relating to an emergency procedure; providing for disciplinary actions; providing a defense; amending and renumbering s. 390.002, F.S.; conforming references to the Department of Health; amending s. 390.011, F.S.; expanding scope and revising definitions; amending ss. 390.012, 390.014, 390.015, 390.016, 390.017, 390.018, 390.019, and 390.021, F.S.; conforming references to the department, the Agency for Health Care Administration, and the chapter; providing an effective date.

—was referred to the Committees on Health Care and Judiciary.

By the Committee on Health Care Services and Representative Ball and others—

CS for HB 1227—A bill to be entitled An act relating to termination of pregnancies; renumbering and amending s. 390.001, F.S.; revising provisions relating to consents required prior to a termination of pregnancy; prohibiting partial-birth abortion; providing a penalty; providing civil liability; providing for relief; renumbering s. 390.002, F.S.; amending s. 390.011, F.S.; expanding scope of definitions; defining "partial-birth abortion"; providing an effective date.

—was referred to the Committees on Health Care; Judiciary; and Ways and Means.

By Representative Boyd and others—

HB 1233—A bill to be entitled An act relating to postsecondary education; amending s. 240.1201, F.S.; classifying students taking certain courses at the Florida Emergency Training Facility as residents for tuition purposes; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By Representative Horan—

HB 1265—A bill to be entitled An act relating to Monroe County; creating the "Islamorada, Village of Islands"; providing legislative intent; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a village council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing for compensation and expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of council members; providing that certain interference with village employees shall constitute malfeasance in office; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing amendments for supplemental, reduction, and transfer of appropriations; providing for limitations; providing for appointment of charter offices, including a village manager and village attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiative and referenda; providing the village a transitional schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for accelerated entitlement to state-shared revenues; providing for gas tax revenue; providing for a transition agreement between Monroe County and Islamorada, Village of Islands; providing land descriptions of the village; providing for future amendments of the charter; providing for standards of conduct in office; providing for severability; providing for a referendum approval; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Futch—

HB 1291—A bill to be entitled An act relating to Brevard County; creating the "City of Suntree Charter"; providing for the corporate name and purpose of the charter; establishing territorial boundaries of the municipality and authorizing annexations; providing powers of the municipality and of certain officers; providing for election of a city council, including the mayor and vice mayor, and providing for qualifications, powers, and duties of its membership, and a procedure for establishing their compensation and expense reimbursement; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; requiring independent financial audit; providing for council meetings, rules, recordkeeping, and voting at meetings; providing for nominations, elections, and terms of office of the mayor and council; providing for a city manager, city clerk, and city attorney and powers and duties of each; authorizing establishment of administrative departments; providing definitions; providing procedures for adoption of ordinances and resolutions and for handling finances; establishing fiscal year and annual budgets; providing procedures for initiative and referendum; providing for charter amendments and review; providing for severability; providing for transition, including initial election and terms, date of creation and establishment of the municipality, payment of certain revenues, and transitional comprehensive plan and land development regulations; entitling the city to state-shared and local option gas tax revenues; providing for contractual services and facilities; eliminating transition elements; providing a referendum.

—was referred to the Committee on Rules and Calendar.

By the Committee on Corrections and Representative Martinez—

CS for HB 1347—A bill to be entitled An act relating to corrections; amending s. 775.084, F.S.; clarifying that the gain-time that the Department of Corrections may award to a habitual felony offender, a habitual violent felony offender, or a violent career criminal is limited to monthly incentive gain-time; amending s. 921.0017, F.S.; clarifying that credit for time served means time spent in state prison or county jail on the same offense; amending s. 944.279, F.S.; providing that a prisoner who is found to have brought a frivolous or malicious action or brought false information before the court is subject to disciplinary procedures; defining the term "prisoner"; amending s. 944.35, F.S., relating to authorized use of force by a departmental employee against an inmate or supervised offender; removing requirement that a report on such use of force be kept in the file of an employee; providing for notation of a use-of-force incident and outcome in the file of an employee; amending s. 944.472, F.S., relating to drug-free corrections; providing legislative findings and purposes with respect to reasonable suspicion of substance-abuse testing programs for inmates; amending s. 944.473, F.S.; providing for adoption of rules for such programs; amending s. 944.801, F.S., relating to education for state prisoners; entitling certain inmates who qualify for special educational services and programs under federal law to request hearings before the Division of Administrative Hearings; providing that administrative law judges are not required to travel to state and private correctional institutions and facilities to conduct such hearings; amending s. 948.01, F.S., relating to the court's authority to place a defendant on probation or community control; authorizing the court to revoke, modify, or continue supervision upon violation; providing certain sentencing authority upon violation; prohibiting the court from awarding credit for time served under certain circumstances; providing limitations on the court for subsequent supervision upon violation; amending s. 948.03, F.S., relating to terms and conditions of probation or community control; deleting attendance at an HIV/AIDS awareness program as a standard condition; authorizing courts to impose such a condition if such a program is available as specified; amending s. 948.06, F.S.; prohibiting the award of credit for time served while on probation or community control for subsequent terms of supervision following a revocation of probation or community control; providing limitations on the court for imposing a subsequent term of supervision following revocation; amending s. 947.04, F.S.; authorizing the chairman of the Parole Commission to serve successive terms; amending s. 947.1405, F.S.; clarifying the inclusion of violent career criminals as eligible for conditional release supervision; clarifying that conditional release supervision applies to all sentences of an inmate if the inmate's overall sentences include one or

more sentences that are eligible for conditional release supervision; providing an effective date.

—was referred to the Committees on Criminal Justice; Community Affairs; and Ways and Means.

By Representative Betancourt—

HB 1349—A bill to be entitled An act relating to culpable negligence; amending s. 784.05, F.S.; defining the offense of storing or leaving a loaded firearm within reach or easy access of a minor, which firearm is obtained and taken to a public or private elementary or secondary school by the minor; providing penalties; providing exceptions; amending s. 921.0012, F.S., relating to the sentencing guidelines offense levels; conforming a cross reference; providing an effective date.

—was referred to the Committees on Criminal Justice and Education.

By Representative Sindler—

HB 1447—A bill to be entitled An act relating to veterinary medical practice; amending s. 474.203, F.S.; revising and providing exemptions from regulation under chapter 474, F.S., relating to veterinary medical practice; amending s. 474.207, F.S., relating to licensure by examination; eliminating obsolete provisions; amending s. 474.211, F.S.; requiring criteria for providers of continuing education to be approved by the board; amending s. 474.2125, F.S.; exempting veterinarians licensed in another state from certain requirements for temporary licensure in this state; correcting a cross reference; amending s. 474.214, F.S.; increasing the administrative fine; 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; reenacting s. 474.217(2), F.S., relating to licensure by endorsement, to incorporate the amendment to s. 474.214, F.S., in a reference thereto; providing an effective date.

—was referred to the Committees on Regulated Industries; and Ways and Means.

By Representative Dockery and others—

HB 1465—A bill to be entitled An act relating to social and economic assistance; amending s. 409.908, F.S.; deleting a provision relating to the reimbursement for midwives who provide services to Medicaid recipients; directing the Agency for Health Care Administration to adopt certain rules; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on Regulated Services and Representative Morroni and others—

HB 1529—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.01, F.S.; providing a definition for an entertainment/resort complex; amending s. 561.02, F.S.; providing legislative intent; amending s. 562.14, F.S.; prohibiting certain vendors from allowing licensed premises to be rented, leased, or otherwise used during the hours in which the sale of alcoholic beverages is prohibited; providing exceptions; amending s. 562.45, F.S.; prohibiting counties or incorporated municipalities from adopting certain ordinances with respect to alcoholic beverages; providing exceptions; providing an effective date.

—was referred to the Committees on Regulated Industries and Community Affairs.

By the Committee on Community Colleges and Career Prep; and Representative Sindler and others—

HB 1545—A bill to be entitled An act relating to education; amending ss. 239.117, 240.235, and 240.35, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from certain student fees; amending s. 240.334, F.S.; conforming provisions; amending s. 240.36, F.S.; renaming the Florida Academic Improvement Trust Fund for Community Colleges; providing the community college system with the opportunity to receive and match challenge grants; specifying the State Board of Community Colleges as an eligible community college entity; providing for matching funds by any community college entity; requiring transfer of state matching funds to foundations; requiring each community college entity to establish its own academic improvement trust fund for the deposit of funds; specifying the use of funds; deleting certain requirements restricting the use of money for specified scholarship purposes; creating s. 240.4041, F.S.; permitting part-time students with a disability to be eligible for state financial aid; amending s. 240.6045, F.S.; revising provisions relating to a limited access competitive grant program; amending s. 229.551, F.S.; including private postsecondary education institutions; providing an exception to the course leveling requirement; amending s. 240.107, F.S., and reenacting s. 239.213(3), F.S., relating to vocational-preparatory instruction, to incorporate said amendment in a reference; deleting an alternative to the College Level Academic Skills Test; deleting a testing requirement; amending s. 240.116, F.S., relating to dual enrollment; providing an exception to grade point average requirements under certain circumstances; amending s. 240.117, F.S.; revising provisions relating to common placement testing for dual enrollment students; amending s. 240.1163, F.S.; providing limitations for calculating dual enrollment grades; authorizing the approval of dual enrollment agreements for limited course offerings with statewide appeal; creating s. 240.65, F.S.; providing a short title; providing legislative intent; creating the Institute on Public Postsecondary Distance Learning; providing for a governing board of the institute; assigning the institute to the Florida Gulf Coast University for purposes of administration; specifying duties of the institute; providing review and approval by Florida Distance Learning Network; repealing s. 240.65, F.S., after a date certain; creating s. 240.66, F.S.; directing the State Board of Community Colleges to establish the Florida Community College Distance Learning Consortium; providing for consortium membership; providing duties of the consortium; providing review and approval by Florida Distance Learning Network; amending s. 120.542, F.S.; providing that public employees are not persons subject to regulation for the purposes of waiver and variance; amending s. 120.81, F.S.; providing for exceptions to notice requirements and filing requirements; providing for retroactive effect; amending s. 231.17, F.S.; providing specific authority to adopt rules related to the educational certification of speech pathologists; amending ss. 228.041, 231.1725, 232.246, 233.067 and 236.081, F.S.; renaming home economics courses as family and consumer sciences courses; amending s. 239.105, F.S.; revising definitions of the terms “adult secondary education,” “basic literacy,” and “functional literacy”; defining the terms “beginning literacy” and “family literacy”; amending s. 239.205, F.S.; deleting a rulemaking requirement regarding career education programs; amending s. 239.213, F.S.; revising provisions relating to standards of basic skills mastery; providing for the use of adult basic education to meet certain needs; amending s. 239.229, F.S.; requiring the identification of vocational standards related to work experience; requiring the development of additional program standards and benchmarks; amending s. 239.301, F.S., relating to adult general education; conforming language to revised definitions; amending s. 239.305, F.S., relating to adult literacy; conforming language to revised definitions; removing a State Board of Education rule requirement; removing specific annual reporting requirements; providing for status reports in lieu of annual reports; deleting a requirement for the submission of a plan to the Commissioner of Education; amending s. 240.313, F.S.; providing for an odd number of members on the Florida Community College at Jacksonville Board of Trustees; amending s. 240.319, F.S., relating to duties and powers of community college district boards of trustees; providing for specific authority; repealing ss. 240.3575(5), 240.3815(1), and 240.382(5), F.S., relating to annual reports of economic development centers, annual reports of community college campus crime statistics, and rules for the operation of child development training centers; amending s. 229.595, F.S.; requiring the inclusion of student postsecondary preparedness information in manuals and handbooks; amending s. 229.601, F.S.; providing for recommended high school coursework information; creating s. 232.2466, F.S.; providing requirements for a college-ready diploma program; requiring

a task force to recommend incentives for pursuit of a college-ready diploma; amending s. 239.117, F.S.; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; amending s. 239.301, F.S.; deleting conflicting language; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; amending s. 240.1161, F.S.; requiring implementation strategies for reducing the incidence of postsecondary remediation; requiring an assessment of activities and the presentation of outcomes; providing for the promotion of "tech prep" activities; amending s. 240.117, F.S.; requiring the administration of the common placement test or an equivalent test during the tenth grade; requiring the administration of an institutionally developed test in lieu of the common placement test as an exit exam from remedial instruction; clarifying language regarding the offering of college-preparatory instruction; requiring payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; creating s. 240.124, F.S.; providing for an increase in fees for undergraduate students who continually enroll in the same college credit courses; providing for exceptions; amending s. 240.321, F.S.; applying entrance requirements to all degree programs; permitting a demonstration of competency as an alternative degree program admission requirement; providing an exemption from the testing requirement under certain circumstances; requiring the establishment of institutional policies regarding alternatives to traditional college-preparatory instructional methods; amending s. 239.117, F.S., relating to postsecondary student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES coalition; amending s. 239.249, F.S.; providing an appeal process for school districts and community colleges to allow exemption from participation in performance-based incentive funding; amending s. 239.301, F.S.; providing for services for WAGES clients negotiated through the jobs and education regional board by school districts and community colleges to be funded by the local WAGES coalition; amending s. 240.35, F.S., relating to student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES Coalition; amending s. 414.065, F.S., relating to work requirements for participation in the WAGES Program; including paid apprenticeship activities, the work component of cooperative education activities, and work-study activities in work activities; permitting educational institutions to provide training and receive subsidies to offset the cost of the training; providing reasons for placement in community service; defining work experience; clarifying the role of remedial or basic skills training; revising requirements for payment to a provider of vocational education or training; requiring the development of programs to address the needs of "hard-to-place" recipients; expanding the definition of job skills training; providing additional literacy or basic skills requirements related to work activity requirements; requiring the establishment of a task force to investigate issues associated with job training and workforce development; providing effective dates.

—was referred to the Committees on Education; and Ways and Means.

By the Committee on Business Regulation and Consumer Affairs; and Representative Ogles and others—

HB 1619—A bill to be entitled An act relating to consumer protection; amending ss. 496.405, 496.419, 496.420, and 496.424, F.S.; revising the provisions of the Solicitation of Contributions Act to revise the authority of the Department of Agriculture and Consumer Services to make rules; establishing a fee; providing authority of the department with respect to registration and solicitation requirements; amending ss. 501.013, 501.014, 501.015, 501.016, and 501.019, F.S.; revising provisions of law regulating health studios to provide an exemption from regulation for certain country clubs, to authorize rules, to eliminate a penalty for certain late registrations, to require the registration number in certain printed material, to revise provisions relating to security requirements, and to revise penalties with respect to health studio violations; providing retroactive application of an exemption under certain circumstances; amending s. 501.021, F.S.; deleting the definition of "division" with respect to home solicitation sales; amending s. 501.022, F.S.; deleting language with respect to persons engaging in home solicitation sales in more than one county in the state to eliminate certain certificates; amending s. 501.052, F.S.; providing that the Attorney General or state attorney shall enforce the act; amending s. 501.143, F.S.; providing for registration fees with respect to dance studios; eliminating reference to such fees set by the department; providing for penalties for violations of rules or orders adopted pursuant to such rules; revising language with respect to rulemaking authority; amending s. 501.605, F.S.; providing for the fee for licensing of commercial telephone sellers; deleting reference to the authority of the department to set such fees; amending s. 501.607, F.S.; revising language with respect to licensure of salespersons; eliminating reference to the department to set license fees; amending s. 501.612, F.S.; revising language with respect to grounds for denial of licensure; amending s. 501.626, F.S.; revising language with respect to rulemaking authority; amending s. 501.925, F.S.; revising conditions under which a watch is considered a used watch; amending s. 539.001, F.S.; revising the Florida Pawnbroking Act to provide definitions, to provide that local occupational licenses may not be issued without providing proof of a state license, revising language with respect to administrative penalties; providing for a notice of noncompliance rather than a letter of concern, and to provide for rulemaking authority; amending ss. 559.801-559.813, F.S.; revising the Sale of Business Opportunities Act; revising definitions; revising language with respect to the disclosure statement; providing increased requirements with respect to required filings with the department; requiring that written contracts be given to the purchaser at a certain number of days before signing; revising provisions with respect to remedies and enforcement; providing for rulemaking authority; amending ss. 559.903, 559.904, 559.905, 559.921, and 559.9221, F.S.; revising the Florida Motor Vehicle Repair Act; revising definitions; revising the registration fee schedule; revising requirements with respect to registration certificates; providing criteria for denying or refusing to renew the registration of a motor vehicle repair shop; providing for additional remedies; revising language with respect to the Motor Vehicle Repair Advisory Council; creating s. 559.92201, F.S.; providing for rulemaking authority; amending s. 559.927, F.S.; revising the definition of the term "seller of travel" with respect to the Florida Sellers of Travel Act; amending s. 559.928, F.S.; providing registration fees; requiring an annual affidavit by each independent agent; defining the term "independent agent"; amending s. 559.929, F.S.; revising language with respect to security requirements; amending s. 559.9295, F.S.; providing for the effect of the submission of vacation certificate documents; providing for alternative document filing; establishing the timeframe for the department to respond with respect to document submissions; amending s. 559.9335, F.S.; providing for additional acts which are violations; revising language with respect to rules; amending s. 559.9355, F.S.; revising language with respect to administrative remedies and penalties; repealing s. 559.8015, F.S., relating to applicability to advertisers of business opportunities; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Villalobos and others—

CS for HB 1643—A bill to be entitled An act relating to health care; amending ss. 458.320 and 459.0085, F.S., relating to financial responsibility of physicians and osteopathic physicians; requiring the Department of Health to suspend the license of a physician or osteopathic physician pending payment, up to the amounts required by the applicable financial responsibility provision of law, of any outstanding judgment, arbitration award, other order, or settlement; providing an effective date.

—was referred to the Committees on Health Care; Governmental Reform and Oversight; and Ways and Means.

By Representative Rayson—

HB 1655—A bill to be entitled An act relating to Broward County; providing for the election of school board members of Broward County from single-member districts within the school board district; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Constantine—

HB 1679—A bill to be entitled An act relating to surface waters or wetlands mitigation; amending s. 373.414, F.S.; revising conditions for the acceptance of money as mitigation in certain permitted projects; providing for a report; providing an effective date.

—was referred to the Committee on Natural Resources.

By the Committee on Community Affairs and Representative K. Pruitt and others—

CS for HB 1683—A bill to be entitled An act relating to local government; amending s. 11.45, F.S.; revising provisions which provide requirements for annual financial audits of local governmental entities by independent certified public accountants; requiring the auditor to notify each member of the governing body of such an entity of certain deteriorating financial conditions; providing duties of the Auditor General upon identification of information in an audit report that indicates a local governmental entity may be in a state of financial emergency; amending s. 125.901, F.S.; correcting a reference; amending s. 165.041, F.S., relating to merger of local government entities, to conform; amending s. 189.403, F.S.; redefining "dependent special district" and defining "public facilities" under the Uniform Special District Accountability Act of 1989; providing that, for purposes of the ad valorem tax exemption for governmental units, special districts shall be treated as municipalities; providing for retroactive effect; amending s. 189.4031, F.S.; removing provisions relating to applicability to certain dependent special districts; requiring independent special district charters to contain certain information; amending s. 189.404, F.S.; deleting a requirement that the law creating an independent special district provide a method for dissolving the district; specifying that only the Legislature may create an independent special district, except as otherwise authorized by law; requiring a status statement in a district charter; amending s. 189.4041, F.S.; providing requirements for creation of dependent special districts by county or municipal ordinance; amending s. 189.4042, F.S.; providing merger and dissolution requirements for special districts; repealing s. 189.4043, F.S., which provides special district dissolution procedures; amending s. 189.4044, F.S.; providing procedures and requirements for declaration that a district is inactive; amending s. 189.4045, F.S.; revising provisions relating to financial allocations upon merger or dissolution; creating s. 189.4047, F.S.; providing for refund of special assessments levied by a dependent special district under certain conditions; providing for retroactive effect; amending s. 189.405, F.S.; revising election procedures and requirements for special districts; providing method of qualifying and providing for fees; amending s. 189.4051, F.S.; revising the special requirements and procedures for elections for districts with governing boards elected on a one-acre/one-vote basis; amending s. 189.412, F.S.; revising provisions relating to the duties of the Special District Information Program; removing the requirement for organization of a biennial conference; amending s. 189.415, F.S.; revising requirements relating to special districts' public facilities reports and providing for annual notice of changes thereto; amending s. 189.4155, F.S.; revising requirements relating to consistency of special district facilities with local government comprehensive plans and providing that such requirements do not apply to certain spoil disposal sites; providing that certain ports are deemed to be in compliance with said section; amending s. 189.416, F.S.; revising the time for designation of a registered office and agent; amending s. 189.417, F.S.; requiring publication of special district meeting schedules and revising requirements for filing such schedules; amending s. 189.421, F.S.; revising provisions relating to initiation of enforcement proceedings against districts that fail to file certain reports; amending s. 189.422, F.S.; revising provisions which authorize department action if a district is determined to be inactive or if failure to file reports is determined to be volitional; amending s. 189.425, F.S.; revising provisions relating to rulemaking authority; creating s. 189.428, F.S.; establishing an oversight review process for special districts and providing requirements with respect thereto; specifying who should carry out the review; providing review criteria; providing for a final report and providing requirements for a plan for merger or dissolution of a district under review; providing exemptions; requiring districts to submit a draft codified charter so that their special acts may be codified by the Legislature; amending s. 196.012, F.S.; revising provisions which specify when a governmental, municipal, or public purpose is deemed to be served by a lessee of government property for ad valorem tax exemption purposes; specifying additional activities that are deemed to serve such purposes; amending s. 200.069, F.S.; authorizing inclusion in the notice of proposed property taxes of a notice of adopted non-ad valorem assessments and providing requirements with respect thereto; providing effective dates.

—was referred to the Committees on Community Affairs; Rules and Calendar; and Ways and Means.

By Representative Peaden and others—

HB 1705—A bill to be entitled An act relating to access to the courts for vulnerable elders; providing legislative findings and intent; defining the term "elder"; requesting the Judicial Management Council or another court committee to evaluate the accessibility of the courts to elders and make recommendations to improve the responsiveness of the courts; providing an effective date.

—was referred to the Committees on Judiciary; and Rules and Calendar.

By the Committee on Civil Justice and Claims; and Representative Warner and others—

HB 1753—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing an effective date.

—was referred to the Committees on Judiciary; and Ways and Means.

By Representative Peaden and others—

HB 1785—A bill to be entitled An act relating to health insurance contracts; amending ss. 627.6416, 627.6579, F.S.; amending the definition of the term "child health supervision services"; amending requirements for such services; providing requirements for the coverage of such services under health insurance policies and under group, blanket, or franchise health insurance policies; amending s. 627.6699, F.S.; authorizing certain small employer carriers to impose certain requirements in participating in, administering, or issuing certain health benefits under certain circumstances; amending s. 641.31, F.S.; providing requirements for health maintenance contracts relating to coverage of newborn children and premiums relating thereto; requiring the continuing coverage, past the usual limiting age, of certain dependent children; requiring health maintenance contracts relating to family coverage to provide specified child health supervision services; providing an effective date.

—was referred to the Committees on Banking and Insurance; Health Care; and Ways and Means.

By the Committee on Colleges and Universities; and Representative Casey and others—

HB 1873—A bill to be entitled An act relating to education; requiring the Department of Education to develop a student financial assistance database; providing a definition; requiring a report; amending s. 228.502, F.S.; deleting requirement that the Education Success Incentive Council serve as the board of directors for a direct-support organization; amending s. 232.2465, F.S., relating to the Florida Academic Scholars' Certificate Program; changing an eligibility date; amending s. 239.117, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from certain student fees; amending s. 239.217, F.S., relating to the Florida Gold Seal Vocational Endorsement Program; changing an eligibility date; amending s. 240.107, F.S.; conforming provisions; amending ss. 240.235 and 240.35, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from certain student fees; amending s. 240.404, F.S., relating to general requirements for eligibility for state financial aid; deleting a requirement for participation in a testing program; deleting a requirement regarding Selective Service System registration; creating s. 240.4041, F.S.; providing eligibility requirements for

state financial aid for a student with a disability; amending s. 240.4069, F.S.; transferring administration of the Virgil Hawkins Fellows Assistance Program to the Board of Regents; revising program requirements; amending s. 240.408, F.S.; conforming provisions; amending s. 240.412, F.S., relating to the Jose Marti Scholarship Challenge Grant Program; revising matching fund requirements; deleting a testing requirement; amending s. 240.437, F.S., relating to a state student financial aid program; deleting a testing requirement; amending s. 240.6045, F.S., relating to a limited access competitive grant program; revising eligibility requirements; amending s. 240.606, F.S., relating to the Florida Work Experience Program; changing eligibility requirements; deleting a requirement that a certain portion of funds be used for contracts with public schools; repealing ss. 240.4025, 240.4045, 240.407, 240.4085, and 240.4093, F.S., relating to the Florida Graduate Scholars' Fund, compliance with Selective Service System registration requirements, general scholarship loans, the Florida Student Tuition Scholarship Grant Program, and the Vocational Student Assistance Grant Program; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By Representative Wallace and others—

HB 1905—A bill to be entitled An act relating to administrative procedures; amending s. 120.52, F.S.; adding educational units to the definition of the term "agency"; amending s. 120.54, F.S.; deleting the requirement for rule development for rule repeal; authorizing an alternative method by which a person may receive a copy of a preliminary draft of a rule; clarifying that an agency's decision to use negotiated rulemaking is not final agency action; deleting references to the Department of Commerce; clarifying the time by which the small business ombudsman must provide regulatory alternatives to an agency; extending the period for filing a rule upon provision of regulatory alternatives to a rule; clarifying times for filing when a notice of change to a rule must be filed; extending the period for filing a rule; amending s. 120.541, F.S.; extending the period for filing a rule if a written alternative for a lower cost regulatory alternative to a rule is provided; amending s. 120.542, F.S.; providing that public employees are not persons subject to regulation for the purposes of waiver and variance; authorizing an agency to limit grants of variance or waiver only to the extent necessary to achieve the purpose of the underlying statute; clarifying that agencies may not grant a variance or waiver to rules required by the Federal Government; requiring uniform rules of procedures to contain certain procedures related to waiver and variance; clarifying the procedure by which an agency may request additional necessary information during the review of a petition for waiver or variance; amending s. 120.56, F.S.; providing that a proceeding to determine a violation of s. 120.54(1), F.S., may be consolidated with other proceedings; eliminating authority to bring such an action in conjunction with certain other proceedings; amending s. 120.569, F.S.; conforming references; amending s. 120.57, F.S.; clarifying provisions governing expedited hearings; adding a decision, opinion, order or report of the presiding officer to the record of hearings not involving disputed facts; requiring agencies to use uniform bid protest procedural rules; amending s. 120.573, F.S.; clarifying the time when mediation is authorized; amending s. 120.574, F.S.; providing that intervenors are governed by the decision of the original parties regarding the summary-hearing process; amending s. 120.595, F.S.; providing an exception to the award of attorney's fees when an agency demonstrates that a statement is required by the Federal Government to implement or retain a delegated or approved program or to meet a condition to receipt of federal funds; amending s. 120.60, F.S.; requiring a notice of intent to deny a license to specify the grounds or basis; providing an exception; specifying criteria for procedures for agencies to take emergency action with respect to licenses; amending s. 120.65, F.S.; providing requirements for the director of the Division of Administrative Hearings; amending s. 120.66, F.S.; clarifying that a presiding officer may be an agency head or designee; amending s. 120.68, F.S.; providing for judicial review; amending s. 120.74, F.S.; specifying the frequency of rule reviews; amending s. 120.81, F.S.; providing that educational units and local units of government need not publish notices or the text of proposed rules in the Florida Administrative Weekly; providing an effective date.

—was referred to the Committee on Governmental Reform and Oversight.

By the Committee on Financial Services and Representative Safley and others—

HB 1933—A bill to be entitled An act relating to workers' compensation; amending s. 440.49, F.S.; revising procedures and requirements for reimbursement from the fund; providing for barring the filing of a claim for reimbursement under certain circumstances; providing a maximum fund assessment rate; requiring certain fees; requiring the Department of Labor and Employment Security to prepare an annual report; providing a schedule for reimbursements from the fund under certain circumstances; amending s. 625.091, F.S.; providing for accounting for anticipated recoveries under the Special Disability Trust Fund; requiring insurers to identify anticipated recoveries from the fund; providing an appropriation; amending s. 624.4621, F.S.; requiring self-insurance funds to maintain a positive surplus to policyholders; amending s. 624.468, F.S.; requiring self-insurance funds to maintain a positive surplus to policyholders; amending s. 624.470, F.S.; establishing standards for the use of future investment income as an asset for self-insurance funds; amending s. 624.476, F.S.; providing that the Department of Insurance may be appointed receiver for a self-insurance fund under certain circumstances; authorizing the administrative supervision of a self-insurance fund under certain conditions; creating s. 624.477, F.S.; requiring the Department of Insurance to supervise, as receiver, the liquidation, rehabilitation, reorganization, conservation, or dissolution of self-insurance funds; amending s. 624.488, F.S.; applying provisions of the Florida Insurance Code relating to rehabilitation and liquidation of an insurer to self-insurance funds; applying provisions relating to insurer assets, liabilities, and deposits to self-insurance funds; applying a provision relating to assessable mutual insurer annual reports to self-insurance funds; amending s. 628.6014, F.S.; establishing standards for the use of future investment income as an asset for assessable mutual insurers; amending s. 631.021, F.S.; providing for delinquency proceedings, venue, remedies, and appeals; amending s. 631.182, F.S.; providing for claims reports and procedures; amending s. 631.331, F.S.; providing for notice, payment, and collection procedure; amending s. 631.391, F.S.; providing for revocation of insurance-related licenses under certain conditions; amending s. 631.397, F.S.; specifying applicability of provision relating to use of marshaled assets; amending s. 631.52, F.S.; providing scope of direct insurance; amending s. 631.54, F.S.; providing definitions; amending s. 631.55, F.S.; providing for creation of the association; amending s. 631.57, F.S.; providing for powers and duties of the association; creating ss. 631.901, 631.902, 631.903, 631.904, 631.911, 631.912, 631.913, 631.914, 631.916, 631.917, 631.918, 631.919, 631.921, 631.922, 631.923, 631.924, 631.926, and 631.927, F.S.; creating the "Florida Workers' Compensation Insurance Guaranty Association Act"; providing purposes; providing construction; providing definitions; creating the Florida Workers' Compensation Insurance Guaranty Association, Incorporated, by merging the Florida Self-Insurance Fund Guaranty Association and the workers' compensation insurance account; providing for effect of the merger; providing requirements; providing for a board of directors; providing powers and duties of the corporation; authorizing the board to levy assessments for certain purposes; providing procedures; providing requirements and limitations; authorizing an additional assessment for certain purposes; providing procedures; providing requirements and limitations; requiring the board to prepare a plan of operation; providing requirements; providing powers of the board to prevent insolvencies and impairments; providing for examination of certain insurers by the department for certain purposes; providing immunity from liability; specifying prohibited advertisement of solicitation; providing powers of the Department of Insurance; providing for liability of members of impaired self-insurance funds; providing for effect of paid claims; providing requirements; providing procedures; providing for staying certain proceedings; providing for setting aside certain judgments, orders, decisions, verdicts, or findings under certain circumstances; providing for nonapplication of certain attorney's fees provisions under certain circumstances; providing for assumption of liability by the corporation of certain payments; amending s. 631.996, F.S.; creating the Florida Workers' Compensation Insurance Guaranty Fund Account; amending s. 631.915, F. S.; revising definitions; amending s. 631.935, F.S.; providing for powers and duties of the association; creating s. 631.929, F.S.; providing for election of remedies by injured workers; providing procedures; providing requirements; amending s. 631.997, F.S.; providing for reports and recommendations of the board; amending s. 631.998, F.S.; providing for application of provisions relating to negotiations with an insurer to the corporation; directing that certain provisions not be published in the Florida Statutes; provides for a report; providing an appropriation from the Insurance Commissioner's Regulatory Trust Fund to the Florida Self-Insurance Fund Guaranty Associa-

tion; providing for disbursement of appropriated funds; repealing ss. 631.90, 631.905, 631.91, 631.915, 631.92, 631.925, 631.93, 631.935, 631.94, 631.945, 631.95, 631.955, 631.96, 631.965, 631.97, 631.975, 631.98, 631.985, 631.99, and 631.995, F.S., relating to the Florida Self-Insurance Fund Guaranty Association; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Ways and Means.

By the Committee on Business Regulation and Consumer Affairs; and Representative Ogles and others—

HB 2011—A bill to be entitled An act relating to regulation of professions; amending s. 177.031, F.S.; revising and providing definitions relating to platting; amending s. 177.041, F.S.; requiring plats and replats of subdivisions submitted for approval to be accompanied by a boundary survey of the platted lands; amending s. 177.051, F.S.; revising provisions relating to naming and replatting subdivisions; amending s. 177.061, F.S.; providing requirements for the recording of a plat; amending s. 177.071, F.S.; revising provisions relating to approval of plats by governing bodies; amending s. 177.081, F.S.; requiring plats to be reviewed by a professional surveyor and mapper prior to approval by a governing body; amending s. 177.091, F.S.; providing requirements for monuments and revising other requirements of plats made for recording; amending s. 177.141, F.S.; revising provisions relating to affidavits confirming errors on recorded plats; amending s. 177.151, F.S.; revising provisions relating to state plane coordinates; amending ss. 177.021, 177.121, 177.131, 177.132, 177.27, 177.38, and 287.055, F.S.; conforming references; amending s. 455.213, F.S., relating to general licensing provisions; providing for direct payment of organization-related or vendor-related fees associated with the examination to the organization or vendor; providing that passing a required examination does not entitle a person to licensure if the person is not otherwise qualified; amending s. 455.217, F.S., relating to examinations; authorizing the contracting for examinations and services related to examinations; providing requirements with respect to examinations developed by the department or a contracted vendor and to national examinations; amending s. 455.225, F.S.; authorizing the Department of Business and Professional Regulation to issue a notice of noncompliance for an initial offense of a minor violation when the board has failed to designate such minor violation by rule; amending s. 458.347, F.S.; providing qualifications for certain applicants for specified physician assistants; amending s. 468.385, F.S.; revising provisions relating to the written examination required to be licensed as an auctioneer; amending s. 468.386, F.S., relating to fees applicable to regulation of auctioneers; eliminating reference to the examination fee; amending s. 468.388, F.S.; eliminating exemptions from the requirement that a written agreement be executed prior to conducting an auction; amending s. 468.389, F.S.; revising a ground for disciplinary action to include reference to property belonging to another; providing penalties; reenacting s. 468.391, F.S., relating to a criminal penalty, to incorporate the amendment to s. 468.389, F.S., in a reference thereto; amending s. 468.393, F.S.; reducing the level at which the Auctioneer Recovery Fund must be maintained and for which surcharges are levied; reenacting s. 468.392(5), F.S., relating to moneys in the Auctioneer Recovery Fund, to incorporate the amendment to s. 468.393, F.S., in a reference thereto; amending s. 468.395, F.S.; revising circumstances under which recovery from the Auctioneer Recovery Fund may be obtained; reducing the amount per claim or claims arising out of the same transaction or auction and the aggregate lifetime limit with respect to any one licensee that may be paid from the fund; amending s. 468.396, F.S., relating to claims against a single licensee in excess of the dollar limitation, to conform; amending s. 468.432, F.S.; authorizing the department to adopt rules relating to licensure and disciplinary requirements applicable to community association management; amending s. 468.542, F.S.; providing definitions for classes of water and wastewater operators; amending s. 468.453, F.S.; requiring each applicant for licensure as an athlete agent to submit a full set of fingerprints for purposes of the required criminal records check; exempting members of The Florida Bar from regulations imposed on athlete agents; amending ss. 468.547 and 468.548, F.S., relating to fees and requirements for licensure; eliminating or revising references to examination and reexamination; amending s. 468.607, F.S.; providing that the Department of Business and Professional Regulation shall be the issuing body for a certificate to practice as a building code administrator, plans examiner, or building code inspector; amending s. 468.609, F.S.; revising requirements for certification as a building code administrator, plans examiner, or building code inspector; amending s. 468.617, F.S.; providing that local governments may employ or authorize persons certified or exempt from such regulation to perform inspections on a contract basis; amending s. 468.621, F.S.; revising prohibitions; providing disciplinary actions; amending s. 468.629, F.S.; revising disciplinary grounds; providing penalties; amending s. 469.001, F.S.; revising and providing definitions relating to asbestos abatement; amending s. 469.002, F.S.; revising an exemption relating to asbestos-related activities by governmental employees; amending s. 469.004, F.S.; exempting asbestos consultants from licensure under certain circumstances relating to the moving, removal, or disposal of asbestos-containing roofing materials; amending s. 469.005, F.S.; revising requirements for licensure as an asbestos consultant or asbestos contractor; amending s. 469.006, F.S.; eliminating reference to consultant or contractor seals, and requiring a signature instead; amending s. 469.013, F.S.; adding course requirements for management planners; repealing s. 469.015, F.S., relating to seals; amending s. 470.002, F.S.; revising the definition of "legally authorized person"; amending s. 470.0085, F.S., relating to the embalmer apprentice program; authorizing an extension of apprenticeship for certain students working in funeral establishments; amending s. 470.009, F.S.; reorganizing provisions relating to licensure as a funeral director by examination, to clarify applicability of the internship requirement; amending ss. 470.015 and 470.018, F.S.; revising continuing education requirements for renewal of a funeral director or embalmer license or registration of a direct disposer; amending s. 470.024, F.S.; authorizing operation of visitation chapels and establishing criteria therefor; providing licensing limitations with respect to colocated facilities; requiring the relicensure of funeral establishments whose ownership has changed; amending s. 470.029, F.S.; providing a filing date for monthly reports on final dispositions; amending s. 470.0301, F.S.; providing requirements for registration of centralized embalming facilities; providing for biennial renewal; providing fees; creating s. 470.0315, F.S.; providing for the storage, preservation, and transportation of human remains; creating s. 470.0355, F.S.; providing for the identification of human remains; amending s. 470.036, F.S; extending disciplinary actions to certain registrants and licensees; creating s. 471.024, F.S.; authorizing engineers to perform duties of building code inspectors; amending s. 473.306, F.S.; providing conditions under which the Board of Accountancy may adopt an alternative licensure examination for persons licensed to practice public accountancy or its equivalent in a foreign country; providing for appointment of an Educational Advisory Council for purposes of maintaining proper educational qualifications for licensure of certified public accountants; creating s. 473.3065, F.S.; establishing the Certified Public Accountant Education Minority Assistance Program; providing for scholarships to eligible students; providing for the funding of scholarships; requiring Board of Accountancy rules; providing a penalty for certain violations; creating an advisory council to assist in program administration; amending s. 473.308, F.S.; revising licensure requirements relating to public accountancy experience outside this state; amending s. 473.309, F.S.; providing additional requirements for a partnership to practice public accountancy in this state; amending s. 473.312, F.S.; providing for appointment of a Continuing Professional Education Advisory Council for purposes of maintaining proper continuing education requirements for renewal of licensure of certified public accountants; amending s. 474.203, F.S.; revising and providing exemptions from regulation under chapter 474, F.S., relating to veterinary medical practice; amending s. 474.2065, F.S., relating to fees applicable to regulation of veterinary medical practice; eliminating reference to examination and reexamination fees; amending s. 474.207, F.S., relating to licensure by examination; eliminating obsolete provisions; amending s. 474.211, F.S.; requiring criteria for providers of continuing education to be approved by the board; amending s. 474.2125, F.S.; exempting veterinarians licensed in another state from certain requirements for temporary licensure in this state; correcting a cross reference; amending s. 474.214, F.S.; increasing the administrative fine; 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. 474.217, F.S., relating to licensure by endorsement; revising a reference to an examination; amending s. 475.125, F.S., relating to fees applicable to regulation of real estate brokers, salespersons, and schools; eliminating reference to examination and reexamination fees; amending s. 475.15, F.S.; providing registration and licensing requirements for additional business entities; eliminating a provision that requires the automatic cancellation of the registration of a real estate broker partnership upon the lapse in licensure or registration of any of its partners; amending s. 475.17, F.S.; providing additional requirements for licensure as a real estate broker; amending s. 475.175, F.S.; revising provisions relating to examinations; amending s. 475.183, F.S.; revising the period after which involuntarily inactive licenses expire; revising the time for the required notice to the licensee; amending s. 475.25, F.S.; increasing the administrative fine; revising a ground for disciplinary action to exempt licensees from the reporting of certain violators; providing that violations of certain standards of the

Appraisal Foundation are grounds for the Florida Real Estate Commission to deny, revoke, or suspend the license of, or to fine, real estate brokers or salespersons; reenacting ss. 475.180(2)(b), 475.181(2), 475.22(2), 475.422(2), and 475.482(1), F.S., relating to nonresident licenses, licensure, refusal of a broker to comply with certain requests or notices, furnishing of copies of termite and roof inspection reports, and recovery from the Real Estate Recovery Fund, to incorporate the amendment to s. 475.25, F.S., in references thereto; amending s. 475.278, F.S.; providing for disclosure of authorized brokerage relationships and the corresponding duties of real estate licensees; amending s. 475.451, F.S.; revising provisions relating to the permitting of instructors for proprietary real estate schools or state institutions; providing permit renewal requirements; revising references relating to examinations; amending s. 475.452, F.S.; providing requirements applicable to advance expenses, commissions, or fees for brokers auctioning real property; amending s. 475.484, F.S.; providing applicability with respect to a conflict with federal law in the disciplining of certain licensees against whom a judgment has been paid from the Real Estate Recovery Fund; creating s. 475.5016, F.S.; granting the department authority to inspect and audit brokers and brokerage offices; creating s. 475.6145, F.S.; providing for a seal for the Florida Real Estate Appraisal Board to authenticate its proceedings, records, and acts; creating s. 475.6147, F.S.; providing a separate section relating to establishment of fees applicable to the regulation of real estate appraisers; amending s. 475.615, F.S.; providing registration requirements for appraisers; amending s. 475.617, F.S.; clarifying continuing education and experience requirements for real estate appraisers; amending s. 475.624, F.S.; revising a ground for disciplinary action to exempt licensees from the reporting of certain violators; creating s. 475.6295, F.S.; granting the department authority to inspect appraisers and appraisal offices; amending ss. 476.114 and 476.124, F.S.; revising provisions relating to examination for licensure as a barber; repealing s. 476.134, F.S., relating to time, place, and subjects of examination; amending s. 476.144, F.S.; revising requirements for a restricted license to practice barbering; amending s. 477.013, F.S.; defining the terms "hair wrapping" and "photography studio salon"; amending s. 477.0132, F.S.; providing registration requirements for hair wrappers; providing requirements for hair braiding and hair wrapping outside a cosmetology salon or specialty shop; amending s. 477.0135, F.S.; exempting photography studio salons from licensure as a cosmetology salon or specialty salon and providing requirements with respect thereto; amending s. 477.019, F.S.; revising provisions relating to applicants for licensure by examination; providing continuing education requirements for cosmetologists and cosmetology specialists; providing for privatization of such continuing education; exempting hair braiders and hair wrappers from such continuing education requirements; repealing s. 477.022, F.S., relating to examinations; amending s. 477.026, F.S.; providing registration fees for hair wrappers; amending s. 477.0263, F.S.; authorizing the performance of cosmetology services in a photography studio salon; creating s. 481.2051, F.S.; authorizing architects to perform duties of building code inspectors; amending ss. 481.207, 481.209, and 481.213, F.S., relating to licensure as an architect or interior designer; revising provisions relating to fees and examinations; amending s. 489.103, F.S.; limiting the ordinances, rules, or regulations that a municipality or county may adopt with respect to the installation or maintenance of water conditioning units; providing an exemption from regulation for the sale, delivery, assembly, or tie-down of prefabricated portable sheds under specified circumstances; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors; amending s. 489.107, F.S.; eliminating reference to board jurisdiction over examinations; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.109, F.S.; revising provisions relating to examination fees; amending s. 489.111, F.S.; revising provisions relating to licensure by examination; amending s. 489.113, F.S.; revising a provision relating to the certification examination; revising provisions that authorize persons who are not certified or registered to perform construction work under the supervision of a person who is certified or registered; providing that expansion of the scope of practice of any type of contractor does not limit the scope of practice of any existing type of contractor unless the Legislature expressly provides such limitation; creating s. 489.1136, F.S.; providing for medical gas certification for plumbing contractors who install, improve, repair, or maintain conduits used to transport gaseous or partly gaseous substances for medical purposes; amending s. 553.06, F.S.; providing that plumbing contractors who install, improve, repair, or maintain such conduits shall be governed by the National Fire Prevention Standard 99C; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of temporary certification or registration of a business organization; amending s. 489.127, F.S.; revising and providing penalties applicable to violations of construction contracting provisions; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; creating ss. 489.1455 and 489.5335, F.S.; providing for journeyman reciprocity; amending s. 489.503, F.S., relating to exemptions from part II of chapter 489, F.S., relating to electrical and alarm system contracting; revising an exemption relating to public utilities; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; providing exemptions relating to the monitoring of alarm systems by law enforcement employees or officers or fire department employees or officials, by employees of state or federally chartered financial institutions, or by employees of a business; amending s. 489.505, F.S., and repealing subsection (24), relating to the definition of "limited burglar alarm system contractor"; redefining terms applicable to electrical and alarm system contracting; defining the term "monitoring"; amending s. 489.507, F.S.; requiring the Electrical Contractors' Licensing Board and the Construction Industry Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.509, F.S.; eliminating reference to the payment date of the biennial renewal fee for certificateholders and registrants; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending s. 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.519, F.S.; authorizing certificateholders and registrants to apply for voluntary inactive status at any time during the period of certification or registration; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; amending s. 489.525, F.S.; changing the date for the Department of Business and Professional Regulation to inform local boards and building officials of the names of all certificateholders and the status of the certificates; amending s. 489.529, F.S.; providing an exception to an alarm verification requirement; amending s. 489.531, F.S.; revising and providing penalties applicable to violations of electrical and alarm system contracting provisions; reenacting s. 489.533(1)(a) and (2), F.S., relating to disciplinary proceedings, to incorporate the amendment to s. 489.531, F.S., in a reference thereto; amending s. 489.537, F.S.; revising requirements relating to subcontracting alarm system contracting; amending ss. 489.539 and 553.19, F.S.; adding a national code relating to fire alarms to the minimum electrical and alarm standards required in this state; amending s. 489.553, F.S.; revising qualifications for registration as a septic tank contractor or master septic tank contractor; creating s. 501.935, F.S.; providing requirements relating to home-inspection reports; providing legislative intent; providing definitions; providing exemptions; requiring, prior to inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report on the results of the inspection; providing prohibited acts, for which there are civil penalties; providing that failure to comply is a deceptive and unfair trade practice; creating s. 501.937, F.S.; providing requirements for use of professional titles by industrial hygienists and safety professionals; providing that violation of such requirements is a deceptive and unfair trade practice; amending s. 553.06, F.S.; requiring the Board of Building Codes and Standards to adopt alternative standards for testing water treatment units under certain circumstances; amending s. 553.63, F.S., relating to trench excavations in excess of a specified depth; deleting a provision requiring contract bids to include certain items; repealing s. 553.64, F.S., relating to certain requirements for contract bids; amending s. 553.991, F.S.; limiting the purpose of the "Florida Building Energy-Efficiency Rating Act" to providing for a statewide uniform system for rating the energy efficiency of buildings; amending s. 553.994, F.S.; deleting the schedule for phasing in the rating system; amending s. 553.996, F.S.; requiring provision of an information brochure to prospective purchasers of certain real property; deleting a provision authorizing such prospective purchasers to receive a rating on the property upon request; requiring the Office of Program Policy Analysis and Government Accountability to conduct a review of studies and records of the Department of Business and Professional Regulation to determine if mandatory continuing education is the most effective method of ensuring professional competence and to identify and analyze alternate methods of ensuring such competence; requiring a report; amending s. 713.01, F.S.; redefining the terms "improve," "improvement," "subcontractor," and "sub-subcontractor" to include reference to solid-waste removal; providing an effective date. providing effective dates.

—was referred to the Committees on Regulated Industries; Governmental Reform and Oversight; and Ways and Means.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Lippman and others—

HB 2013—A bill to be entitled An act relating to regulation of health care professions; amending s. 402.48, F.S., relating to health care services pools; increasing the period of registration; updating a definition and a provision relating to meeting financial responsibility requirements; amending s. 457.102, F.S.; revising definitions applicable to the regulation of acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; revising fees; conforming terminology; amending s. 457.107, F.S.; revising licensure renewal fees; conforming terminology; amending s. 457.1085, F.S.; revising requirements on the adoption of rules relating to infection control and on the use of acupuncture needles; amending ss. 457.103, 457.108, 457.109, and 457.116, F.S., to conform; amending s. 458.303, F.S.; eliminating references to physician's trained assistants; amending s. 458.305, F.S.; updating the definition of "department"; amending s. 458.307, F.S.; revising provisions relating to probable cause panels of the Board of Medicine; amending s. 455.206, F.S.; correcting a cross reference, to conform; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a specified fellowship to partially satisfy the licensing requirements; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing persons in certain training programs to take the examination under certain circumstances; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; authorizing additional requirements prior to certification of eligibility for licensure; correcting a cross reference; eliminating a provision authorizing licensure under a period of supervision; providing conditions for reactivation of certain licenses issued by endorsement; amending s. 458.317, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of medicine; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; revising recent-practice requirements; amending s. 458.320, F.S.; correcting a cross reference; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 458.331, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; amending s. 458.345, F.S., relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing requirements for the prescribing of medicinal drugs and controlled substances; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee; amending ss. 458.347 and 459.022, F.S.; revising requirements for certification as a physician assistant; updating terminology; amending s. 458.3485, F.S.; requiring medical assistants to be under the direct supervision of a licensed physician; creating ss. 458.351 and 459.025, F.S.; requiring serious incident reports; providing for rules; amending s. 459.003, F.S.; updating the definition of "department"; providing that certain terms are equivalent; amending s. 459.021, F.S.; revising terminology relating to osteopathic medicine; revising provisions relating to registration of resident physicians, interns, and fellows; providing for designation of a person responsible at each hospital using such residents for the hospital's semiannual reports to the department; requiring certain notice to the executive director of the board; providing that registrants are subject to specified disciplinary provisions; providing conditions under which resident physicians may prescribe medicinal drugs; amending s. 459.0075, F.S., relating to limited licenses; eliminating the requirement that applicants for a limited license be retired from the practice of osteopathic medicine; restricting certain limited licensees to noncompensated practice; requiring the payment of fees if a person receives compensation for the practice of osteopathic medicine; amending s. 459.0085, F.S.; correcting a cross reference; requiring osteopathic physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; providing for acknowledgment that the patient has been so informed; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; amending ss. 240.4067, 390.011, 395.0191, 408.035, 409.905, 415.102, 415.1034, 415.504, 440.106, 440.13, 440.134, 440.15, 456.31, 459.006, 462.01, 468.301, 468.302, 476.044, 477.0135, 483.291, 621.03, 627.351, 627.357, 627.6482, 725.01, 766.101, 766.103, 766.105, 766.110, 817.234, and 945.047, F.S.; conforming and correcting terminology relating to osteopathic medicine; amending s. 460.403, F.S.; updating the definition of "department"; amending s. 460.413, F.S.; revising grounds for disciplinary action; providing penalties; providing criteria for determining the applicable penalty; providing certain evidentiary standards; providing authority and procedure to enjoin a chiropractor from providing medical services under certain circumstances; reenacting ss. 320.0848(9), 455.236(4)(g), and 766.111(2), F.S., relating to parking permits for disabled persons, prohibited referrals to home health agencies, and unnecessary diagnostic testing, to incorporate the amendment to s. 460.413, F.S., in references thereto; amending s. 460.4165, F.S.; revising a provision relating to the fee accompanying applications to supervise chiropractic physician's assistants; amending s. 461.003, F.S.; updating the definition of "department"; amending s. 461.013, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 461.018, F.S.; clarifying a provision relating to the limited practice of podiatry in designated areas of need; amending s. 464.003, F.S.; revising a definition to update authority over regulation of nursing; amending ss. 464.004, 464.008, 464.009, 464.012, 464.013, and 464.014, F.S., to conform; amending s. 464.018, F.S.; revising grounds for disciplinary action; providing penalties; conforming terminology; amending s. 464.019, F.S., relating to approval of nursing programs; providing for a program review fee; conforming terminology; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; providing an exemption from regulation relating to certain nurses accompanying and caring for patients temporarily residing in this state; amending s. 465.003, F.S.; updating the definition of "department"; amending s. 465.004, F.S.; increasing the membership of the Board of Pharmacy; revising membership qualifications; amending s. 465.014, F.S.; increasing the number of pharmacy technicians who may be supervised by a licensed pharmacist; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising a ground for disciplinary action; providing penalties; amending s. 465.035, F.S.; allowing the dispensing of controlled substances based on electronic facsimiles of the original prescriptions; amending s. 466.003, F.S.; updating the definition of "department"; amending s. 466.006, F.S., relating to the examination of dentists; revising prerequisites for certain applicants to take the examination; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; amending s. 466.028, F.S.; revising grounds for disciplinary action; providing penalties; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1125, F.S.; updating the definition of "department"; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing requirements for cross-discipline licensure; amending s. 468.1185, F.S.; revising licensure requirements; conforming a reference; amending s. 468.1195, F.S.; revising continuing education requirements; providing for adoption of standards of approval of continuing education providers; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; conforming a reference; amending s. 468.1245, F.S.; revising language relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; creating s. 468.1296, F.S.; prohibiting sexual misconduct in the practice of speech-language pathology and audiology, for which there are penalties; amending s. 468.1655, F.S.; updating the definition of "department"; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.203, F.S.; revising definitions applicable to regulation of occupational therapy; amending s. 468.205, F.S.; replacing the Occupational Therapy Council with a Board of Occupational Therapy Practice; providing for qualifications, appointments, and terms of board members; providing for the filling of vacancies on the board; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; requiring documentation of continuing education for certain applicants;

amending s. 468.211, F.S.; providing a restriction on the number of times an applicant may fail the examination and requiring remediation after a certain number; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S., and transferring and amending s. 468.362, F.S.; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; updating the definition of "department"; revising terminology; revising approval of educational programs; eliminating annual continuing education requirements for certain persons; providing penalties; amending s. 478.42, F.S.; updating the definition of "department"; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending s. 478.46, F.S.; revising requirements relating to issuance of temporary permits; correcting a cross reference and terminology; amending s. 478.47, F.S.; revising requirements for licensure by endorsement; amending s. 478.52, F.S.; prohibiting the operation of unlicensed electrolysis facilities; providing penalties; amending s. 480.033, F.S.; revising the definition of "board"; updating the definition of "department"; amending s. 480.034, F.S.; eliminating an exemption from regulation applicable to certain skin treatments and weight-loss programs; amending s. 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.041, F.S.; eliminating provisional licensure to practice massage therapy; amending s. 480.0415, F.S.; authorizing an increase in the number of classroom hours of continuing education that may be required for renewal of a license to practice massage therapy; amending s. 480.042, F.S.; revising what examinations must measure; repealing s. 480.0425, F.S., relating to inactive status; amending s. 480.043, F.S.; revising provisions relating to the transfer of licenses; amending s. 480.044, F.S.; revising provisions relating to fees; amending s. 480.047, F.S.; prohibiting the practice of massage therapy without a license unless exempted from licensure; creating s. 480.0485, F.S.; prohibiting sexual misconduct in the practice of massage therapy, for which there are disciplinary actions; amending s. 20.43, F.S., relating to the Department of Health; conforming terminology; updating a reference; amending s. 381.81, F.S., to conform; amending s. 483.800, F.S.; revising policy and purpose relating to regulation of clinical laboratory personnel; amending s. 483.801, F.S.; providing a regulatory exemption relating to advanced registered nurse practitioners; amending s. 483.803, F.S.; updating the definition of "department"; providing definitions; amending s. 483.809, F.S.; revising licensing provisions; authorizing an alternative examination for public health laboratory scientists; creating s. 483.812, F.S.; providing for licensure of public health laboratory scientists; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; providing a period for a conditional license; amending s. 483.823, F.S.; revising provisions relating to qualifications of clinical laboratory personnel; amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 483.828, F.S.; providing penalties for specified violations; amending s. 483.901, F.S., the "Florida Medical Physicists Act"; providing that the Advisory Council of Medical Physicists is an advisory rather than a regulatory body; increasing the number and terms of council members; clarifying initial and other appointment provisions; revising provisions relating to council meetings; revising licensure requirements; clarifying that the required continuing education hours are to be satisfied biennially and that the organizations providing such education must be approved by the Department of Health; revising and providing grounds for disciplinary action; revising and providing criminal acts; providing an administrative fine; providing penalties; eliminating a provision authorizing a licensure exception; amending s. 484.041, F.S.; updating the definition of "department"; amending s. 484.042, F.S.; updating a reference, to conform; amending s. 484.051, F.S.; updating a reference, to conform; amending s. 486.021, F.S.; updating the definition of "department"; amending s. 486.023, F.S.; increasing the membership of the Board of Physical Therapy Practice; amending ss. 486.031 and 486.081, F.S.; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending s. 486.041, F.S.; revising provisions relating to applying for a license as a physical therapist and to the fee therefor; amending s. 486.051, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist; amending s. 486.102, F.S.; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.103, F.S.; revising provisions relating to applying for a license as a physical therapist assistant and to the fee therefor; amending s. 486.104, F.S.; revising provisions relating to examination of applicants for licensure as a physical therapist assistant; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; providing for recovery of the actual costs of investigation and prosecution; amending s. 641.495, F.S.; requiring a health maintenance organization to designate as medical director a state-licensed physician or osteopathic physician; amending s. 499.012, F.S.; clarifying and providing for additional wholesale distribution exceptions; providing an effective date.

—was referred to the Committees on Committee on Health Care; Governmental Reform and Oversight; and Ways and Means.

By Representative Feeney—

HB 2027—A bill to be entitled An act relating to the Civil Service System for the Seminole County Sheriff's Office; amending ch. 70-942, Laws of Florida, as amended; providing that any decision of the board must be made by a majority vote of the members; lowering the minimum age for members; providing for designation of positions within the unclassified service; providing for responsibilities of the board chairman; providing for annual submission of table of organization; clarifying authority and powers of the board; deleting certain provisions and adding correctional officers to the act; amending time validity of the list for initial appointment and promotions; amending the time period for challenging a test; amending notice procedures; amending provisions relating to probationary periods; revising provisions relating to return of demoted employees in the unclassified service; revising provisions relating to transfer; eliminating certain positions; providing for rules to be used in hearings; amending provisions relating to hearings for classified employees; revising provisions relating to suspension of classified employees; revising provisions relating to time period for and subject matter of hearings; requiring written requests for hearings; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Family Law and Children; and Representative Lynn and others—

HB 2031—A bill to be entitled An act relating to child support enforcement; amending s. 61.046, F.S.; defining the term "State Case Registry"; amending ss. 61.052, 382.008, 455.213, 455.2141, and 741.04, F.S.; requiring the inclusion of a person's social security number in judgments for dissolution of marriage, in death certificates, in certain licensing provisions, and in certain other provisions of law; amending s. 61.13, F.S.; revising language with respect to orders for child support; amending s. 61.1301, F.S.; revising language with respect to income deduction; providing for income deduction notice; amending s. 61.13016, F.S.; revising notification requirements with respect to the suspension of the driver's license of a child support obligor; amending s. 61.1354, F.S.; revising language with respect to the sharing of information between consumer reporting agencies and the IV-D agency; amending s. 61.14, F.S.; providing for the modification of certain support orders without a substantial change of circumstances; providing that workers' compensation payments are not exempt from garnishment, attachment, execution, and assignment of income for the purpose of enforcing child or spousal support obligations; amending s. 61.181, F.S.; extending a date with respect to the central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; amending s. 61.1812, F.S.; revising language with respect to the Child Support Incentive Trust Fund; amending s. 61.1814, F.S.; changing the name of the Child Support Enforcement Application and User Fee Trust Fund to the Child Support Enforcement Application and Program Revenue Trust Fund; amending s. 61.30, F.S.; providing that in certain Title IV-D cases no change of circumstances need to be proven to warrant a modification in child support payments; providing for retroactive child support under certain circumstances; providing that the Legislature shall review the child support guidelines at least every 4 years beginning in 1997; providing for a child support guidelines study; providing for a report; amending s. 88.1011, F.S.; revising definitions with respect to the Uniform Interstate Family Support Act; amending ss. 88.1021, 88.2031, and 88.3031, F.S.; conforming to the act; amending s. 88.2051, F.S., relating to continuing exclusive jurisdiction; amending s. 88.2071, F.S.; providing for the recognition of controlling child support orders; amending s. 88.3011, F.S.; correcting a cross reference; amending s. 88.3041, F.S.; providing a procedure when a responding state has not enacted a law similar to the Uniform Interstate Family Support Act; amending ss. 88.3051, 88.3061, 88.3071, and 88.6061, F.S.; deleting reference to first class mail for certain notification; amending s. 88.5011, F.S.; providing for the employer's receipt of an income-withholding order of another state; creating s. 88.50211, F.S., relating to the employer's

compliance with the income-withholding order of another state; creating s. 88.5031, F.S.; providing for compliance with multiple income-withholding orders; creating s. 88.5041, F.S.; providing for immunity from civil liability; creating s. 88.5051, F.S.; providing for penalties for noncompliance; creating s. 88.5061, F.S.; providing for the contest by the obligor of the validity of enforcement of an income-withholding order under certain circumstances; transferring and renumbering s. 88.5021, F.S., to conform to the act; amending s. 88.6051, F.S.; revising language with respect to notice of registration of order; amending s. 88.6111, F.S.; revising language with respect to modification of a child support order of another state; amending s. 88.6121, F.S., relating to the recognition of an order modified in another state; creating s. 88.6131, F.S.; providing for jurisdiction to modify the child support order of another state when individual parties reside in this state; creating s. 88.6141, F.S.; providing for notice to the issuing tribunal of modifications; amending s. 88.7011, F.S.; revising language with respect to proceeding to determine parentage; creating s. 88.9051, F.S.; providing for rules; amending s. 213.053, F.S.; revising language with respect to confidentiality and information sharing by the Department of Revenue; amending ss. 231.17, 402.308, 548.021, and 626.171, F.S.; requiring the inclusion of the applicant's social security number on applications for teaching certificates, child care facility licenses, a license or permit issued by the State Athletic Commission, and certain insurance licenses; amending s. 320.05, F.S.; directing the Department of Highway Safety and Motor Vehicles to disclose certain information to child support enforcing agencies; amending s. 382.013, F.S.; providing for the use of certain information regarding registered births; providing for certain information to be given to unwed mothers; amending ss. 383.0112, 383.0113, and 383.216, F.S., relating to the Commission on Responsible Fatherhood; postponing date of a statewide symposium; revising appointment of commission members; providing terms; providing for assignment to the Department of Children and Family Services; providing for inclusion of certain programs in the plan of each prenatal and infant health care coalition; amending s. 409.2554, F.S.; correcting a cross reference; creating s. 409.25575, F.S.; providing for the privatization of child support enforcement; amending s. 409.2561, F.S.; revising language with respect to reimbursement for public assistance payments made for support of a child; amending s. 409.2564, F.S.; revising language with respect to actions for support; creating s. 409.25641, F.S.; providing procedures for processing interstate enforcement requests; amending s. 409.25645, F.S.; authorizing the use of administrative orders to require genetic testing in Title IV-D cases; amending s. 409.25656, F.S.; revising language with respect to garnishment; creating s. 409.25657, F.S.; providing requirements for financial institutions; amending s. 409.2567, F.S.; revising language with respect to services to individuals not otherwise entitled to delete reference to paternity determination; amending s. 409.2574, F.S.; directing the department to serve notice on the obligor with respect to income deduction notice; creating s. 409.2576, F.S.; creating a State Directory of New Hires; providing definitions, reports, and data; providing for service of deduction notices; providing disclosure; providing for rulemaking; amending s. 409.2577, F.S.; revising language with respect to the parent locator service; providing for certain notification; creating s. 409.2578, F.S.; providing for access to employment information; providing administrative fines; amending s. 409.2579, F.S.; revising language with respect to safeguarding Title IV-D case file information; amending s. 409.2598, F.S., relating to suspension or denial of new or renewal licenses, registrations, and certification; amending s. 414.028, F.S.; authorizing local WAGES coalitions to fund certain community-based welfare prevention and reduction initiatives; amending s. 443.171, F.S., relating to records and reports of employing units with respect to unemployment compensation; amending s. 443.1715, F.S., relating to the disclosure of certain information with respect to unemployment compensation; amending s. 742.031, F.S.; providing for the recording of each parties social security number on the order adjudicating paternity; providing that certain bills are admissible in evidence; providing requirements with respect to a judgment of paternity which does not contain an explicit award of custody; providing for temporary orders of child support; creating s. 742.032, F.S.; providing for the filing of location information; amending s. 742.10, F.S.; providing that certain persons may rescind an acknowledgment of paternity under certain circumstances; providing for certain rules; providing for the effect of a signed voluntary acknowledgement of paternity; amending s. 742.105, F.S., relating to the effect of a determination of paternity from a foreign jurisdiction; amending s. 742.12, F.S.; revising language with respect to scientific testing to determine paternity; amending s. 744.301, F.S.; revising language with respect to natural guardians; amending s. 943.053, F.S.; directing the Department of Law Enforcement to disclose certain information to the child support enforcement agency; exempting the Department of Revenue from the provisions of certain statutes to expedite the acquisition of goods and services and the leasing of facilities for the implementation of the act; directing the department to develop a draft request for a state disbursement unit and a state case registry; providing for a report; providing legislative findings with respect to protection of applicants and recipients of certain public assistance; repealing s. 443.175, F.S., relating to pilot projects; requiring a report from the Department of Revenue; providing effective dates.

—was referred to the Committees on Judiciary; and Ways and Means.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 148, SB 156, SB 292, SB 392, CS for SB 398, CS for CS for SB's 404 and 414, SB 656, SB 664, CS for SB's 780, 520 and 692, CS for SB 798, CS for SB 800, CS for SB 940, SB 958, CS for SB 1066, CS for SB's 1286 and 1446, CS for SB 1420, CS for CS for SB 1824 and SB 2064.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has failed to pass CS for SB 10.

John B. Phelps, Clerk

ENROLLING REPORTS

CS for SB 82, CS for SB 300 and CS for SB 288 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 29, 1997.

Faye W. Blanton, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 28 was corrected and approved.

RECESS

On motion by Senator Bankhead, the Senate recessed at 6:17 p.m. to reconvene at 9:30 a.m., Wednesday, April 30.