

By the Committee on Health Regulation and Representative
Farkas

1 A bill to be entitled
2 An act relating to health care; amending s.
3 395.0197, F.S.; revising provisions relating to
4 hospital and ambulatory surgical center
5 internal risk management programs; modifying
6 requirements for risk management and prevention
7 education and training; restricting
8 participation of unlicensed persons in surgical
9 procedures; requiring ongoing evaluation of
10 surgical procedures and protocols; eliminating
11 an annual report summarizing facility incident
12 reports and disciplinary actions; requiring the
13 Agency for Health Care Administration to
14 publish website summaries of adverse incident
15 reports; requiring facility reporting of
16 allegations of sexual misconduct by health care
17 practitioners; providing certain civil
18 liability for licensed risk managers;
19 prohibiting intimidation of a risk manager;
20 providing a penalty; amending s. 395.10972,
21 F.S.; increasing membership on the Health Care
22 Risk Management Advisory Council; amending s.
23 395.701, F.S.; limiting the financial
24 information the agency may require to determine
25 the amount of hospital annual assessments;
26 amending s. 456.013, F.S.; providing a
27 professional continuing education requirement
28 relating to prevention of medical errors;
29 amending s. 456.063, F.S.; requiring licensed
30 health care practitioners to report to the
31 Department of Health any allegations of sexual

1 misconduct; amending s. 456.072, F.S.;

2 providing additional grounds for disciplinary

3 actions; clarifying a penalty involving

4 restriction of professional practice or

5 license; providing additional penalties;

6 requiring assessment of costs related to

7 investigation and prosecution; amending s.

8 456.073, F.S.; requiring the department to

9 notify the patient or legal representative of

10 the status of a disciplinary case; requiring

11 the agency to provide certain information to

12 the complainant; amending s. 456.077, F.S.;

13 specifying violations for which the department

14 or a regulatory board may issue citations;

15 amending s. 456.081, F.S.; requiring the

16 department and regulatory boards to maintain a

17 website containing specified information;

18 amending ss. 458.331 and 459.015, F.S.;

19 conforming language and cross references to

20 changes made by the act; amending ss. 465.019

21 and 465.0196, F.S.; requiring institutional

22 pharmacies and special pharmacy permittees that

23 use pharmacy technicians to have a written

24 policy and procedures manual; directing the

25 department and agency to review health care

26 practitioner and facility reporting

27 requirements; requiring a report to the

28 Legislature; amending s. 468.1755, F.S.;

29 providing an additional ground for disciplinary

30 action against a nursing home administrator;

31 reenacting ss. 468.1695(3) and 468.1735, F.S.,

1 to incorporate said amendment in references;
2 reenacting s. 484.056(1)(a), F.S., relating to
3 disciplinary action against hearing aid
4 specialists, to incorporate the amendment to s.
5 456.072(1), in a reference; amending s.
6 766.101, F.S.; providing that a continuous
7 quality improvement committee of a licensed
8 pharmacy is a medical review committee for
9 purposes of immunity from liability, and
10 reenacting ss. 440.105(1)(a) and 626.989(6),
11 F.S., to incorporate said amendment in
12 references; amending s. 766.1115, F.S.;
13 conforming language and cross references to
14 changes made by the act; amending s. 456.047,
15 F.S.; providing intent; revising and providing
16 definitions; revising duties of the Department
17 of Health relating to file maintenance;
18 providing that primary source data verified by
19 the department or its designee may be relied
20 upon to meet accreditation purposes; amending
21 s. 240.4075, F.S.; transferring the Nursing
22 Student Loan Forgiveness Program from the
23 Department of Education to the Department of
24 Health; including public schools, family
25 practice teaching hospitals, and specialty
26 hospitals for children as eligible facilities
27 under the program; exempting such facilities
28 from the fund-matching requirements of the
29 program; amending s. 240.4076, F.S.;
30 transferring the nursing scholarship program
31 from the Department of Education to the

1 Department of Health; providing requirements
2 under the program for students seeking to
3 qualify for a nursing faculty position and
4 receive credit for work in such a position;
5 including nursing homes, hospitals, public
6 schools, colleges of nursing, and community
7 college nursing programs as eligible facilities
8 under the program; transferring powers, duties,
9 functions, rules, records, personnel, property,
10 and appropriations and other funds relating to
11 the Nursing Student Loan Forgiveness Program
12 and the nursing scholarship program from the
13 Department of Education to the Department of
14 Health; amending s. 240.40201, F.S.; granting
15 certain students priority in receiving a
16 Florida Bright Futures Scholarship; amending s.
17 464.005, F.S.; providing for future relocation
18 of the headquarters of the Board of Nursing;
19 amending s. 464.008, F.S.; revising education
20 requirements for licensure by examination;
21 amending s. 464.009, F.S.; revising
22 requirements for licensure by endorsement;
23 requiring submission of fingerprints for a
24 criminal history check and a fee to cover the
25 costs of such check; providing for an
26 electronic applicant notification process;
27 amending s. 464.0205, F.S.; deleting the
28 application and processing fee for applicants
29 for a retired volunteer nurse certificate;
30 requiring study by Office of Program Policy
31 Analysis and Government Accountability of the

1 feasibility of maintaining all of Medical
2 Quality Assurance in one state agency; creating
3 s. 456.0375, F.S.; requiring registration of
4 certain clinics; providing requirements,
5 including fees; providing rulemaking authority;
6 requiring medical directors for such clinics
7 and providing their duties and
8 responsibilities; providing an appropriation;
9 amending s. 456.031, F.S.; providing an
10 alternative by which licensees may comply with
11 a general requirement that they take domestic
12 violence courses; amending s. 456.033, F.S.;
13 providing an alternative by which licensees may
14 comply with a general requirement that they
15 take AIDS/HIV education courses; amending s.
16 468.302, F.S.; correcting terminology in a
17 provision relating to exemption from
18 certification to use radiation on human beings;
19 amending ss. 468.352, 468.355, 468.357,
20 468.358, and 468.359, F.S.; revising
21 definitions and provisions relating to
22 licensure and use of titles and abbreviations
23 to correct and conform terminology with respect
24 to respiratory therapists and respiratory care
25 practitioners; amending ss. 468.1155 and
26 468.1215, F.S.; revising accreditation
27 provisions applicable to licensure to practice
28 speech-language pathology or audiology and
29 certification of speech-language pathology or
30 audiology assistants; amending s. 480.033,
31 F.S.; correcting terminology in the definition

1 of "massage"; amending s. 490.012, F.S.;
2 prohibiting the use of certain titles or
3 descriptions relating to the practice of
4 psychology or school psychology unless properly
5 licensed; providing penalties; amending s.
6 490.014, F.S.; revising exemptions from
7 regulation under ch. 490, F.S., relating to
8 psychology; correcting a cross reference;
9 amending s. 491.012, F.S.; revising
10 prohibitions against unlicensed practice of
11 clinical social work, marriage and family
12 therapy, and mental health counseling to
13 provide that practice by registered interns is
14 lawful; requiring the Department of Health and
15 the Department of Insurance to establish a
16 joint investigative and prosecutorial unit for
17 health care fraud; requiring all state agencies
18 involved in the regulation of health care
19 practitioners, providers, and payors to
20 coordinate their investigations and share
21 confidential information for the purpose of
22 investigating and prosecuting health care
23 fraud; preserving the confidentiality of such
24 information; providing effective dates.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 395.0197, Florida Statutes, is
29 amended to read:

30 395.0197 Internal risk management program.--
31

1 (1) Every licensed facility shall, as a part of its
2 administrative functions, establish an internal risk
3 management program that includes all of the following
4 components:

5 (a) The investigation and analysis of the frequency
6 and causes of general categories and specific types of adverse
7 incidents to patients.

8 (b) The development of appropriate measures to
9 minimize the risk of adverse incidents to patients, including,
10 but not limited to:

11 1. Risk management and risk prevention education and
12 training of all nonphysician personnel as follows:

13 a. Such education and training of all nonphysician
14 personnel as part of their initial orientation; and

15 b. At least 1 hour of such education and training
16 annually for all ~~nonphysician~~ personnel of the licensed
17 facility working in clinical areas and providing patient care,
18 except those persons licensed as health care practitioners who
19 are required to complete continuing education coursework
20 pursuant to chapter 456 or the respective practice act.

21 2. A prohibition, except when emergency circumstances
22 require otherwise, against a staff member of the licensed
23 facility attending a patient in the recovery room, unless the
24 staff member is authorized to attend the patient in the
25 recovery room and is in the company of at least one other
26 person. However, a licensed facility is exempt from the
27 two-person requirement if it has:

28 a. Live visual observation;

29 b. Electronic observation; or

30 c. Any other reasonable measure taken to ensure
31 patient protection and privacy.

1 3. A prohibition against an unlicensed person from
2 assisting or participating in any surgical procedure unless
3 the facility has authorized the person to do so following a
4 competency assessment, and such assistance or participation is
5 done under the direct and immediate supervision of a licensed
6 physician and is not otherwise an activity that may only be
7 performed by a licensed health care practitioner.

8 4. Development, implementation, and ongoing evaluation
9 of procedures, protocols, and systems to accurately identify
10 patients, planned procedures, and the correct site of the
11 planned procedure so as to minimize the performance of a
12 surgical procedure on the wrong patient, a wrong surgical
13 procedure, a wrong-site surgical procedure, or a surgical
14 procedure otherwise unrelated to the patient's diagnosis or
15 medical condition.

16 (c) The analysis of patient grievances that relate to
17 patient care and the quality of medical services.

18 (d) The development and implementation of an incident
19 reporting system based upon the affirmative duty of all health
20 care providers and all agents and employees of the licensed
21 health care facility to report adverse incidents to the risk
22 manager, or to his or her designee, within 3 business days
23 after their occurrence.

24 (2) The internal risk management program is the
25 responsibility of the governing board of the health care
26 facility. Each licensed facility shall hire a risk manager,
27 licensed under s. 395.10974 ~~part IX of chapter 626~~, who is
28 responsible for implementation and oversight of such
29 facility's internal risk management program as required by
30 this section. A risk manager must not be made responsible for
31 more than four internal risk management programs in separate

1 licensed facilities, unless the facilities are under one
2 corporate ownership or the risk management programs are in
3 rural hospitals.

4 (3) In addition to the programs mandated by this
5 section, other innovative approaches intended to reduce the
6 frequency and severity of medical malpractice and patient
7 injury claims shall be encouraged and their implementation and
8 operation facilitated. Such additional approaches may include
9 extending internal risk management programs to health care
10 providers' offices and the assuming of provider liability by a
11 licensed health care facility for acts or omissions occurring
12 within the licensed facility.

13 (4) The agency shall, ~~after consulting with the~~
14 ~~Department of Insurance,~~ adopt rules governing the
15 establishment of internal risk management programs to meet the
16 needs of individual licensed facilities. Each internal risk
17 management program shall include the use of incident reports
18 to be filed with an individual of responsibility who is
19 competent in risk management techniques in the employ of each
20 licensed facility, such as an insurance coordinator, or who is
21 retained by the licensed facility as a consultant. The
22 individual responsible for the risk management program shall
23 have free access to all medical records of the licensed
24 facility. The incident reports are part of the workpapers of
25 the attorney defending the licensed facility in litigation
26 relating to the licensed facility and are subject to
27 discovery, but are not admissible as evidence in court. A
28 person filing an incident report is not subject to civil suit
29 by virtue of such incident report. As a part of each internal
30 risk management program, the incident reports shall be used to
31 develop categories of incidents which identify problem areas.

1 Once identified, procedures shall be adjusted to correct the
2 problem areas.

3 (5) For purposes of reporting to the agency pursuant
4 to this section, the term "adverse incident" means an event
5 over which health care personnel could exercise control and
6 which is associated in whole or in part with medical
7 intervention, rather than the condition for which such
8 intervention occurred, and which:

9 (a) Results in one of the following injuries:

- 10 1. Death;
- 11 2. Brain or spinal damage;
- 12 3. Permanent disfigurement;
- 13 4. Fracture or dislocation of bones or joints;
- 14 5. A resulting limitation of neurological, physical,
15 or sensory function which continues after discharge from the
16 facility;
- 17 6. Any condition that required specialized medical
18 attention or surgical intervention resulting from nonemergency
19 medical intervention, other than an emergency medical
20 condition, to which the patient has not given his or her
21 informed consent; or
- 22 7. Any condition that required the transfer of the
23 patient, within or outside the facility, to a unit providing a
24 more acute level of care due to the adverse incident, rather
25 than the patient's condition prior to the adverse incident;

26 (b) Was the performance of a surgical procedure on the
27 wrong patient, a wrong surgical procedure, a wrong-site
28 surgical procedure, or a surgical procedure otherwise
29 unrelated to the patient's diagnosis or medical condition;

30 (c) Required the surgical repair of damage resulting
31 to a patient from a planned surgical procedure, where the

1 damage was not a recognized specific risk, as disclosed to the
2 patient and documented through the informed-consent process;
3 or
4 (d) Was a procedure to remove unplanned foreign
5 objects remaining from a surgical procedure.
6 (6)(a) Each licensed facility subject to this section
7 shall submit an annual report to the agency summarizing the
8 incident reports that have been filed in the facility for that
9 year. The report shall include:
10 1. The total number of adverse incidents.
11 2. A listing, by category, of the types of operations,
12 diagnostic or treatment procedures, or other actions causing
13 the injuries, and the number of incidents occurring within
14 each category.
15 3. A listing, by category, of the types of injuries
16 caused and the number of incidents occurring within each
17 category.
18 4. A code number using the health care professional's
19 licensure number and a separate code number identifying all
20 other individuals directly involved in adverse incidents to
21 patients, the relationship of the individual to the licensed
22 facility, and the number of incidents in which each individual
23 has been directly involved. Each licensed facility shall
24 maintain names of the health care professionals and
25 individuals identified by code numbers for purposes of this
26 section.
27 5. A description of all malpractice claims filed
28 against the licensed facility, including the total number of
29 pending and closed claims and the nature of the incident which
30 led to, the persons involved in, and the status and
31

1 disposition of each claim. Each report shall update status and
2 disposition for all prior reports.

3 (b) The information reported to the agency pursuant to
4 paragraph (a) which relates to persons licensed under chapter
5 458, chapter 459, chapter 461, or chapter 466 shall be
6 reviewed by the agency. The agency shall determine whether
7 any of the incidents potentially involved conduct by a health
8 care professional who is subject to disciplinary action, in
9 which case the provisions of s. 456.073 shall apply.

10 (c) The report submitted to the agency shall also
11 contain the name and license number of the risk manager of the
12 licensed facility, a copy of its policy and procedures which
13 govern the measures taken by the facility and its risk manager
14 to reduce the risk of injuries and adverse incidents, and the
15 results of such measures. The annual report is confidential
16 and is not available to the public pursuant to s. 119.07(1) or
17 any other law providing access to public records. The annual
18 report is not discoverable or admissible in any civil or
19 administrative action, except in disciplinary proceedings by
20 the agency or the appropriate regulatory board. The annual
21 report is not available to the public as part of the record of
22 investigation for and prosecution in disciplinary proceedings
23 made available to the public by the agency or the appropriate
24 regulatory board. However, the agency or the appropriate
25 regulatory board shall make available, upon written request by
26 a health care professional against whom probable cause has
27 been found, any such records which form the basis of the
28 determination of probable cause.

29 (7) The licensed facility shall notify the agency no
30 later than 1 business day after the risk manager or his or her
31 designee has received a report pursuant to paragraph (1)(d)

1 and can determine within 1 business day that any of the
2 following adverse incidents has occurred, whether occurring in
3 the licensed facility or arising from health care prior to
4 admission in the licensed facility:

5 (a) The death of a patient;

6 (b) Brain or spinal damage to a patient;

7 (c) The performance of a surgical procedure on the
8 wrong patient;

9 (d) The performance of a wrong-site surgical
10 procedure; or

11 (e) The performance of a wrong surgical procedure.

12

13 The notification must be made in writing and be provided by
14 facsimile device or overnight mail delivery. The notification
15 must include information regarding the identity of the
16 affected patient, the type of adverse incident, the initiation
17 of an investigation by the facility, and whether the events
18 causing or resulting in the adverse incident represent a
19 potential risk to other patients.

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

25 (a) The death of a patient;

26 (b) Brain or spinal damage to a patient;

27 (c) The performance of a surgical procedure on the
28 wrong patient;

29 (d) The performance of a wrong-site surgical
30 procedure;

31 (e) The performance of a wrong surgical procedure;

1 (f) The performance of a surgical procedure that is
2 medically unnecessary or otherwise unrelated to the patient's
3 diagnosis or medical condition;

4 (g) The surgical repair of damage resulting to a
5 patient from a planned surgical procedure, where the damage is
6 not a recognized specific risk, as disclosed to the patient
7 and documented through the informed-consent process; or

8 (h) The performance of procedures to remove unplanned
9 foreign objects remaining from a surgical procedure.

10

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

23 However, the agency or the appropriate regulatory board shall
24 make available, upon written request by a health care
25 professional against whom probable cause has been found, or
26 such records which form the basis of the determination of
27 probable cause. The agency may investigate, as it deems
28 appropriate, any such incident and prescribe measures that
29 must or may be taken in response to the incident. The agency
30 shall review each incident and determine whether it
31 potentially involved conduct by the health care professional

1 who is subject to disciplinary action, in which case the
2 provisions of s. 456.073 shall apply.

3 (9) The agency shall publish on the agency's website,
4 no less than quarterly, a summary and trend analysis of
5 adverse incident reports received pursuant to this section,
6 which shall not include information that would identify the
7 patient, the reporting facility, or the health care
8 practitioners involved. The agency shall publish on the
9 agency's website an annual summary and trend analysis of all
10 adverse incident reports and malpractice claims information
11 provided by facilities in their annual reports, which shall
12 not include information that would identify the patient, the
13 reporting facility, or the practitioners involved. The
14 purpose of the publication of the summary and trend analysis
15 is to promote the rapid dissemination of information relating
16 to adverse incidents and malpractice claims to assist in
17 avoidance of similar incidents and reduce morbidity and
18 mortality.

19 (10)~~(9)~~ The internal risk manager of each licensed
20 facility shall:

21 (a) Investigate every allegation of sexual misconduct
22 which is made against a member of the facility's personnel who
23 has direct patient contact, when the allegation is that the
24 sexual misconduct occurred at the facility or on the grounds
25 of the facility.~~† and~~

26 (b) Report every allegation of sexual misconduct to
27 the administrator of the licensed facility.

28 (c) Notify the family or guardian of the victim, if a
29 minor, that an allegation of sexual misconduct has been made
30 and that an investigation is being conducted.~~†~~

31

1 (d) Report to the Department of Health every
2 allegation of sexual misconduct, as defined in chapter 456 and
3 the respective practice act, by a licensed health care
4 practitioner that involves a patient.

5 (11)~~(10)~~ Any witness who witnessed or who possesses
6 actual knowledge of the act that is the basis of an allegation
7 of sexual abuse shall:

8 (a) Notify the local police; and

9 (b) Notify the hospital risk manager and the
10 administrator.

11
12 For purposes of this subsection, "sexual abuse" means acts of
13 a sexual nature committed for the sexual gratification of
14 anyone upon, or in the presence of, a vulnerable adult,
15 without the vulnerable adult's informed consent, or a minor.
16 "Sexual abuse" includes, but is not limited to, the acts
17 defined in s. 794.011(1)(h), fondling, exposure of a
18 vulnerable adult's or minor's sexual organs, or the use of the
19 vulnerable adult or minor to solicit for or engage in
20 prostitution or sexual performance. "Sexual abuse" does not
21 include any act intended for a valid medical purpose or any
22 act which may reasonably be construed to be a normal
23 caregiving action.

24 (12)~~(11)~~ A person who, with malice or with intent to
25 discredit or harm a licensed facility or any person, makes a
26 false allegation of sexual misconduct against a member of a
27 licensed facility's personnel is guilty of a misdemeanor of
28 the second degree, punishable as provided in s. 775.082 or s.
29 775.083.

30 (13)~~(12)~~ In addition to any penalty imposed pursuant
31 to this section, the agency shall require a written plan of

1 correction from the facility. For a single incident or series
2 of isolated incidents that are nonwillful violations of the
3 reporting requirements of this section, the agency shall first
4 seek to obtain corrective action by the facility. If the
5 correction is not demonstrated within the timeframe
6 established by the agency or if there is a pattern of
7 nonwillful violations of this section, the agency may impose
8 an administrative fine, not to exceed \$5,000 for any violation
9 of the reporting requirements of this section. The
10 administrative fine for repeated nonwillful violations shall
11 not exceed \$10,000 for any violation. The administrative fine
12 for each intentional and willful violation may not exceed
13 \$25,000 per violation, per day. The fine for an intentional
14 and willful violation of this section may not exceed \$250,000.
15 In determining the amount of fine to be levied, the agency
16 shall be guided by s. 395.1065(2)(b). This subsection does not
17 apply to the notice requirements under subsection (7).

18 (14)~~(13)~~ The agency shall have access to all licensed
19 facility records necessary to carry out the provisions of this
20 section. The records obtained by the agency under subsection
21 (6), subsection (8), or subsection (10)~~(9)~~ are not available
22 to the public under s. 119.07(1), nor shall they be
23 discoverable or admissible in any civil or administrative
24 action, except in disciplinary proceedings by the agency or
25 the appropriate regulatory board, nor shall records obtained
26 pursuant to s. 456.071 be available to the public as part of
27 the record of investigation for and prosecution in
28 disciplinary proceedings made available to the public by the
29 agency or the appropriate regulatory board. However, the
30 agency or the appropriate regulatory board shall make
31 available, upon written request by a health care professional

1 against whom probable cause has been found, any such records
2 which form the basis of the determination of probable cause,
3 except that, with respect to medical review committee records,
4 s. 766.101 controls.

5 (15)~~(14)~~ The meetings of the committees and governing
6 board of a licensed facility held solely for the purpose of
7 achieving the objectives of risk management as provided by
8 this section shall not be open to the public under the
9 provisions of chapter 286. The records of such meetings are
10 confidential and exempt from s. 119.07(1), except as provided
11 in subsection~~(14)~~~~(13)~~.

12 (16)~~(15)~~ The agency shall review, as part of its
13 licensure inspection process, the internal risk management
14 program at each licensed facility regulated by this section to
15 determine whether the program meets standards established in
16 statutes and rules, whether the program is being conducted in
17 a manner designed to reduce adverse incidents, and whether the
18 program is appropriately reporting incidents under this
19 section ~~subsections (5), (6), (7), and (8)~~.

20 (17)~~(16)~~ There shall be no monetary liability on the
21 part of, and no cause of action for damages shall arise
22 against, any risk manager, licensed under s. 395.10974 ~~part IX~~
23 ~~of chapter 626~~, for the implementation and oversight of the
24 internal risk management program in a facility licensed under
25 this chapter or chapter 390 as required by this section, for
26 any act or proceeding undertaken or performed within the scope
27 of the functions of such internal risk management program if
28 the risk manager acts without intentional fraud.

29 (18) A privilege against civil liability is hereby
30 granted to any licensed risk manager or licensed facility with
31 regard to information furnished pursuant to this chapter,

1 unless the licensed risk manager or facility acted in bad
2 faith or with malice in providing such information.

3 ~~(19)(17)~~ If the agency, through its receipt of any
4 reports required under this section ~~the annual reports~~
5 ~~prescribed in subsection (6)~~ or through any investigation, has
6 a reasonable belief that conduct by a staff member or employee
7 of a licensed facility is grounds for disciplinary action by
8 the appropriate regulatory board, the agency shall report this
9 fact to such regulatory board.

10 ~~(18)~~ ~~The agency shall annually publish a report~~
11 ~~summarizing the information contained in the annual incident~~
12 ~~reports submitted by licensed facilities pursuant to~~
13 ~~subsection (6) and disciplinary actions reported to the agency~~
14 ~~pursuant to s. 395.0193. The report must, at a minimum,~~
15 ~~summarize:~~

16 ~~(a) Adverse incidents, by category of reported~~
17 ~~incident, and by type of professional involved.~~

18 ~~(b) Types of malpractice claims filed, by type of~~
19 ~~professional involved.~~

20 ~~(c) Disciplinary actions taken against professionals,~~
21 ~~by type of professional involved.~~

22 (20) It shall be unlawful for any person to coerce,
23 intimidate, or preclude a risk manager from lawfully executing
24 his or her reporting obligations pursuant to this chapter.
25 Such unlawful action shall be subject to civil monetary
26 penalties not to exceed \$10,000 per violation.

27 Section 2. Section 395.10972, Florida Statutes, is
28 amended to read:

29 395.10972 Health Care Risk Manager Advisory
30 Council.--The Secretary of Health Care Administration may
31 appoint a seven-member ~~five-member~~ advisory council to advise

1 the agency on matters pertaining to health care risk managers.
2 The members of the council shall serve at the pleasure of the
3 secretary. The council shall designate a chair. The council
4 shall meet at the call of the secretary or at those times as
5 may be required by rule of the agency. The members of the
6 advisory council shall receive no compensation for their
7 services, but shall be reimbursed for travel expenses as
8 provided in s. 112.061. The council shall consist of
9 individuals representing the following areas:

10 (1) Two shall be active health care risk managers,
11 including one risk manager who is recommended by and a member
12 of the Florida Society of Healthcare Risk Management.

13 (2) One shall be an active hospital administrator.

14 (3) One shall be an employee of an insurer or
15 self-insurer of medical malpractice coverage.

16 (4) One shall be a representative of the
17 health-care-consuming public.

18 (5) Two shall be licensed health care practitioners,
19 one of whom shall be licensed as a physician under chapter 458
20 or chapter 459.

21 Section 3. Paragraph (b) of subsection (2) of section
22 395.701, Florida Statutes, is amended to read:

23 395.701 Annual assessments on net operating revenues
24 for inpatient and outpatient services to fund public medical
25 assistance; administrative fines for failure to pay
26 assessments when due; exemption.--

27 (2)

28 (b) There is imposed upon each hospital an assessment
29 in an amount equal to 1 percent of the annual net operating
30 revenue for outpatient services for each hospital, such
31 revenue to be determined by the agency, based on the actual

1 experience of the hospital as reported to the agency. While
2 prior year report worksheets may be reconciled to the
3 hospital's audited financial statements, no additional audited
4 financial components may be required for the purposes of
5 determining the amount of the assessment imposed pursuant to
6 this section other than those in effect on July 1, 2000.
7 Within 6 months after the end of each hospital fiscal year,
8 the agency shall certify the amount of the assessment for each
9 hospital. The assessment shall be payable to and collected by
10 the agency in equal quarterly amounts, on or before the first
11 day of each calendar quarter, beginning with the first full
12 calendar quarter that occurs after the agency certifies the
13 amount of the assessment for each hospital. All moneys
14 collected pursuant to this subsection shall be deposited into
15 the Public Medical Assistance Trust Fund.

16 Section 4. Subsections (7) through (11) of section
17 456.013, Florida Statutes, are renumbered as subsections (8)
18 through (12), respectively, and a new subsection (7) is added
19 to said section to read:

20 456.013 Department; general licensing provisions.--
21 (7) The boards, or the department when there is no
22 board, shall require the completion of a 2-hour course
23 relating to prevention of medical errors as part of the
24 licensure and renewal process. The 2-hour course shall count
25 towards the total number of continuing education hours
26 required for the profession. The course shall be approved by
27 the board or department, as appropriate, and shall include a
28 study of root-cause analysis, error reduction and prevention,
29 and patient safety. If the course is being offered by a
30 facility licensed pursuant to chapter 395 for its employees,
31 the board may approve up to 1 hour of the 2-hour course to be

1 specifically related to error reduction and prevention methods
2 used in that facility.

3 Section 5. Subsection (3) is added to section 456.063,
4 Florida Statutes, to read:

5 456.063 Sexual misconduct; disqualification for
6 license, certificate, or registration; reports of allegation
7 of sexual misconduct.--

8 (3) Licensed health care practitioners shall report
9 allegations of sexual misconduct to the department, regardless
10 of the practice setting in which the alleged sexual misconduct
11 occurred.

12 Section 6. Paragraph (c) of subsection (1) of section
13 456.072, Florida Statutes, is amended, paragraphs (aa) and
14 (bb) are added to said subsection, paragraph (c) of subsection
15 (2) and subsection (4) are amended, and paragraphs (i) and (j)
16 are added to subsection (2) of said section, to read:

17 456.072 Grounds for discipline; penalties;
18 enforcement.--

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

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

27 (aa) Performing or attempting to perform health care
28 services on the wrong patient, a wrong-site procedure, a wrong
29 procedure, or an unauthorized procedure or a procedure that is
30 medically unnecessary or otherwise unrelated to the patient's
31 diagnosis or medical condition. For the purposes of this

1 paragraph, performing or attempting to perform health care
2 services includes the preparation of the patient.

3 (bb) Leaving a foreign body in a patient, such as a
4 sponge, clamp, forceps, surgical needle, or other
5 paraphernalia commonly used in surgical, examination, or other
6 diagnostic procedures. For the purposes of this paragraph, it
7 shall be legally presumed that retention of a foreign body is
8 not in the best interest of the patient and is not within the
9 standard of care of the profession, regardless of the intent
10 of the professional.

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

19 (c) Restriction of practice or license, including, but
20 not limited to, restricting the licensee from practicing in
21 certain settings, restricting the licensee to work only under
22 designated conditions or in certain settings, restricting the
23 licensee from performing or providing designated clinical and
24 administrative services, restricting the licensee from
25 practicing more than a designated number of hours, or any
26 other restriction found to be necessary for the protection of
27 the public health, safety, and welfare.

28 (i) Refund of fees billed and collected from the
29 patient or a third party on behalf of the patient.

30 (j) Requirement that the practitioner undergo remedial
31 education.

1
2 In determining what action is appropriate, the board, or
3 department when there is no board, must first consider what
4 sanctions are necessary to protect the public or to compensate
5 the patient. Only after those sanctions have been imposed may
6 the disciplining authority consider and include in the order
7 requirements designed to rehabilitate the practitioner. All
8 costs associated with compliance with orders issued under this
9 subsection are the obligation of the practitioner.

10 (4) In addition to any other discipline imposed
11 pursuant to this section or discipline imposed for a violation
12 of any practice act, the board, or the department when there
13 is no board, shall ~~may~~ assess costs related to the
14 investigation and prosecution of the case. In any case where
15 the board or the department imposes a fine or assessment and
16 the fine or assessment is not paid within a reasonable time,
17 such reasonable time to be prescribed in the rules of the
18 board, or the department when there is no board, or in the
19 order assessing such fines or costs, the department or the
20 Department of Legal Affairs may contract for the collection
21 of, or bring a civil action to recover, the fine or
22 assessment.

23 Section 7. Paragraphs (a) and (c) of subsection (9) of
24 section 456.073, Florida Statutes, are amended to read:

25 456.073 Disciplinary proceedings.--Disciplinary
26 proceedings for each board shall be within the jurisdiction of
27 the department.

28 (9)(a) The department shall periodically notify the
29 person who filed the complaint, as well as the patient or the
30 patient's legal representative, of the status of the
31 investigation, indicating whether probable cause has been

1 found and the status of any civil action or administrative
2 proceeding or appeal.
3 (c) In any disciplinary case for which probable cause
4 is not found, the department shall so inform the person who
5 filed the complaint and notify that person that he or she may,
6 within 60 days, provide any additional information to the
7 department ~~probable cause panel~~ which may be relevant to the
8 decision. To facilitate the provision of additional
9 information, the person who filed the complaint may receive,
10 upon request, a copy of the agency's expert report that
11 supported the recommendation for closure, if such a report was
12 relied upon by the agency. In no way does this require the
13 agency to procure an expert opinion or report if none was
14 used. Additionally, the identity of the expert shall remain
15 confidential. The person who filed the complaint shall agree,
16 in writing, to maintain the confidentiality of any information
17 found in the expert report.In any administrative proceeding
18 under s. 120.57, the person who filed the disciplinary
19 complaint shall have the right to present oral or written
20 communication relating to the alleged disciplinary violations
21 or to the appropriate penalty.

22 Section 8. Subsections (2) and (6) of section 456.077,
23 Florida Statutes, are amended to read:

24 456.077 Authority to issue citations.--

25 (2) The board, or the department if there is no board,
26 shall adopt rules designating violations for which a citation
27 may be issued. Such rules shall designate as citation
28 violations those violations for which there is no substantial
29 threat to the public health, safety, and welfare. Violations
30 for which a citation may be issued shall include violations of
31 continuing education requirements, failure to timely pay

1 required fees and fines, failure to comply with the
2 requirements of ss. 381.026 and 381.0261 regarding the
3 dissemination of information regarding patient rights, failure
4 to comply with advertising requirements, failure to timely
5 update practitioner profile and credentialing files, failure
6 to display signs, licenses, and permits, failure to have
7 required reference books available, and all other violations
8 that do not pose a direct and serious threat to the health and
9 safety of the patient.

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

17 Section 9. Section 456.081, Florida Statutes, is
18 amended to read:

19 456.081 Publication of information.--The department
20 and the boards shall have the authority to advise licensees
21 periodically, through the publication of a newsletter, about
22 information that the department or the board determines is of
23 interest to the industry. The department and the boards shall
24 maintain a website which contains copies of the newsletter;
25 information relating to adverse incident reports without
26 identifying the patient, practitioner, or facility in which
27 the adverse incident occurred until 10 days after probable
28 cause is found, at which time the name of the practitioner and
29 facility shall become public as part of the investigative
30 file; information about error prevention and safety
31 strategies; and information concerning best practices.Unless

1 otherwise prohibited by law, the department and the boards
2 shall publish on the website a summary of final orders entered
3 after July 1, 2001, resulting in disciplinary action ~~fines,~~
4 ~~suspensions, or revocations,~~ and any other information the
5 department or the board determines is of interest to the
6 public. In order to provide useful and timely information at
7 minimal cost, the department and boards may consult with, and
8 include information provided by, professional associations and
9 national organizations.

10 Section 10. Subsection (9) of section 458.331, Florida
11 Statutes, is amended to read:

12 458.331 Grounds for disciplinary action; action by the
13 board and department.--

14 (9) When an investigation of a physician is
15 undertaken, the department shall promptly furnish to the
16 physician or the physician's attorney a copy of the complaint
17 or document which resulted in the initiation of the
18 investigation. For purposes of this subsection, such
19 documents include, but are not limited to: the pertinent
20 portions of an annual report submitted to the department
21 pursuant to s. 395.0197(6); a report of an adverse incident
22 which is provided to the department pursuant to s.
23 395.0197(~~8~~); a report of peer review disciplinary action
24 submitted to the department pursuant to s. 395.0193(4) or s.
25 458.337, providing that the investigations, proceedings, and
26 records relating to such peer review disciplinary action shall
27 continue to retain their privileged status even as to the
28 licensee who is the subject of the investigation, as provided
29 by ss. 395.0193(8) and 458.337(3); a report of a closed claim
30 submitted pursuant to s. 627.912; a presuit notice submitted
31 pursuant to s. 766.106(2); and a petition brought under the

1 Florida Birth-Related Neurological Injury Compensation Plan,
2 pursuant to s. 766.305(2). The physician may submit a written
3 response to the information contained in the complaint or
4 document which resulted in the initiation of the investigation
5 within 45 days after service to the physician of the complaint
6 or document. The physician's written response shall be
7 considered by the probable cause panel.

8 Section 11. Subsection (9) of section 459.015, Florida
9 Statutes, is amended to read:

10 459.015 Grounds for disciplinary action; action by the
11 board and department.--

12 (9) When an investigation of an osteopathic physician
13 is undertaken, the department shall promptly furnish to the
14 osteopathic physician or his or her attorney a copy of the
15 complaint or document which resulted in the initiation of the
16 investigation. For purposes of this subsection, such documents
17 include, but are not limited to: the pertinent portions of an
18 annual report submitted to the department pursuant to s.
19 395.0197(6); a report of an adverse incident which is provided
20 to the department pursuant to s. 395.0197~~(8)~~; a report of peer
21 review disciplinary action submitted to the department
22 pursuant to s. 395.0193(4) or s. 459.016, provided that the
23 investigations, proceedings, and records relating to such peer
24 review disciplinary action shall continue to retain their
25 privileged status even as to the licensee who is the subject
26 of the investigation, as provided by ss. 395.0193(8) and
27 459.016(3); a report of a closed claim submitted pursuant to
28 s. 627.912; a presuit notice submitted pursuant to s.
29 766.106(2); and a petition brought under the Florida
30 Birth-Related Neurological Injury Compensation Plan, pursuant
31 to s. 766.305(2). The osteopathic physician may submit a

1 written response to the information contained in the complaint
2 or document which resulted in the initiation of the
3 investigation within 45 days after service to the osteopathic
4 physician of the complaint or document. The osteopathic
5 physician's written response shall be considered by the
6 probable cause panel.

7 Section 12. Subsection (5) of section 465.019, Florida
8 Statutes, is amended to read:

9 465.019 Institutional pharmacies; permits.--

10 (5) All institutional pharmacies shall be under the
11 professional supervision of a consultant pharmacist, and the
12 compounding and dispensing of medicinal drugs shall be done
13 only by a licensed pharmacist. Every institutional pharmacy
14 that employs or otherwise utilizes pharmacy technicians shall
15 have a written policy and procedures manual specifying those
16 duties, tasks, and functions which a pharmacy technician is
17 allowed to perform.

18 Section 13. Section 465.0196, Florida Statutes, is
19 amended to read:

20 465.0196 Special pharmacy permits.--Any person
21 desiring a permit to operate a pharmacy which does not fall
22 within the definitions set forth in s. 465.003(11)(a)1., 2.,
23 and 3. shall apply to the department for a special pharmacy
24 permit. If the board certifies that the application complies
25 with the applicable laws and rules of the board governing the
26 practice of the profession of pharmacy, the department shall
27 issue the permit. No permit shall be issued unless a licensed
28 pharmacist is designated to undertake the professional
29 supervision of the compounding and dispensing of all drugs
30 dispensed by the pharmacy. The licensed pharmacist shall be
31 responsible for maintaining all drug records and for providing

1 for the security of the area in the facility in which the
2 compounding, storing, and dispensing of medicinal drugs
3 occurs. The permittee shall notify the department within 10
4 days of any change of the licensed pharmacist responsible for
5 such duties. Every permittee that employs or otherwise
6 utilizes pharmacy technicians shall have a written policy and
7 procedures manual specifying those duties, tasks, and
8 functions which a pharmacy technician is allowed to perform.

9 Section 14. The Department of Health and the Agency
10 for Health Care Administration shall conduct a review of all
11 statutorily imposed reporting requirements for health care
12 practitioners and health facilities. The department and the
13 agency shall report back to the Legislature on or before
14 November 1, 2001, with recommendations and suggested statutory
15 changes to streamline reporting requirements to avoid
16 duplicative, overlapping, and unnecessary reports or data
17 elements.

18 Section 15. Paragraph (r) is added to subsection (1)
19 of section 468.1755, Florida Statutes, and, for the purpose of
20 incorporating the amendment to section 456.072(1), Florida
21 Statutes, in a reference thereto, paragraph (a) of subsection
22 (1) of said section is reenacted, to read:

23 468.1755 Disciplinary proceedings.--

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

26 (a) Violation of any provision of s. 456.072(1) or s.
27 468.1745(1).

28 (r) Failing to implement an ongoing quality assurance
29 program directed by an interdisciplinary team that meets at
30 least every other month.

31

1 (2) When the board finds any nursing home
2 administrator guilty of any of the grounds set forth in
3 subsection (1), it may enter an order imposing one or more of
4 the following penalties:
5 (a) Denial of an application for licensure.
6 (b) Revocation or suspension of a license.
7 (c) Imposition of an administrative fine not to exceed
8 \$1,000 for each count or separate offense.
9 (d) Issuance of a reprimand.
10 (e) Placement of the licensee on probation for a
11 period of time and subject to such conditions as the board may
12 specify, including requiring the licensee to attend continuing
13 education courses or to work under the supervision of another
14 licensee.
15 (f) Restriction of the authorized scope of practice.
16 Section 16. For the purpose of incorporating the
17 amendment to section 468.1755(1), Florida Statutes, in
18 reference thereto, subsection (3) of section 468.1695, Florida
19 Statutes, and section 468.1735, Florida Statutes, are
20 reenacted to read:
21 468.1695 Licensure by examination.--
22 (3) The department shall issue a license to practice
23 nursing home administration to any applicant who successfully
24 completes the examination in accordance with this section and
25 otherwise meets the requirements of this part. The department
26 shall not issue a license to any applicant who is under
27 investigation in this state or another jurisdiction for an
28 offense which would constitute a violation of s. 468.1745 or
29 s. 468.1755. Upon completion of the investigation, the
30 provisions of s. 468.1755 shall apply.
31

1 468.1735 Provisional license.--The board may establish
2 by rule requirements for issuance of a provisional license. A
3 provisional license shall be issued only to fill a position of
4 nursing home administrator that unexpectedly becomes vacant
5 due to illness, sudden death of the administrator, or
6 abandonment of position and shall be issued for one single
7 period as provided by rule not to exceed 6 months. The
8 department shall not issue a provisional license to any
9 applicant who is under investigation in this state or another
10 jurisdiction for an offense which would constitute a violation
11 of s. 468.1745 or s. 468.1755. Upon completion of the
12 investigation, the provisions of s. 468.1755 shall apply. The
13 provisional license may be issued to a person who does not
14 meet all of the licensing requirements established by this
15 part, but the board shall by rule establish minimal
16 requirements to ensure protection of the public health,
17 safety, and welfare. The provisional license shall be issued
18 to the person who is designated as the responsible person next
19 in command in the event of the administrator's departure. The
20 board may set an application fee not to exceed \$500 for a
21 provisional license.

22 Section 17. For the purpose of incorporating the
23 amendment to section 456.072(1), Florida Statutes, in a
24 reference thereto, paragraph (a) of subsection (1) of section
25 484.056, Florida Statutes, is reenacted to read:

26 484.056 Disciplinary proceedings.--

27 (1) The following acts relating to the practice of
28 dispensing hearing aids shall be grounds for both disciplinary
29 action against a hearing aid specialist as set forth in this
30 section and cease and desist or other related action by the
31 department as set forth in s. 456.065 against any person

1 owning or operating a hearing aid establishment who engages
2 in, aids, or abets any such violation:

3 (a) Violation of any provision of s. 456.072(1), s.
4 484.0512, or s. 484.053.

5 Section 18. Paragraph (a) of subsection (1), paragraph
6 (a) of subsection (7), and subsection (8) of section 766.101,
7 Florida Statutes, are amended to read:

8 766.101 Medical review committee, immunity from
9 liability.--

10 (1) As used in this section:

11 (a) The term "medical review committee" or "committee"
12 means:

13 1.a. A committee of a hospital or ambulatory surgical
14 center licensed under chapter 395 or a health maintenance
15 organization certificated under part I of chapter 641,

16 b. A committee of a physician-hospital organization, a
17 provider-sponsored organization, or an integrated delivery
18 system,

19 c. A committee of a state or local professional
20 society of health care providers,

21 d. A committee of a medical staff of a licensed
22 hospital or nursing home, provided the medical staff operates
23 pursuant to written bylaws that have been approved by the
24 governing board of the hospital or nursing home,

25 e. A committee of the Department of Corrections or the
26 Correctional Medical Authority as created under s. 945.602, or
27 employees, agents, or consultants of either the department or
28 the authority or both,

29 f. A committee of a professional service corporation
30 formed under chapter 621 or a corporation organized under
31 chapter 607 or chapter 617, which is formed and operated for

1 the practice of medicine as defined in s. 458.305(3), and
2 which has at least 25 health care providers who routinely
3 provide health care services directly to patients,
4 g. A committee of a mental health treatment facility
5 licensed under chapter 394 or a community mental health center
6 as defined in s. 394.907, provided the quality assurance
7 program operates pursuant to the guidelines which have been
8 approved by the governing board of the agency,
9 h. A committee of a substance abuse treatment and
10 education prevention program licensed under chapter 397
11 provided the quality assurance program operates pursuant to
12 the guidelines which have been approved by the governing board
13 of the agency,
14 i. A peer review or utilization review committee
15 organized under chapter 440, ~~or~~
16 j. A committee of the Department of Health, a county
17 health department, healthy start coalition, or certified rural
18 health network, when reviewing quality of care, or employees
19 of these entities when reviewing mortality records, or
20 k. A continuous quality improvement committee of a
21 pharmacy licensed pursuant to chapter 465,
22
23 which committee is formed to evaluate and improve the quality
24 of health care rendered by providers of health service or to
25 determine that health services rendered were professionally
26 indicated or were performed in compliance with the applicable
27 standard of care or that the cost of health care rendered was
28 considered reasonable by the providers of professional health
29 services in the area; or
30
31

1 2. A committee of an insurer, self-insurer, or joint
2 underwriting association of medical malpractice insurance, or
3 other persons conducting review under s. 766.106.

4 (7)(a) It is the intent of the Legislature to
5 encourage medical review committees to contribute further to
6 the quality of health care in this state by reviewing
7 complaints against physicians in the manner described in this
8 paragraph. Accordingly, the Department of Health ~~Business and~~
9 ~~Professional Regulation~~ may enter into a letter of agreement
10 with a professional society of physicians licensed under
11 chapter 458 or chapter 459, under which agreement the medical
12 or peer review committees of the professional society will
13 conduct a review of any complaint or case referred to the
14 society by the department which involves a question as to
15 whether a physician's actions represented a breach of the
16 prevailing professional standard of care. The prevailing
17 professional standard of care is that level of care, skill,
18 and treatment which, in light of all relevant surrounding
19 circumstances, is recognized as acceptable and appropriate by
20 reasonably prudent similar health care providers. The letter
21 of agreement must specify that the professional society will
22 submit an advisory report to the department within a
23 reasonable time following the department's written and
24 appropriately supported request to the professional society.
25 The advisory report, which is not binding upon the department,
26 constitutes the professional opinion of the medical review
27 committee and must include:

- 28 1. A statement of relevant factual findings.
- 29 2. The judgment of the committee as to whether the
30 physician's actions represented a breach of the prevailing
31 professional standard of care.

1 (8) No cause of action of any nature by a person
2 licensed pursuant to chapter 458, chapter 459, chapter 461,
3 chapter 463, part I of chapter 464, chapter 465, or chapter
4 466 shall arise against another person licensed pursuant to
5 chapter 458, chapter 459, chapter 461, chapter 463, part I of
6 chapter 464, chapter 465, or chapter 466 for furnishing
7 information to a duly appointed medical review committee, to
8 an internal risk management program established under s.
9 395.0197, to the Department of Health or the Agency for Health
10 Care Administration ~~Business and Professional Regulation~~, or
11 to the appropriate regulatory board if the information
12 furnished concerns patient care at a facility licensed
13 pursuant to part I of chapter 395 where both persons provide
14 health care services, if the information is not intentionally
15 fraudulent, and if the information is within the scope of the
16 functions of the committee, department, or board. However, if
17 such information is otherwise available from original sources,
18 it is not immune from discovery or use in a civil action
19 merely because it was presented during a proceeding of the
20 committee, department, or board.

21 Section 19. For the purpose of incorporating the
22 amendment to section 766.101(1)(a) in references thereto,
23 paragraph (a) of subsection (1) of section 440.105, Florida
24 Statutes, and subsection (6) of section 626.989, Florida
25 Statutes, are reenacted to read:

26 440.105 Prohibited activities; reports; penalties;
27 limitations.--

28 (1)(a) Any insurance carrier, any individual
29 self-insured, any commercial or group self-insurance fund, any
30 professional practitioner licensed or regulated by the
31 Department of Business and Professional Regulation, except as

1 otherwise provided by law, any medical review committee as
2 defined in s. 766.101, any private medical review committee,
3 and any insurer, agent, or other person licensed under the
4 insurance code, or any employee thereof, having knowledge or
5 who believes that a fraudulent act or any other act or
6 practice which, upon conviction, constitutes a felony or
7 misdemeanor under this chapter is being or has been committed
8 shall send to the Division of Insurance Fraud, Bureau of
9 Workers' Compensation Fraud, a report or information pertinent
10 to such knowledge or belief and such additional information
11 relative thereto as the bureau may require. The bureau shall
12 review such information or reports and select such information
13 or reports as, in its judgment, may require further
14 investigation. It shall then cause an independent examination
15 of the facts surrounding such information or report to be made
16 to determine the extent, if any, to which a fraudulent act or
17 any other act or practice which, upon conviction, constitutes
18 a felony or a misdemeanor under this chapter is being
19 committed. The bureau shall report any alleged violations of
20 law which its investigations disclose to the appropriate
21 licensing agency and state attorney or other prosecuting
22 agency having jurisdiction with respect to any such violations
23 of this chapter. If prosecution by the state attorney or other
24 prosecuting agency having jurisdiction with respect to such
25 violation is not begun within 60 days of the bureau's report,
26 the state attorney or other prosecuting agency having
27 jurisdiction with respect to such violation shall inform the
28 bureau of the reasons for the lack of prosecution.

29 626.989 Investigation by department or Division of
30 Insurance Fraud; compliance; immunity; confidential

31

1 information; reports to division; division investigator's
2 power of arrest.--
3 (6) Any person, other than an insurer, agent, or other
4 person licensed under the code, or an employee thereof, having
5 knowledge or who believes that a fraudulent insurance act or
6 any other act or practice which, upon conviction, constitutes
7 a felony or a misdemeanor under the code, or under s. 817.234,
8 is being or has been committed may send to the Division of
9 Insurance Fraud a report or information pertinent to such
10 knowledge or belief and such additional information relative
11 thereto as the department may request. Any professional
12 practitioner licensed or regulated by the Department of
13 Business and Professional Regulation, except as otherwise
14 provided by law, any medical review committee as defined in s.
15 766.101, any private medical review committee, and any
16 insurer, agent, or other person licensed under the code, or an
17 employee thereof, having knowledge or who believes that a
18 fraudulent insurance act or any other act or practice which,
19 upon conviction, constitutes a felony or a misdemeanor under
20 the code, or under s. 817.234, is being or has been committed
21 shall send to the Division of Insurance Fraud a report or
22 information pertinent to such knowledge or belief and such
23 additional information relative thereto as the department may
24 require. The Division of Insurance Fraud shall review such
25 information or reports and select such information or reports
26 as, in its judgment, may require further investigation. It
27 shall then cause an independent examination of the facts
28 surrounding such information or report to be made to determine
29 the extent, if any, to which a fraudulent insurance act or any
30 other act or practice which, upon conviction, constitutes a
31 felony or a misdemeanor under the code, or under s. 817.234,

1 is being committed. The Division of Insurance Fraud shall
2 report any alleged violations of law which its investigations
3 disclose to the appropriate licensing agency and state
4 attorney or other prosecuting agency having jurisdiction with
5 respect to any such violation, as provided in s. 624.310. If
6 prosecution by the state attorney or other prosecuting agency
7 having jurisdiction with respect to such violation is not
8 begun within 60 days of the division's report, the state
9 attorney or other prosecuting agency having jurisdiction with
10 respect to such violation shall inform the division of the
11 reasons for the lack of prosecution.

12 Section 20. Paragraph (c) of subsection (4) of section
13 766.1115, Florida Statutes, is amended to read:

14 766.1115 Health care providers; creation of agency
15 relationship with governmental contractors.--

16 (4) CONTRACT REQUIREMENTS.--A health care provider
17 that executes a contract with a governmental contractor to
18 deliver health care services on or after April 17, 1992, as an
19 agent of the governmental contractor is an agent for purposes
20 of s. 768.28(9), while acting within the scope of duties
21 pursuant to the contract, if the contract complies with the
22 requirements of this section and regardless of whether the
23 individual treated is later found to be ineligible. A health
24 care provider under contract with the state may not be named
25 as a defendant in any action arising out of the medical care
26 or treatment provided on or after April 17, 1992, pursuant to
27 contracts entered into under this section. The contract must
28 provide that:

29 (c) Adverse incidents and information on treatment
30 outcomes must be reported by any health care provider to the
31 governmental contractor if such incidents and information

1 pertain to a patient treated pursuant to the contract. The
2 health care provider shall submit the reports required by s.
3 395.0197 ~~annually submit an adverse incident report that~~
4 ~~includes all information required by s. 395.0197(6)(a), unless~~
5 ~~the adverse incident involves a result described by s.~~
6 ~~395.0197(8), in which case it shall be reported within 15 days~~
7 ~~after the occurrence of such incident.~~ If an incident involves
8 a professional licensed by the Department of Health or a
9 facility licensed by the Agency for Health Care
10 Administration, the governmental contractor shall submit such
11 incident reports to the appropriate department or agency,
12 which shall review each incident and determine whether it
13 involves conduct by the licensee that is subject to
14 disciplinary action. All patient medical records and any
15 identifying information contained in adverse incident reports
16 and treatment outcomes which are obtained by governmental
17 entities pursuant to this paragraph are confidential and
18 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
19 I of the State Constitution.

20 Section 21. Section 456.047, Florida Statutes, is
21 amended to read:

22 456.047 Standardized credentialing for health care
23 practitioners.--

24 (1) INTENT.--The Legislature recognizes that an
25 efficient and effective health care practitioner credentialing
26 program helps to ensure access to quality health care and also
27 recognizes that health care practitioner credentialing
28 activities have increased significantly as a result of health
29 care reform and recent changes in health care delivery and
30 reimbursement systems. Moreover, the resulting duplication of
31 health care practitioner credentialing activities is

1 unnecessarily costly and cumbersome for both the practitioner
2 and the entity granting practice privileges. Therefore, it is
3 the intent of this section that a credentials collection
4 program be established which provides that, once a health care
5 practitioner's core credentials data are collected, they need
6 not be collected again, except for corrections, updates, and
7 modifications thereto. Furthermore, it is the intent of the
8 Legislature that the department and all entities and
9 practitioners work cooperatively to ensure the integrity and
10 accuracy of the program. Participation under this section
11 shall include those individuals licensed under chapter 458,
12 chapter 459, chapter 460, chapter 461, or s. 464.012. However,
13 the department shall, with the approval of the applicable
14 board, include other professions under the jurisdiction of the
15 Division of Medical Quality Assurance in this program,
16 provided they meet the requirements of s. 456.039 or s.
17 456.0391.

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

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

28 (b) "Core credentials data" means data that is primary
29 source verified and includes ~~the following data: current name,~~
30 ~~any former name, and any alias, any professional education,~~
31 professional training, licensure, current Drug Enforcement

1 Administration certification, ~~social security number,~~
2 specialty board certification, Educational Commission for
3 Foreign Medical Graduates certification, and ~~hospital or other~~
4 ~~institutional affiliations, evidence of professional liability~~
5 ~~coverage or evidence of financial responsibility as required~~
6 ~~by s. 458.320, s. 459.0085, or s. 456.048, history of claims,~~
7 ~~suits, judgments, or settlements,~~ final disciplinary action
8 reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8.
9 The department may by rule designate additional core
10 credentials data elements, ~~and Medicare or Medicaid sanctions.~~

11 (c) "Credential" or "credentialing" means the process
12 of assessing and verifying the qualifications of a licensed
13 health care practitioner or applicant for licensure as a
14 health care practitioner.

15 (d) "Credentials verification organization" means any
16 organization certified or accredited as a credentials
17 verification organization.

18 (e) "Department" means the Department of Health,
19 Division of Medical Quality Assurance.

20 (f) "Designated credentials verification organization"
21 means the credentials verification organization which is
22 selected by the health care practitioner, if the health care
23 practitioner chooses to make such a designation.

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

31 (h) "Health care entity" means:

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

4 2. Any entity licensed by the Department of Insurance
5 as a prepaid health care plan or health maintenance
6 organization or as an insurer to provide coverage for health
7 care services through a network of providers or similar
8 organization licensed under chapter 627, chapter 636, chapter
9 641, or chapter 651; or

10 3. Any accredited medical school in this state.

11 (i) "Health care practitioner" means any person
12 licensed, or, for credentialing purposes only, any person
13 applying for licensure, under chapter 458, chapter 459,
14 chapter 460, chapter 461, or s. 464.012 or any person licensed
15 or applying for licensure under a chapter subsequently made
16 subject to this section by the department with the approval of
17 the applicable board, except a person registered or applying
18 for registration pursuant to s. 458.345 or s. 459.021.

19 ~~(j) "Hospital or other institutional affiliations"~~
20 ~~means each hospital or other institution for which the health~~
21 ~~care practitioner or applicant has provided medical services.~~
22 ~~Submission of such information under this section must~~
23 ~~include, for each hospital or other institution, the name and~~
24 ~~address of the hospital or institution, the staff status of~~
25 ~~the health care practitioner or applicant at that hospital or~~
26 ~~institution, and the dates of affiliation with that hospital~~
27 ~~or institution.~~

28 (j)~~(k)~~ "National accrediting organization" means an
29 organization that awards accreditation or certification to
30 hospitals, managed care organizations, credentials
31 verification organizations, or other health care

1 organizations, including, but not limited to, the Joint
2 Commission on Accreditation of Healthcare Organizations, the
3 American Accreditation HealthCare Commission/URAC, and the
4 National Committee for Quality Assurance.

5 (k) "Primary source verification" means verification
6 of professional qualifications based on evidence obtained
7 directly from the issuing source of the applicable
8 qualification or from any other source deemed as a primary
9 source for such verification by the department or an
10 accrediting body approved by the department.

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

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

19 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

20 (a) Every health care practitioner shall:

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

25 2. Notify the department within 45 days of any
26 corrections, updates, or modifications to the core credentials
27 data either through his or her designated credentials
28 verification organization or by submitting the data directly.
29 Corrections, updates, and modifications to the core
30 credentials data provided the department under this section
31

1 shall comply with the updating requirements of s. 456.039(3)
2 or s. 456.0391(3) related to profiling.

3 (b) The department shall:

4 1. Maintain a complete, current file of applicable
5 core credentials data on each health care practitioner, which
6 shall include data provided in accordance with subparagraph
7 (a)1. and all updates provided in accordance with subparagraph
8 (a)2.

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

14 3. Charge a fee to access the core credentials data,
15 which may not exceed the actual cost, including prorated setup
16 and operating costs, pursuant to the requirements of chapter
17 119.

18 4. Develop standardized forms to be used by the health
19 care practitioner or designated credentials verification
20 organization for the initial reporting of core credentials
21 data, for the health care practitioner to authorize the
22 release of core credentials data, and for the subsequent
23 reporting of corrections, updates, and modifications thereto.

24 (c) A registered credentials verification organization
25 may be designated by a health care practitioner to assist the
26 health care practitioner to comply with the requirements of
27 subparagraph (a)2. A designated credentials verification
28 organization shall:

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

31

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

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

9 (4) DUPLICATION OF DATA PROHIBITED.--

10 (a) A health care entity or credentials verification
11 organization is prohibited from collecting or attempting to
12 collect duplicate core credentials data from any health care
13 practitioner if the information is available from the
14 department. This section shall not be construed to restrict
15 the right of any health care entity or credentials
16 verification organization to collect additional information
17 from the health care practitioner which is not included in the
18 core credentials data file. This section shall not be
19 construed to prohibit a health care entity or credentials
20 verification organization from obtaining all necessary
21 attestation and release form signatures and dates.

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

1 (5) STANDARDS AND REGISTRATION.--Any credentials
2 verification organization that does business in this state
3 must be fully accredited or certified as a credentials
4 verification organization by a national accrediting
5 organization as specified in paragraph (2)(a) and must
6 register with the department. The department may charge a
7 reasonable registration fee, not to exceed an amount
8 sufficient to cover its actual expenses in providing and
9 enforcing such registration. The department shall establish by
10 rule for biennial renewal of such registration. Failure by a
11 registered credentials verification organization to maintain
12 full accreditation or certification, to provide data as
13 authorized by the health care practitioner, to report to the
14 department changes, updates, and modifications to a health
15 care practitioner's records within the time period specified
16 in subparagraph (3)(a)2., or to comply with the prohibition
17 against collection of duplicate core credentials data from a
18 practitioner may result in denial of an application for
19 renewal of registration or in revocation or suspension of a
20 registration.

21 (6) PRIMARY SOURCE VERIFIED DATA.--Health care
22 entities and credentials verification organizations may rely
23 upon any data that has been primary source verified by the
24 department or its designee to meet primary source verification
25 requirements of national accrediting organizations.

26 ~~(7)(6)~~ LIABILITY.--No civil, criminal, or
27 administrative action may be instituted, and there shall be no
28 liability, against any registered credentials verification
29 organization or health care entity on account of its reliance
30 on any data obtained directly from the department.

31

1 (8)~~(7)~~ LIABILITY INSURANCE REQUIREMENTS.--Each
2 credentials verification organization doing business in this
3 state shall maintain liability insurance appropriate to meet
4 the certification or accreditation requirements established in
5 this section.

6 (9)~~(8)~~ RULES.--The department shall adopt rules
7 necessary to develop and implement the standardized core
8 credentials data collection program established by this
9 section.

10 Section 22. Section 240.4075, Florida Statutes, is
11 amended to read:

12 240.4075 Nursing Student Loan Forgiveness Program.--

13 (1) To encourage qualified personnel to seek
14 employment in areas of this state in which critical nursing
15 shortages exist, there is established the Nursing Student Loan
16 Forgiveness Program. The primary function of the program is
17 to increase employment and retention of registered nurses and
18 licensed practical nurses in nursing homes and hospitals in
19 the state and in state-operated medical and health care
20 facilities, public schools, birth centers, and federally
21 sponsored community health centers ~~and teaching hospitals~~ by
22 making repayments toward loans received by students from
23 federal or state programs or commercial lending institutions
24 for the support of postsecondary study in accredited or
25 approved nursing programs.

26 (2) To be eligible, a candidate must have graduated
27 from an accredited or approved nursing program and have
28 received a Florida license as a licensed practical nurse or a
29 registered nurse or a Florida certificate as an advanced
30 registered nurse practitioner.

31

1 (3) Only loans to pay the costs of tuition, books, and
2 living expenses shall be covered, at an amount not to exceed
3 \$4,000 for each year of education towards the degree obtained.

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

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

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

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

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

20
21 In no case may payment for any nurse exceed \$4,000 in any
22 12-month period.

23 (5) There is created the Nursing Student Loan
24 Forgiveness Trust Fund to be administered by the Department of
25 Health ~~Education~~ pursuant to this section and s. 240.4076 and
26 department rules. The Comptroller shall authorize
27 expenditures from the trust fund upon receipt of vouchers
28 approved by the Department of Health ~~Education~~. All moneys
29 collected from the private health care industry and other
30 private sources for the purposes of this section shall be
31 deposited into the Nursing Student Loan Forgiveness Trust

1 Fund. Any balance in the trust fund at the end of any fiscal
2 year shall remain therein and shall be available for carrying
3 out the purposes of this section and s. 240.4076.

4 (6) In addition to licensing fees imposed under part I
5 of chapter 464, there is hereby levied and imposed an
6 additional fee of \$5, which fee shall be paid upon licensure
7 or renewal of nursing licensure. Revenues collected from the
8 fee imposed in this subsection shall be deposited in the
9 Nursing Student Loan Forgiveness Trust Fund of the Department
10 of ~~Health Education~~ and will be used solely for the purpose of
11 carrying out the provisions of this section and s. 240.4076.
12 Up to 50 percent of the revenues appropriated to implement
13 this subsection may be used for the nursing scholarship
14 program established pursuant to s. 240.4076.

15 (7)(a) Funds contained in the Nursing Student Loan
16 Forgiveness Trust Fund which are to be used for loan
17 forgiveness for those nurses employed by hospitals, birth
18 centers, and nursing homes must be matched on a
19 dollar-for-dollar basis by contributions from the employing
20 institutions, except that this provision shall not apply to
21 state-operated medical and health care facilities, public
22 schools, county health departments, federally sponsored
23 community health centers, or teaching hospitals as defined in
24 s. 408.07, family practice teaching hospitals as defined in s.
25 395.805, or specialty hospitals for children as used in s.
26 409.9119. If in any given fiscal quarter there are
27 insufficient funds in the trust fund to grant all eligible
28 applicant requests, awards shall be based on the following
29 priority of employer: county health departments; federally
30 sponsored community health centers; state-operated medical and
31 health care facilities; public schools; teaching hospitals as

1 defined in s. 408.07; family practice teaching hospitals as
2 defined in s. 395.805; specialty hospitals for children as
3 used in s. 409.9119; and other hospitals, birth centers, and
4 nursing homes.

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

12 (8) The Department of Health ~~Education~~ may solicit
13 technical assistance relating to the conduct of this program
14 from the Department of Education ~~Health~~.

15 (9) The Department of Health ~~Education~~ is authorized
16 to recover from the Nursing Student Loan Forgiveness Trust
17 Fund its costs for administering the Nursing Student Loan
18 Forgiveness Program.

19 (10) The Department of Health ~~Education~~ may adopt
20 rules necessary to administer this program.

21 (11) This section shall be implemented only as
22 specifically funded.

23 Section 23. Section 240.4076, Florida Statutes, is
24 amended to read:

25 240.4076 Nursing scholarship program.--

26 (1) There is established within the Department of
27 Health ~~Education~~ a scholarship program for the purpose of
28 attracting capable and promising students to the nursing
29 profession.

30 (2) A scholarship applicant shall be enrolled as a
31 full-time or part-time student in the upper division of an

1 approved nursing program leading to the award of a
2 baccalaureate degree or graduate degree to qualify for a
3 nursing faculty position or as an ~~or any~~ advanced registered
4 nurse practitioner ~~degree~~ or be enrolled as a full-time or
5 part-time student in an approved program leading to the award
6 of an associate degree in nursing ~~or a diploma in nursing~~.

7 (3) A scholarship may be awarded for no more than 2
8 years, in an amount not to exceed \$8,000 per year. However,
9 registered nurses pursuing a graduate degree for a faculty
10 position or to practice as an advanced registered nurse
11 practitioner ~~degree~~ may receive up to \$12,000 per year.
12 Beginning July 1, 1998, these amounts shall be adjusted by the
13 amount of increase or decrease in the consumer price index for
14 urban consumers published by the United States Department of
15 Commerce.

16 (4) Credit for repayment of a scholarship shall be as
17 follows:

18 (a) For each full year of scholarship assistance, the
19 recipient agrees to work for 12 months in a faculty position
20 in a college of nursing or community college nursing program
21 in this state or at a health care facility in a medically
22 underserved area as approved by the Department of Health
23 ~~Education~~. Scholarship recipients who attend school on a
24 part-time basis shall have their employment service obligation
25 prorated in proportion to the amount of scholarship payments
26 received.

27 (b) Eligible health care facilities include nursing
28 homes and hospitals in this state, state-operated medical or
29 health care facilities, public schools, county health
30 departments, federally sponsored community health centers,
31 colleges of nursing in universities in this state, and

1 community college nursing programs in this state ~~or teaching~~
2 ~~hospitals as defined in s. 408.07.~~ The recipient shall be
3 encouraged to complete the service obligation at a single
4 employment site. If continuous employment at the same site is
5 not feasible, the recipient may apply to the department for a
6 transfer to another approved health care facility.

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

18 (d) Any recipient who does not accept employment as a
19 nurse at an approved health care facility or who does not
20 complete 12 months of approved employment for each year of
21 scholarship assistance received shall repay to the Department
22 of Health Education an amount equal to two times the entire
23 amount of the scholarship plus interest accruing from the date
24 of the scholarship payment at the maximum allowable interest
25 rate permitted by law. Repayment shall be made within 1 year
26 of notice that the recipient is considered to be in default.
27 However, the department may provide additional time for
28 repayment if the department finds that circumstances beyond
29 the control of the recipient caused or contributed to the
30 default.

31

1 (5) Scholarship payments shall be transmitted to the
2 recipient upon receipt of documentation that the recipient is
3 enrolled in an approved nursing program. The Department of
4 ~~Health Education~~ shall develop a formula to prorate payments
5 to scholarship recipients so as not to exceed the maximum
6 amount per academic year.

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

13 (7) The Department of ~~Health Education~~ is authorized
14 to recover from the Nursing Student Loan Forgiveness Trust
15 Fund its costs for administering the nursing scholarship
16 program.

17 Section 24. All powers, duties, and functions, rules,
18 records, personnel, property, and unexpended balances of
19 appropriations, allocations, or other funds of the Department
20 of Education relating to the Nursing Student Loan Forgiveness
21 Program and the nursing scholarship program are transferred by
22 a type two transfer, as defined in s. 20.06(2), Florida
23 Statutes, to the Department of Health.

24 Section 25. Subsection (11) is added to section
25 240.40201, Florida Statutes, to read:

26 240.40201 Florida Bright Futures Scholarship
27 Program.--

28 (11) Students who enroll full time or part time in a
29 health care program that will lead to licensure in a
30 profession which has a shortage of practitioners shall be
31 given priority for a Florida Bright Futures Scholarship.

1 Section 26. Effective July 1, 2003, section 464.005,
2 Florida Statutes, is amended to read:

3 464.005 Board headquarters.--The board shall maintain
4 its official headquarters in Tallahassee ~~the city in which it~~
5 ~~has been domiciled for the past 5 years.~~

6 Section 27. Subsections (1) and (2) of section
7 464.008, Florida Statutes, are amended to read:

8 464.008 Licensure by examination.--

9 (1) Any person desiring to be licensed as a registered
10 nurse or licensed practical nurse shall apply to the
11 department to take the licensure examination. The department
12 shall examine each applicant who:

13 (a) Has completed the application form and remitted a
14 fee set by the board not to exceed \$150 and has remitted an
15 examination fee set by the board not to exceed \$75 plus the
16 actual per applicant cost to the department for purchase of
17 the examination from the National Council of State Boards of
18 Nursing or a similar national organization.

19 (b) Has provided sufficient information on or after
20 October 1, 1989, which must be submitted by the department for
21 a statewide criminal records correspondence check through the
22 Department of Law Enforcement.

23 (c) Is in good mental and physical health, is a
24 recipient of a high school diploma or the equivalent, and has
25 completed the requirements for graduation from an approved
26 program, or its equivalent as determined by the board, for the
27 preparation of registered nurses or licensed practical nurses,
28 whichever is applicable. Courses successfully completed in a
29 professional nursing program which are at least equivalent to
30 a practical nursing program may be used to satisfy the

31

1 education requirements for licensure as a licensed practical
2 nurse.

3 (d) Has the ability to communicate in the English
4 language, which may be determined by an examination given by
5 the department.

6 (2) Each applicant who passes the examination and
7 provides proof of meeting the educational requirements
8 specified in subsection (1)~~graduation from an approved~~
9 ~~nursing program~~ shall, unless denied pursuant to s. 464.018,
10 be entitled to licensure as a registered professional nurse or
11 a licensed practical nurse, whichever is applicable.

12 Section 28. Section 464.009, Florida Statutes, is
13 amended to read:

14 464.009 Licensure by endorsement.--

15 (1) The department shall issue the appropriate license
16 by endorsement to practice professional or practical nursing
17 to an applicant who, upon applying to the department and
18 remitting a fee set by the board not to exceed \$100,
19 demonstrates to the board that he or she:

20 (a) Holds a valid license to practice professional or
21 practical nursing in another state of the United States,
22 provided that, when the applicant secured his or her original
23 license, the requirements for licensure were substantially
24 equivalent to or more stringent than those existing in Florida
25 at that time; or

26 (b) Meets the qualifications for licensure in s.
27 464.008 and has successfully completed a state, regional, or
28 national examination which is substantially equivalent to or
29 more stringent than the examination given by the department.

30 (2) Such examinations and requirements from other
31 states shall be presumed to be substantially equivalent to or

1 more stringent than those in this state. Such presumption
2 shall not arise until January 1, 1980. However, the board may,
3 by rule, specify states the examinations and requirements of
4 which shall not be presumed to be substantially equivalent to
5 those of this state.

6 (3) The applicant must submit to the department a set
7 of fingerprints on a form and under procedures specified by
8 the department, along with a payment in an amount equal to the
9 costs incurred by the Department of Health for the criminal
10 background check of the applicant. The Department of Health
11 shall submit the fingerprints provided by the applicant to the
12 Florida Department of Law Enforcement for a statewide criminal
13 history check, and the Florida Department of Law Enforcement
14 shall forward the fingerprints to the Federal Bureau of
15 Investigation for a national criminal history check of the
16 applicant. The Department of Health shall review the results
17 of the criminal history check, issue a license to an applicant
18 who has met all of the other requirements for licensure and
19 has no criminal history, and shall refer all applicants with
20 criminal histories back to the board for determination as to
21 whether a license should be issued and under what conditions.

22 (4)~~(3)~~ The department shall not issue a license by
23 endorsement to any applicant who is under investigation in
24 another state for an act which would constitute a violation of
25 this part or chapter 456 until such time as the investigation
26 is complete, at which time the provisions of s. 464.018 shall
27 apply.

28 (5) The department shall develop an electronic
29 applicant notification process and provide electronic
30 notification when the application has been received and when
31 background screenings have been completed, and shall issue a

1 license within 30 days after completion of all required data
2 collection and verification. This 30-day period to issue a
3 license shall be tolled if the applicant must appear before
4 the board due to information provided on the application or
5 obtained through screening and data collection and
6 verification procedures.

7 Section 29. Subsection (1) of section 464.0205,
8 Florida Statutes, is amended to read:

9 464.0205 Retired volunteer nurse certificate.--

10 (1) Any retired practical or registered nurse desiring
11 to serve indigent, underserved, or critical need populations
12 in this state may apply to the department for a retired
13 volunteer nurse certificate by providing:

14 (a) A complete application.

15 ~~(b) An application and processing fee of \$25.~~

16 (b)(c) Verification that the applicant had been
17 licensed to practice nursing in any jurisdiction in the United
18 States for at least 10 years, had retired or plans to retire,
19 intends to practice nursing only pursuant to the limitations
20 provided by the retired volunteer nurse certificate, and has
21 not committed any act that would constitute a violation under
22 s. 464.018(1).

23 (c)(d) Proof that the applicant meets the requirements
24 for licensure under s. 464.008 or s. 464.009.

25 Section 30. The Florida Legislature's Office of
26 Program Policy Analysis and Government Accountability shall
27 study the feasibility of maintaining the entire Medical
28 Quality Assurance function, including enforcement, within one
29 department, as recommended by the Auditor General in
30 Operational Report Number 01-063. The study shall be completed
31

1 and a report issued to the Legislature on or before November
2 30, 2001.

3 Section 31. Effective October 1, 2001, section
4 456.0375, Florida Statutes, is created to read:

5 456.0375 Registration of certain clinics;
6 requirements; discipline; exemptions.--

7 (1) As used in this section:

8 (a) "Clinic" means a single structure or facility, or
9 group of adjacent structures or facilities, or portion of a
10 structure or facility, operating under the same business name
11 or management, at which health care services are provided to
12 individuals and which tenders charges for reimbursement for
13 such services unless otherwise licensed by the state pursuant
14 to chapter 383, chapter 390, chapter 394, chapter 395, chapter
15 397, chapter 400, chapter 463, chapter 465, chapter 466,
16 chapter 478, chapter 480, or chapter 484 or unless exempt from
17 federal taxation under 26 U.S.C. s. 501(c)(3).

18 (b) "Health care services" means any service that may
19 only be performed by a licensed health care practitioner as
20 defined in s. 456.001(4).

21 (2)(a) Clinics in which an entity or individual not
22 licensed under chapter 458, chapter 459, chapter 460, or
23 chapter 461 possesses an ownership interest must be registered
24 with the department. The clinic shall at all times maintain a
25 valid registration. Each clinic location shall be registered
26 separately even though operated under the same business name
27 or management. A registration is not transferable. For
28 purposes of determining registration requirements under this
29 paragraph, clinics owned by a physician licensed under chapter
30 458, chapter 459, chapter 460, or chapter 461 shall also
31 include those clinics owned jointly by the physician and the

1 physician's spouse, parent, or child, so long as the licensed
2 physician is supervising the delivery of appropriate health
3 care services performed in the clinic and is legally
4 responsible for the clinic's compliance with all federal and
5 state laws.

6 (b) The department shall adopt rules necessary to
7 implement the registration program, including rules
8 establishing the specific registration procedures, forms, and
9 fees. Registration fees shall be reasonably calculated to
10 cover the cost of registration and be of such amount that the
11 total fees collected do not exceed the cost to administer and
12 enforce compliance with this section. Registration may be
13 conducted electronically. Registration requirements shall
14 include the following:

15 1. The clinic shall file the registration form with
16 the department within 60 days after the effective date of this
17 act or prior to the inception of operation. The registration
18 shall expire automatically 2 years after the date of issuance
19 and must be renewed biennially thereafter.

20 2. The registration form shall contain the name,
21 residence and business address, phone number, and license
22 number of the medical director for the clinic.

23 3. The clinic shall display the registration
24 certificate in a conspicuous location within the clinic,
25 readily visible to all patients.

26 (3)(a) Every clinic owned by an individual other than
27 a fully licensed physician or owned by an entity other than a
28 professional corporation or limited liability company composed
29 only of fully licensed physicians must employ or contract with
30 a physician maintaining a full and unencumbered physician
31

1 license in accordance with chapter 458, chapter 459, chapter
2 460, or chapter 461 to serve as the medical director.

3 (b) The medical director must agree in writing to
4 accept legal responsibility for supervising the delivery of
5 appropriate health care services and supplies. The medical
6 director shall:

7 1. Have signs identifying the medical director posted
8 in a conspicuous location within the clinic readily visible to
9 all patients.

10 2. Ensure that all practitioners providing health care
11 services or supplies to patients maintain a current active and
12 unencumbered Florida license.

13 3. Review any patient referral contracts or agreements
14 executed by the clinic.

15 4. Ensure that all health care practitioners at the
16 clinic have active appropriate certification or licensure for
17 the level of care being provided.

18 5. Serve as the clinic records owner as defined in s.
19 456.057.

20 6. Comply with medical recordkeeping, office surgery,
21 and adverse incident reporting requirements of this chapter,
22 the respective practice acts, and rules promulgated
23 thereunder.

24 7. Conduct systematic reviews of clinic billings to
25 ensure that the billings are not fraudulent or unlawful. Upon
26 discovery of an unlawful charge, the medical director must
27 take immediate corrective action.

28 (c) Any contract to serve as a medical director
29 entered into or renewed by a physician in violation of this
30 section shall be void as contrary to public policy. This
31

1 section shall apply to contracts entered into or renewed on or
2 after October 1, 2001.

3 (d) The department, in consultation with the boards,
4 shall adopt rules specifying limitations on the number of
5 registered clinics and licensees for which a medical director
6 may assume responsibility for purposes of this section. In
7 determining the quality of supervision a medical director can
8 provide, the department shall consider the number of clinic
9 employees, the clinic's location, and the types of services
10 provided by the clinic.

11 (4)(a) All charges or reimbursement claims made by or
12 on behalf of a clinic required to be registered under this
13 section for services rendered when not registered in violation
14 of this section are unlawful charges and therefore
15 noncompensable and unenforceable.

16 (b) Any person establishing, operating, or managing an
17 unregistered clinic otherwise required to be registered under
18 this section commits a felony of the third degree, punishable
19 as provided in s. 775.082, s. 775.083, or s. 775.084, in
20 accordance with s. 456.065.

21 (c) Any licensed health care practitioner violating
22 the provisions of this section shall be subject to discipline
23 in accordance with this chapter and the respective practice
24 act.

25 (d) The department shall revoke the registration of
26 any clinic registered under this section for operating in
27 violation of the requirements of this section or the rules
28 adopted by the department.

29 (e) The department shall investigate allegations of
30 noncompliance with this section and the rules promulgated
31 pursuant to this section.

1 Section 32. The sum of \$100,000 is appropriated from
2 the registration fees collected from clinics pursuant to s.
3 456.0375, Florida Statutes, and one-half of one full-time
4 equivalent position is authorized, to the Department of Health
5 for the purposes of regulating medical clinics pursuant to s.
6 456.0375, Florida Statutes. The appropriated funds shall be
7 deposited into the Medical Quality Assurance Trust Fund.

8 Section 33. Subsection (3) of section 456.031, Florida
9 Statutes, is amended to read:

10 456.031 Requirement for instruction on domestic
11 violence.--

12 (3)(a) In lieu of completing a course as required in
13 subsection (1), a licensee or certificateholder may complete a
14 course in end-of-life care and palliative health care, if the
15 licensee or certificateholder has completed an approved
16 domestic violence course in the immediately preceding
17 biennium.

18 (b) In lieu of completing a course as required by
19 subsection (1), a licensee under chapter 466 may complete a
20 course designated by the Board of Dentistry if the licensee
21 has completed an approved domestic violence course in the
22 immediately preceding biennium.

23 Section 34. Subsection (9) of section 456.033, Florida
24 Statutes, is amended to read:

25 456.033 Requirement for instruction for certain
26 licensees on human immunodeficiency virus and acquired immune
27 deficiency syndrome.--

28 (9)(a) In lieu of completing a course as required in
29 subsection (1), the licensee may complete a course in
30 end-of-life care and palliative health care, so long as the
31

1 licensee completed an approved AIDS/HIV course in the
2 immediately preceding biennium.

3 (b) In lieu of completing a course as required by
4 subsection (1), a licensee under chapter 466 may complete a
5 course approved by the Board of Dentistry, so long as the
6 licensee completed an approved AIDS/HIV course in the
7 immediately preceding biennium.

8 Section 35. Paragraph (c) of subsection (6) of section
9 468.302, Florida Statutes, is amended to read:

10 468.302 Use of radiation; identification of certified
11 persons; limitations; exceptions.--

12 (6) Requirement for certification does not apply to:

13 (c) A person who is trained and skilled in
14 cardiovascular ~~cardiopulmonary~~ technology and who provides
15 cardiovascular ~~cardiopulmonary~~ technology services at the
16 direction, and under the direct supervision, of a licensed
17 practitioner.

18 Section 36. Subsections (8) and (9) of section
19 468.352, Florida Statutes, are amended to read:

20 468.352 Definitions.--As used in this part, unless the
21 context otherwise requires, the term:

22 (8) "Registered respiratory therapist" means any
23 person licensed pursuant to this part who is employed to
24 deliver respiratory care services under the order of a
25 physician licensed pursuant to chapter 458 or chapter 459, and
26 in accordance with protocols established by a hospital, other
27 health care provider, or the board, and who functions in
28 situations of unsupervised patient contact requiring
29 individual judgment.

30 (9) "Certified respiratory therapist" or "respiratory
31 care practitioner" means any person licensed pursuant to this

1 part who is employed to deliver respiratory care services
2 under the order of a physician licensed pursuant to chapter
3 458 or chapter 459, and in accordance with protocols
4 established by a hospital, other health care provider, or the
5 board.

6 Section 37. Subsections (1) and (2) of section
7 468.355, Florida Statutes, are amended to read:

8 468.355 Eligibility for licensure; temporary
9 licensure.--

10 (1) To be eligible for licensure by the board as a
11 certified respiratory therapist ~~respiratory care practitioner~~,
12 an applicant must:

13 (a) Be at least 18 years old.

14 (b) Possess a high school diploma or a graduate
15 equivalency diploma.

16 (c) Meet at least one of the following criteria:

17 1. The applicant has successfully completed a training
18 program for respiratory therapy technicians or respiratory
19 therapists approved by the Commission on Accreditation of
20 Allied Health Education Programs, or the equivalent thereof,
21 as accepted by the board.

22 2. The applicant is currently a "Certified Respiratory
23 Therapist ~~Therapy Technician~~" certified by the National Board
24 for Respiratory Care, or the equivalent thereof, as accepted
25 by the board.

26 3. The applicant is currently a "Registered
27 Respiratory Therapist" registered by the National Board for
28 Respiratory Care, or the equivalent thereof, as accepted by
29 the board.

30
31

1 The criteria set forth in subparagraphs 2. and 3.
2 notwithstanding, the board shall periodically review the
3 examinations and standards of the National Board for
4 Respiratory Care and may reject those examinations and
5 standards if they are deemed inappropriate.
6 (2) To be eligible for licensure by the board as a
7 registered respiratory therapist, an applicant must:
8 (a) Be at least 18 years old.
9 (b) Possess a high school diploma or a graduate
10 equivalency diploma.
11 (c) Meet at least one of the following criteria:
12 1. The applicant has successfully completed a training
13 program for registered respiratory therapists approved by the
14 Commission on Accreditation of Allied Health Education
15 Programs, or the equivalent thereof, as accepted by the board.
16 2. The applicant is currently a "Registered
17 Respiratory Therapist" registered by the National Board for
18 Respiratory Care, or the equivalent thereof, as accepted by
19 the board.

20
21 The criteria set forth in subparagraphs 1. and 2.
22 notwithstanding, the board shall periodically review the
23 examinations and standards of the National Board for
24 Respiratory Care and may reject those examinations and
25 standards if they are deemed inappropriate.
26 Section 38. Section 468.357, Florida Statutes, is
27 amended to read:
28 468.357 Licensure by examination.--
29 (1) A person who desires to be licensed as a certified
30 respiratory therapist ~~respiratory care practitioner~~ may submit
31

1 an application to take the examination, in accordance with
2 board rule.

3 (a) Each applicant may take the examination who is
4 determined by the board to have:

5 1. Completed the application form and remitted the
6 applicable fee set by the board;

7 2. Submitted required documentation as required in s.
8 468.355; and

9 3. Remitted an examination fee set by the examination
10 provider.

11 (b) Examinations for licensure of certified
12 respiratory therapist ~~respiratory care practitioners~~ must be
13 conducted no less than two times a year in such geographical
14 locations or by such methods as are deemed advantageous to the
15 majority of the applicants.

16 (c) The examination given for certified respiratory
17 therapist ~~respiratory care practitioners~~ shall be the same as
18 that given by the National Board for Respiratory Care for
19 entry-level certification of respiratory therapists ~~therapy~~
20 ~~technicians~~. However, an equivalent examination may be
21 accepted by the board in lieu of that examination.

22 (2) Each applicant who passes the examination shall be
23 entitled to licensure as a certified respiratory therapist
24 ~~respiratory care practitioner~~, and the department shall issue
25 a license pursuant to this part to any applicant who
26 successfully completes the examination in accordance with this
27 section. However, the department shall not issue a license to
28 any applicant who is under investigation in another
29 jurisdiction for an offense which would constitute a violation
30 of this part. Upon completion of such an investigation, if the
31

1 applicant is found guilty of such an offense, the applicable
2 provisions of s. 468.365 will apply.

3 Section 39. Subsections (1) and (2) of section
4 468.358, Florida Statutes, are amended to read:

5 468.358 Licensure by endorsement.--

6 (1) Licensure as a certified respiratory therapist
7 ~~respiratory care practitioner~~ shall be granted by endorsement
8 to an individual who holds the "Certified Respiratory
9 Therapist ~~Therapy Technician~~" credential issued by the
10 National Board for Respiratory Care or an equivalent
11 credential acceptable to the board. Licensure by this
12 mechanism requires verification by oath and submission of
13 evidence satisfactory to the board that such credential is
14 held.

15 (2) Licensure as a registered respiratory therapist
16 shall be granted by endorsement to an individual who holds the
17 "Registered Respiratory Therapist" credential issued by the
18 National Board for Respiratory Care or an equivalent
19 credential acceptable to the board. Licensure by this
20 mechanism requires verification by oath and submission of
21 evidence satisfactory to the board that such credential is
22 held.

23 Section 40. Section 468.359, Florida Statutes, is
24 amended to read:

25 468.359 Assumption of title and use of
26 abbreviations.--

27 (1) Only persons who are licensed pursuant to this
28 part as respiratory care practitioners have the right to use
29 the title "Respiratory Care Practitioner" and the abbreviation
30 "RCP."
31

1 (2) Only persons who are licensed pursuant to this
2 part as registered respiratory therapists have the right to
3 use the title "Registered Respiratory Therapist" and the
4 abbreviation "RRT." ~~provided such persons have passed the~~
5 ~~Registry Examination for Respiratory Therapists given by the~~
6 ~~National Board for Respiratory Care.~~

7 (3) Only persons who are licensed pursuant to this
8 part as certified respiratory therapists have the right to use
9 the title "Certified Respiratory Therapist" and the
10 abbreviation "CRT." ~~graduates of board-approved programs for~~
11 ~~respiratory care practitioners may use the term "Graduate~~
12 ~~Respiratory Therapy Technician" and the abbreviation "GRTT."~~

13 ~~(4) Only persons who are graduates of board-approved~~
14 ~~programs for respiratory therapists may use the term "Graduate~~
15 ~~Respiratory Therapist" and the abbreviation "GRT."~~

16 ~~(4)(5)~~ No person in this state shall deliver
17 respiratory care services; advertise as, or assume the title
18 of, respiratory care practitioner, certified respiratory
19 therapist, or registered respiratory therapist; ~~or~~ use the
20 abbreviation "RCP," "CRT," or "RRT"; ~~or~~ take any other action
21 that would lead the public to believe that such person is
22 licensed pursuant to this part unless such person is so
23 licensed.

24 Section 41. Paragraph (b) of subsection (2), paragraph
25 (b) of subsection (3), and subsection (4) of section 468.1155,
26 Florida Statutes, are amended to read:

27 468.1155 Provisional license; requirements.--

28 (2) The department shall issue a provisional license
29 to practice speech-language pathology to each applicant who
30 the board certifies has:

31

1 (b) Received a master's degree or doctoral degree with
2 a major emphasis in speech-language pathology from an
3 institution of higher learning which, at the time the
4 applicant was enrolled and graduated, was accredited by an
5 accrediting agency recognized by the Council for Higher
6 Education Commission on Recognition of Postsecondary
7 Accreditation or from an institution which is ~~publicly~~
8 ~~recognized as~~ a member in good standing with the Association
9 of Universities and Colleges of Canada. An applicant who
10 graduated from a program at a university or college outside
11 the United States or Canada must present documentation of the
12 determination of equivalency to standards established by the
13 Council for Higher Education Commission on Recognition of
14 ~~Postsecondary~~ Accreditation in order to qualify. The
15 applicant must have completed 60 semester hours that include:
16 1. Fundamental information applicable to the normal
17 development and use of speech, hearing, and language;
18 information about training in management of speech, hearing,
19 and language disorders; and information supplementary to these
20 fields.
21 2. Six semester hours in audiology.
22 3. Thirty of the required 60 semester hours in courses
23 acceptable toward a graduate degree by the college or
24 university in which these courses were taken, of which 24
25 semester hours must be in speech-language pathology.
26 (3) The department shall issue a provisional license
27 to practice audiology to each applicant who the board
28 certifies has:
29 (b) Received a master's degree or doctoral degree with
30 a major emphasis in audiology from an institution of higher
31 learning which at the time the applicant was enrolled and

1 graduated was accredited by an accrediting agency recognized
2 by the Council for Higher Education ~~Commission on Recognition~~
3 ~~of Postsecondary~~ Accreditation or from an institution which is
4 ~~publicly recognized as~~ a member in good standing with the
5 Association of Universities and Colleges of Canada. An
6 applicant who graduated from a program at a university or
7 college outside the United States or Canada must present
8 documentation of the determination of equivalency to standards
9 established by the Council for Higher Education ~~Commission on~~
10 ~~Recognition of Postsecondary~~ Accreditation in order to
11 qualify. The applicant must have completed 60 semester hours
12 that include:

13 1. Fundamental information applicable to the normal
14 development and use of speech, hearing, and language;
15 information about training in management of speech, hearing,
16 and language disorders; and information supplementary to these
17 fields.

18 2. Six semester hours in speech-language pathology.

19 3. Thirty of the required 60 semester hours in courses
20 acceptable toward a graduate degree by the college or
21 university in which these courses were taken, of which 24
22 semester hours must be in audiology.

23 (4) An applicant ~~for a provisional license~~ who has
24 received a master's degree or doctoral degree with a major
25 emphasis in speech-language pathology as provided in
26 subsection (2), or audiology as provided in subsection (3),
27 and who seeks licensure in the area in which the applicant is
28 not currently licensed, must have completed 30 semester hours
29 in courses acceptable toward a graduate degree and 200
30 supervised clinical clock hours in the second discipline from
31 an accredited institution.

1 Section 42. Paragraph (b) of subsection (1) and
2 paragraph (b) of subsection (2) of section 468.1215, Florida
3 Statutes, are amended to read:

4 468.1215 Speech-language pathology assistant and
5 audiology assistant; certification.--

6 (1) The department shall issue a certificate as a
7 speech-language pathology assistant to each applicant who the
8 board certifies has:

9 (b) Earned a bachelor's degree from a college or
10 university accredited by a regional association of colleges
11 and schools recognized by the Department of Education which
12 includes at least 24 semester hours of coursework as approved
13 by the board at an institution accredited by an accrediting
14 agency recognized by the Council for Higher Education
15 ~~Commission on Recognition of Postsecondary~~ Accreditation.

16 (2) The department shall issue a certificate as an
17 audiology assistant to each applicant who the board certifies
18 has:

19 (b) Completed at least 24 semester hours of coursework
20 as approved by the board at an institution accredited by an
21 accrediting agency recognized by the Council for Higher
22 Education ~~Commission on Recognition of Postsecondary~~
23 Accreditation.

24 Section 43. Subsection (3) of section 480.033, Florida
25 Statutes, is amended to read:

26 480.033 Definitions.--As used in this act:

27 (3) "Massage" means the manipulation of the soft
28 ~~superficial~~ tissues of the human body with the hand, foot,
29 arm, or elbow, whether or not such manipulation is aided by
30 hydrotherapy, including colonic irrigation, or thermal
31 therapy; any electrical or mechanical device; or the

1 application to the human body of a chemical or herbal
2 preparation.

3 Section 44. Subsection (1) of section 490.012, Florida
4 Statutes, is amended to read:

5 490.012 Violations; penalties; injunction.--

6 (1)(a) No person shall hold herself or himself out by
7 any professional title or description incorporating the words
8 "psychologist" or "psychological," or any permutation thereof,
9 unless such person holds a valid license under this chapter.

10 (b) No person shall hold herself or himself out by any
11 professional title or description incorporating the words
12 "school psychologist," or any permutation thereof, unless such
13 person holds a valid license as a school psychologist under
14 this chapter or is certified as a school psychologist by the
15 Department of Education. Certified school psychologists may
16 use the title or description "school psychologist," or any
17 permutation thereof, only for their work while employed within
18 a school system.

19 (c)~~(a)~~ No person shall present any work product hold
20 herself or himself out by any title or description
21 incorporating the words, ~~or permutations of them,~~
22 "psychologist," "psychology," "psychological," or
23 "psychodiagnostic," or any permutation thereof, ~~school~~
24 psychologist," or describe any test or report as
25 psychological, unless such person holds a valid, active
26 license under this chapter or is exempt from the provisions of
27 this chapter.

28 (d)~~(b)~~ No person shall hold herself or himself out by
29 any title or description incorporating the word, ~~or a~~
30 permutation of the word, "psychotherapy," or any permutation
31 thereof, unless such person holds a valid, active license

1 under chapter 458, chapter 459, chapter 490, or chapter 491,
2 or such person is certified as an advanced registered nurse
3 practitioner, pursuant to s. 464.012, who has been determined
4 by the Board of Nursing as a specialist in psychiatric mental
5 health.

6 (e)~~(c)~~ No person licensed or provisionally licensed
7 pursuant to this chapter shall hold herself or himself out by
8 any title or description which indicates licensure other than
9 that which has been granted to her or him.

10 (4) Any person who violates any provision of this
11 section, except for subsections (2) and (3), commits a
12 misdemeanor of the first degree, punishable as provided in s.
13 775.082 or s. 775.083. Any person who violates any provision
14 of subsection (2) or subsection (3) is subject to disciplinary
15 action under s. 490.009.

16 Section 45. Section 490.014, Florida Statutes, is
17 amended to read:

18 490.014 Exemptions.--

19 (1)(a) No provision of this chapter shall be construed
20 to limit the practice of physicians licensed pursuant to
21 chapter 458 or chapter 459 so long as they do not hold
22 themselves out to the public as psychologists or use a
23 professional title protected by this chapter.

24 (b) No provision of this chapter shall be construed to
25 limit the practice of nursing, clinical social work, marriage
26 and family therapy, mental health counseling, or other
27 recognized businesses or professions, or to prevent qualified
28 members of other professions from doing work of a nature
29 consistent with their training, so long as they do not hold
30 themselves out to the public as psychologists or use a title
31 or description protected by this chapter. Nothing in this

1 subsection shall be construed to exempt any person from the
2 provisions of s. 490.012.

3 (2) No person shall be required to be licensed or
4 provisionally licensed under this chapter who:

5 (a) Is a salaried employee of a government agency;
6 developmental services program, mental health, alcohol, or
7 drug abuse facility operating pursuant to chapter 393, chapter
8 394, or chapter 397; subsidized child care program, subsidized
9 child care case management program, or child care resource and
10 referral program operating pursuant to chapter 402;
11 child-placing or child-caring agency licensed pursuant to
12 chapter 409; domestic violence center certified pursuant to
13 chapter 39; accredited academic institution; or research
14 institution, if such employee is performing duties for which
15 he or she was trained and hired solely within the confines of
16 such agency, facility, or institution, so long as they do not
17 hold themselves out to the public as psychologists or use a
18 title or description protected by this chapter.

19 (b) Is a salaried employee of a private, nonprofit
20 organization providing counseling services to children, youth,
21 and families, if such services are provided for no charge, if
22 such employee is performing duties for which he or she was
23 trained and hired, so long as they do not hold themselves out
24 to the public as psychologists or use a title or description
25 protected by this chapter.

26 (c) Is a student who is pursuing a course of study
27 which leads to a degree in medicine or a profession regulated
28 by this chapter who is providing services in a training
29 setting, provided such activities or services constitute part
30 of a supervised course of study, or is a graduate accumulating
31 the experience required for any licensure under this chapter,

1 provided such graduate or student is designated by a title
2 such as "intern" or "trainee" which clearly indicates the
3 in-training status of the student.

4 (d) Is certified in school psychology by the
5 Department of Education and is performing psychological
6 services as an employee of a public or private educational
7 institution. Such exemption shall not be construed to
8 authorize any unlicensed practice which is not performed as a
9 direct employee of an educational institution.

10 (e) Is not a resident of the state but offers services
11 in this state, provided:

12 1. Such services are performed for no more than 5 days
13 in any month and no more than 15 days in any calendar year;
14 and

15 2. Such nonresident is licensed or certified by a
16 state or territory of the United States, or by a foreign
17 country or province, the standards of which were, at the date
18 of his or her licensure or certification, equivalent to or
19 higher than the requirements of this chapter in the opinion of
20 the department or, in the case of psychologists, in the
21 opinion of the board.

22 (f) Is a rabbi, priest, minister, or member of the
23 clergy of any religious denomination or sect when engaging in
24 activities which are within the scope of the performance of
25 his or her regular or specialized ministerial duties and for
26 which no separate charge is made, or when such activities are
27 performed, with or without charge, for or under the auspices
28 or sponsorship, individually or in conjunction with others, of
29 an established and legally cognizable church, denomination, or
30 sect, and when the person rendering service remains
31 accountable to the established authority thereof.

1 (3) No provision of this chapter shall be construed to
2 limit the practice of any individual who solely engages in
3 behavior analysis pursuant to s. 393.17 and rule 65B-4,
4 Florida Administrative Code,so long as he or she does not
5 hold himself or herself out to the public as possessing a
6 license issued pursuant to this chapter or use a title or
7 description protected by this chapter.

8 (4) Nothing in this section shall exempt any person
9 from the provisions ~~provision~~ of s. 490.012(1)~~(a)-(d)~~~~(a)-(b)~~.

10 (5) Except as stipulated by the board, the exemptions
11 contained in this section do not apply to any person licensed
12 under this chapter whose license has been suspended or revoked
13 by the board or another jurisdiction.

14 Section 46. Paragraphs (i), (j), and (k) of subsection
15 (1) of section 491.012, Florida Statutes, are amended to read:

16 491.012 Violations; penalty; injunction.--

17 (1) It is unlawful and a violation of this chapter for
18 any person to:

19 (i) Practice clinical social work in this state, ~~as~~
20 ~~the practice is defined in s. 491.003(7),~~for compensation,
21 unless the person holds a valid, active license to practice
22 clinical social work issued pursuant to this chapter or is an
23 intern registered pursuant to s. 491.0045.

24 (j) Practice marriage and family therapy in this
25 state, ~~as the practice is defined in s. 491.003(8),~~for
26 compensation, unless the person holds a valid, active license
27 to practice marriage and family therapy issued pursuant to
28 this chapter or is an intern registered pursuant to s.
29 491.0045.

30 (k) Practice mental health counseling in this state,
31 ~~as the practice is defined in s. 491.003(9),~~for compensation,

1 unless the person holds a valid, active license to practice
2 mental health counseling issued pursuant to this chapter or is
3 an intern registered pursuant to s. 491.0045.

4 Section 47. The Department of Health and the
5 Department of Insurance shall establish a joint investigative
6 and prosecutorial unit for the purpose of identifying health
7 care fraud and ensuring that civil, criminal, and
8 administrative penalties are imposed against all persons and
9 entities committing fraud in the practice of a health care
10 profession. This unit shall be in addition to those offices
11 within the Agency for Health Care Administration and the
12 Department of Legal Affairs that investigate and prosecute
13 Medicaid fraud. All state agencies involved in the regulation
14 of health care practitioners, providers, and payors shall
15 coordinate investigations and are specifically permitted to
16 share confidential information with each other for the purpose
17 of investigating and prosecuting health care fraud. However,
18 all agencies shall maintain the confidentiality of information
19 if the information was confidential pursuant to law in the
20 originating agency's possession.

21 Section 48. Except as otherwise provided herein, this
22 act shall take effect July 1, 2001.

HOUSE SUMMARY

Revises provisions relating to hospital and ambulatory surgical center risk management programs. Requires ongoing evaluation of surgical procedures and protocols. Provides a penalty for intimidation or coercion of a risk manager. Requires the Agency for Health Care Administration, the Department of Health, and the regulatory boards to publish adverse incident information on websites. Adds two health care practitioners to the Health Care Risk Management Advisory Board. Provides a professional education requirement relating to prevention of medical errors. Provides additional grounds for disciplinary action against a health care practitioner. Provides additional penalties. Requires assessment of costs related to disciplinary investigations and prosecutions. Requires certain notice to the patient or complainant regarding a disciplinary case. Requires certain facility and practitioner reporting of sexual misconduct allegations. Provides additional ground for disciplinary action against a nursing home administrator. Limits financial information the agency may require to determine hospital assessments. Requires certain pharmacies using pharmacy technicians to have a policy and procedures manual. Requires the department and agency to review facility and practitioner reporting requirements and report to the Legislature. Provides that a continuous quality improvement committee of a licensed pharmacy is a medical review committee for purposes of immunity from liability.

Revises provisions relating to health care practitioner credentialing. Provides additional legislative intent. Revises and provides definitions. Revises duties of the Department of Health relating to file maintenance. Provides that primary source data verified by the department or its designee may be relied upon to meet accreditation purposes.

Transfers the Nursing Student Loan Forgiveness Program from the Department of Education to the Department of Health. Includes public schools, family practice teaching hospitals, and specialty hospitals for children as eligible facilities under the program. Exempts such facilities from the fund-matching requirements of the program. Transfers the nursing scholarship program from the Department of Education to the Department of Health. Provides requirements under the program for students seeking to qualify for a nursing faculty position and receive credit for work in such a position. Includes nursing homes, hospitals, public schools, colleges of nursing, and community college nursing programs as eligible facilities under the program. Transfers powers, duties, functions, rules, records, personnel, property, and appropriations and other funds relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program from the Department of Education to

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1 the Department of Health. Grants certain students
2 priority in receiving a Florida Bright Futures
3 Scholarship. Provides for future relocation of the
4 headquarters of the Board of Nursing. Revises education
5 requirements for nursing licensure by examination.
6 Revises requirements for nursing licensure by
7 endorsement. Requires submission of fingerprints for a
8 criminal history check and a fee to cover the costs of
9 such check. Provides for an electronic applicant
10 notification process. Deletes the application and
11 processing fee for applicants for a retired volunteer
12 nurse certificate.

13 Requires study by Office of Program Policy Analysis and
14 Government Accountability of the feasibility of
15 maintaining all of Medical Quality Assurance in one state
16 agency. Requires registration of certain clinics and
17 provides requirements therefor. Requires medical
18 directors for such clinics and provides their duties and
19 responsibilities. Provides alternatives by which dental
20 licensees may comply with general requirements that they
21 take domestic violence courses and AIDS/HIV education
22 courses. Corrects terminology in a provision relating to
23 exemption from certification to use radiation on human
24 beings. Revises definitions and provisions relating to
25 licensure and use of titles and abbreviations to correct
26 and conform terminology with respect to respiratory
27 therapists and respiratory care practitioners. Revises
28 accreditation provisions applicable to licensure to
29 practice speech-language pathology or audiology and
30 certification of speech-language pathology or audiology
31 assistants. Corrects terminology in the definition of
"massage." Prohibits the use of certain titles or
descriptions relating to the practice of psychology or
school psychology unless properly licensed. Revises
exemptions from regulation under ch. 490, F.S., relating
to psychology. Revises prohibitions against unlicensed
practice of clinical social work, marriage and family
therapy, and mental health counseling to provide that
practice by registered interns is lawful. Requires the
Department of Health and the Department of Insurance to
establish a joint investigative and prosecutorial unit
for health care fraud. Requires all state agencies
involved in the regulation of health care practitioners,
providers, and payors to coordinate their investigations
and share confidential information for the purpose of
investigating and prosecuting health care fraud and
preserves the confidentiality of such information.

See bill for details.