

1 A bill to be entitled
2 An act relating to medical quality assurance; amending s.
3 395.0193, F.S.; requiring certain disciplinary actions to
4 be reported to the Division of Medical Quality Assurance
5 of the Department of Health rather than the Division of
6 Health Quality Assurance of the Agency for Health Care
7 Administration; amending s. 395.0197, F.S.; requiring the
8 agency to forward copies of adverse incident reports to
9 the department; amending s. 395.3025, F.S.; authorizing
10 disclosure of certain patient records to the department;
11 requiring the administrator or records custodian of a
12 facility to certify which records have been provided to
13 the department; requiring the facility to charge a fee for
14 copies of the records provided to the department; amending
15 s. 400.145, F.S.; requiring the administrator or records
16 custodian of a facility to certify which records have been
17 provided to the department; amending s. 400.147, F.S.;
18 authorizing the department to receive notification of
19 adverse incidents for purposes of certain disciplinary
20 proceedings; requiring the department to review certain
21 adverse incident reports; requiring the agency to forward
22 adverse incident reports to the department; amending s.
23 456.001, F.S.; providing a definition; amending s.
24 456.011, F.S.; providing additional requirements for the
25 constitution of a quorum for meetings of certain
26 committees and boards operating under ch. 456, F.S.;
27 amending s. 456.013, F.S.; requiring an application fee
28 for licensure examinations; providing for extension of a

HB 1265

2009

29 temporary license; revising licensure requirements;
30 authorizing the board or department to adopt rules
31 requiring the display of a professional license; amending
32 s. 456.025, F.S.; authorizing the increase of certain
33 licensure fees; authorizing the imposition of reinspection
34 fees; amending s. 456.036, F.S.; prohibiting the
35 department from renewing the license of licensees owing
36 outstanding fees, costs, or fines; providing for notice;
37 providing for renewal of a license when requirements are
38 met; amending s. 456.037, F.S.; authorizing the board or
39 department to require by rule the display of a business
40 establishment license; amending s. 456.063, F.S.;
41 authorizing the board or department to adopt rules
42 relating to the reporting of sexual misconduct by licensed
43 health care practitioners; amending s. 456.072, F.S.;
44 providing that failure to report disciplinary actions
45 taken against a licensee's license to practice is an
46 additional ground under which the practitioner is subject
47 to discipline by the department or the board having
48 jurisdiction over the practitioner; providing penalties;
49 amending ss. 381.00593, 381.0303, 456.074, 456.41,
50 468.703, 627.6474, 641.315, 766.1016, 766.1116, 768.13,
51 and 768.28, F.S.; conforming cross-references; providing
52 an effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:
55

56 Section 1. Subsection (4) of section 395.0193, Florida
 57 Statutes, is amended to read:

58 395.0193 Licensed facilities; peer review; disciplinary
 59 powers; agency or partnership with physicians.--

60 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
 61 actions taken under subsection (3) shall be reported in writing
 62 to the Division of Medical Health ~~Health~~ Quality Assurance of the
 63 Department of Health ~~agency~~ within 30 working days after its
 64 initial occurrence, regardless of the pendency of appeals to the
 65 governing board of the hospital. The notification shall identify
 66 the disciplined practitioner, the action taken, and the reason
 67 for such action. All final disciplinary actions taken under
 68 subsection (3), if different from those which were reported to
 69 the division ~~agency~~ within 30 days after the initial occurrence,
 70 shall be reported within 10 working days to the Division of
 71 Medical Health ~~Health~~ Quality Assurance of the department ~~agency~~ in
 72 writing and shall specify the disciplinary action taken and the
 73 specific grounds therefor. The division shall review each report
 74 and determine whether it potentially involved conduct by the
 75 licensee that is subject to disciplinary action, in which case
 76 s. 456.073 shall apply. The reports are not subject to
 77 inspection under s. 119.07(1) even if the division's
 78 investigation results in a finding of probable cause.

79 Section 2. Subsection (7) of section 395.0197, Florida
 80 Statutes, is amended to read:

81 395.0197 Internal risk management program.--

82 (7) Any of the following adverse incidents, whether
 83 occurring in the licensed facility or arising from health care

HB 1265

2009

84 prior to admission in the licensed facility, shall be reported
85 by the facility to the agency within 15 calendar days after its
86 occurrence:

87 (a) The death of a patient;

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

89 (c) The performance of a surgical procedure on the wrong
90 patient;

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

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

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

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

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

102

103 The agency may grant extensions to this reporting requirement
104 for more than 15 days upon justification submitted in writing by
105 the facility administrator to the agency. The agency may require
106 an additional, final report. These reports shall not be
107 available to the public pursuant to s. 119.07(1) or any other
108 law providing access to public records, nor be discoverable or
109 admissible in any civil or administrative action, except in
110 disciplinary proceedings by the agency or the appropriate
111 regulatory board, nor shall they be available to the public as

HB 1265

2009

112 part of the record of investigation for and prosecution in
113 disciplinary proceedings made available to the public by the
114 agency or the appropriate regulatory board. However, the agency
115 or the appropriate regulatory board shall make available, upon
116 written request by a health care professional against whom
117 probable cause has been found, any such records which form the
118 basis of the determination of probable cause. The agency may
119 investigate, as it deems appropriate, any such incident and
120 prescribe measures that must or may be taken in response to the
121 incident. The agency shall forward a copy of each incident
122 report received from a facility to the Division of Medical
123 Quality Assurance within the Department of Health ~~review each~~
124 ~~incident and determine whether it potentially involved conduct~~
125 ~~by the health care professional who is subject to disciplinary~~
126 ~~action, in which case the provisions of s. 456.073 shall apply.~~

127 Section 3. Paragraph (e) of subsection (4) of section
128 395.3025, Florida Statutes, is amended to read:

129 395.3025 Patient and personnel records; copies;
130 examination.--

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

135 (e) The Department of Health ~~agency~~ upon subpoena issued
136 pursuant to s. 456.071, but the records obtained thereby must be
137 used solely for the purpose of the department ~~agency~~ and the
138 appropriate professional board in its investigation,
139 prosecution, and appeal of disciplinary proceedings. The

140 administrator or records custodian in a facility licensed under
 141 this chapter shall certify that true and complete copies of the
 142 records requested pursuant to a subpoena or a patient release
 143 have been provided to the department or otherwise identify those
 144 documents that have not been provided. If the department agency
 145 requests copies of the records, the facility shall charge a
 146 reasonable fee as determined by rule of the department ~~no more~~
 147 ~~than its actual copying costs, including reasonable staff time.~~
 148 The records must be sealed and must not be available to the
 149 public pursuant to s. 119.07(1) or any other statute providing
 150 access to records, nor may they be available to the public as
 151 part of the record of investigation for and prosecution in
 152 disciplinary proceedings made available to the public by the
 153 department agency or the appropriate regulatory board. However,
 154 the department agency must make available, upon written request
 155 by a practitioner against whom probable cause has been found,
 156 any such records that form the basis of the determination of
 157 probable cause.

158 Section 4. Subsection (3) is added to section 400.145,
 159 Florida Statutes, to read:

160 400.145 Records of care and treatment of resident; copies
 161 to be furnished.--

162 (3) The administrator or records custodian in a facility
 163 licensed under this chapter shall certify that true and complete
 164 copies of records or documents subpoenaed pursuant to s. 456.057
 165 or s. 456.071 or requested by a patient release have been
 166 provided to the Department of Health or otherwise identify those
 167 documents that have not been provided.

168 Section 5. Subsection (7) and paragraph (b) of subsection
 169 (8) of section 400.147, Florida Statutes, are amended to read:

170 400.147 Internal risk management and quality assurance
 171 program.--

172 (7) The facility shall initiate an investigation and shall
 173 notify the agency within 1 business day after the risk manager
 174 or his or her designee has received a report pursuant to
 175 paragraph (1)(d). The notification must be made in writing and
 176 be provided electronically, by facsimile device or overnight
 177 mail delivery. The notification must include information
 178 regarding the identity of the affected resident, the type of
 179 adverse incident, the initiation of an investigation by the
 180 facility, and whether the events causing or resulting in the
 181 adverse incident represent a potential risk to any other
 182 resident. The notification is confidential as provided by law
 183 and is not discoverable or admissible in any civil or
 184 administrative action, except in disciplinary proceedings by the
 185 Department of Health agency or the appropriate regulatory board.
 186 The agency may investigate, as it deems appropriate, any such
 187 incident and prescribe measures that must or may be taken in
 188 response to the incident. The Department of Health agency shall
 189 review each incident and determine whether it potentially
 190 involved conduct by the health care professional who is subject
 191 to disciplinary action, in which case the provisions of s.
 192 456.073 shall apply.

193 (8)

194 (b) A copy of the adverse incident report submitted ~~The~~
 195 ~~information reported~~ to the agency pursuant to paragraph (a)

196 | which relates to health care practitioners as defined in s.
 197 | 456.001(4) shall be forwarded to the Division of Medical Quality
 198 | Assurance within the Department of Health for review persons
 199 | ~~licensed under chapter 458, chapter 459, chapter 461, or chapter~~
 200 | ~~466 shall be reviewed by the agency. The agency shall determine~~
 201 | ~~whether any of the incidents potentially involved conduct by a~~
 202 | ~~health care professional who is subject to disciplinary action,~~
 203 | ~~in which case the provisions of s. 456.073 shall apply.~~

204 | Section 6. Subsections (1) through (7) of section 456.001,
 205 | Florida Statutes, are renumbered as subsections (2) through (8),
 206 | respectively, and a new subsection (1) is added to that section
 207 | to read:

208 | 456.001 Definitions.--As used in this chapter, the term:

209 | (1) "Application" means the documents required by the
 210 | department to initiate the licensing process, including, but not
 211 | limited to, the initial document filing and responses to
 212 | requests from the department for additional data and
 213 | information.

214 | Section 7. Subsection (3) of section 456.011, Florida
 215 | Statutes, is amended to read:

216 | 456.011 Boards; organization; meetings; compensation and
 217 | travel expenses.--

218 | (3) The board shall meet at least once annually and may
 219 | meet as often as is necessary. Meetings shall be conducted
 220 | through teleconferencing or other technological means, unless
 221 | disciplinary hearings involving standard of care, sexual
 222 | misconduct, fraud, impairment, or felony convictions; licensure
 223 | denial hearings; or controversial rule hearings are being

HB 1265

2009

224 | conducted; or unless otherwise approved in advance of the
225 | meeting by the director of the Division of Medical Quality
226 | Assurance. The chairperson or a quorum of the board shall have
227 | the authority to call meetings, except as provided in this
228 | subsection ~~above~~ relating to in-person meetings. A quorum shall
229 | be necessary for the conduct of official business by the board
230 | or any committee thereof. Unless otherwise provided by law, 51
231 | percent or more of the appointed members of the board or any
232 | committee, when applicable, who have taken the oath of office
233 | pursuant to s. 5, Art. II of the State Constitution shall
234 | constitute a quorum. The membership of committees of the board,
235 | except as otherwise authorized pursuant to this chapter or the
236 | applicable practice act, shall be composed of currently
237 | appointed members of the board. The vote of a majority of the
238 | members of the quorum shall be necessary for any official action
239 | by the board or committee. Three consecutive unexcused absences
240 | or absences constituting 50 percent or more of the board's
241 | meetings within any 12-month period shall cause the board
242 | membership of the member in question to become void, and the
243 | position shall be considered vacant. The board, or the
244 | department when there is no board, shall, by rule, define
245 | unexcused absences.

246 | Section 8. Subsections (3) through (12) of section
247 | 456.013, Florida Statutes, are renumbered as subsections (4)
248 | through (13), respectively, subsection (1) is amended, present
249 | subsection (2) is renumbered as subsection (3) and amended, and
250 | a new subsection (2) is added to that section, to read:

251 | 456.013 Department; general licensing provisions.--

HB 1265

2009

252 (1) (a) Any person desiring to be licensed in a profession
253 within the jurisdiction of the department shall apply to the
254 department in writing to take the licensure examination. The
255 application shall be made on a form prepared and furnished by
256 the department. The application form must be available on the
257 World Wide Web and the department may accept electronically
258 submitted applications beginning July 1, 2001. A nonrefundable
259 application fee established by the board, or the department when
260 there is no board, shall be submitted with the application in an
261 amount established by rule by the board, or the department when
262 there is no board, to comply with s. 456.025. The application
263 shall require the social security number of the applicant,
264 except as provided in paragraph (b). The form shall be
265 supplemented as needed to reflect any material change in any
266 circumstance or condition stated in the application which takes
267 place between the initial filing of the application and the
268 final grant or denial of the license and which might affect the
269 decision of the department. If an application is submitted
270 electronically, the department may require supplemental
271 materials, including an original signature of the applicant and
272 verification of credentials, to be submitted in a nonelectronic
273 format. An incomplete application shall expire 1 year after
274 initial filing. In order to further the economic development
275 goals of the state, and notwithstanding any law to the contrary,
276 the department may enter into an agreement with the county tax
277 collector for the purpose of appointing the county tax collector
278 as the department's agent to accept applications for licenses
279 and applications for renewals of licenses. The agreement must

HB 1265

2009

280 specify the time within which the tax collector must forward any
281 applications and accompanying application fees to the
282 department.

283 (b) If an applicant has not been issued a social security
284 number by the Federal Government at the time of application
285 because the applicant is not a citizen or resident of this
286 country, the department may process the application using a
287 unique personal identification number. If such an applicant is
288 otherwise eligible for licensure, the board, or the department
289 when there is no board, may issue to the applicant a temporary
290 license, as established by rule of the board, or the department
291 when there is no board ~~to the applicant~~, which shall expire 90
292 ~~30~~ days after issuance unless a social security number is
293 obtained and submitted in writing to the department. Upon
294 receipt of the applicant's social security number, the
295 department shall issue a new license, which shall expire at the
296 end of the current biennium.

297 (c) The license shall be issued in the legal name of the
298 applicant as reflected on the applicant's birth certificate or
299 United States passport. A request to change or issue a license
300 under any other name must be supported by either a certified
301 copy of a marriage license, a certified copy of an order of a
302 United States federal or state court, or the applicant's
303 original naturalization certificate.

304 (2) The board, or the department when there is no board,
305 may adopt a rule allowing an applicant for licensure to complete
306 the coursework requirements for licensure by successfully
307 completing the required coursework as a student or by teaching

308 the required coursework as an instructor or professor in an
 309 accredited institution.

310 (3)-(2) Before the issuance of any license, the department
 311 shall charge an initial license fee as determined by the
 312 applicable board or, if there is no board, by rule of the
 313 department. Upon receipt of the appropriate license fee, the
 314 department shall issue a license to any person certified by the
 315 appropriate board, or its designee, as having met the licensure
 316 requirements imposed by law or rule. The license shall consist
 317 of a wallet-size identification card and a wall card measuring 6
 318 1/2 inches by 5 inches. The licensee shall surrender to the
 319 department the wallet-size identification card and the wall card
 320 if the licensee's license is issued in error or is revoked. The
 321 board, or the department when there is no board, may by rule
 322 require the display of a license.

323 Section 9. Subsections (2) through (11) of section
 324 456.025, Florida Statutes, are renumbered as subsections (3)
 325 through (12), respectively, present subsection (4) is amended,
 326 and new subsections (2) and (13) are added to that section, to
 327 read:

328 456.025 Fees; receipts; disposition.--

329 (2) Notwithstanding any other provision of law, when a
 330 profession is in a deficit, the board, or the department if
 331 there is no board, shall increase fees to satisfy the
 332 requirements of subsection (1).

333 (5)-(4) Each board, or the department if there is no board,
 334 may charge a fee not to exceed \$25, as determined by rule, for
 335 the issuance of a wall certificate pursuant to s. 456.013(3)-(2)

HB 1265

2009

336 requested by a licensee who was licensed prior to July 1, 1998,
337 or for the issuance of a duplicate wall certificate requested by
338 any licensee.

339 (13) Each board, or the department if there is no board,
340 may charge a fee as determined by rule for the reinspection of a
341 business establishment prior to its licensure.

342 Section 10. Subsections (14) and (15) of section 456.036,
343 Florida Statutes, are renumbered as subsections (15) and (16),
344 respectively, and a new subsection (14) is added to that section
345 to read:

346 456.036 Licenses; active and inactive status;
347 delinquency.--

348 (14) The department may not renew the license of a
349 licensee, as defined in s. 456.001, who owes outstanding fees,
350 costs, or fines to the department. The department shall notify
351 each licensee who has failed to pay outstanding fees, costs, or
352 fines at the licensee's last known address of record with the
353 department when issuing the license renewal notice required by
354 s. 456.038. The department shall renew the license of any
355 licensee when the outstanding fees, costs, or fines are paid if
356 all other requirements for renewal are met.

357 Section 11. Subsections (4) and (5) of section 456.037,
358 Florida Statutes, are renumbered as subsections (5) and (6),
359 respectively, and a new subsection (4) is added to that section
360 to read:

361 456.037 Business establishments; requirements for active
362 status licenses; delinquency; discipline; applicability.--

363 (4) The board, or the department if there is no board, may
 364 by rule require the display of a business establishment license.

365 Section 12. Subsection (3) of section 456.063, Florida
 366 Statutes, is amended to read:

367 456.063 Sexual misconduct; disqualification for license,
 368 certificate, or registration.--

369 (3) Licensed health care practitioners shall report
 370 allegations of sexual misconduct to the department, regardless
 371 of the practice setting in which the alleged sexual misconduct
 372 occurred. Each board, or the department if there is no board,
 373 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
 374 implement this subsection.

375 Section 13. Paragraph (ii) is added to subsection (1) of
 376 section 456.072, Florida Statutes, to read:

377 456.072 Grounds for discipline; penalties; enforcement.--

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

381 (ii) Failing to report to the board, or the department if
 382 there is no board, in writing, within 30 days after an action as
 383 provided in subsection (2) has been taken against a licensee's
 384 license to practice any profession in this state or another
 385 state, territory, or jurisdiction.

386 (2) When the board, or the department when there is no
 387 board, finds any person guilty of the grounds set forth in
 388 subsection (1) or of any grounds set forth in the applicable
 389 practice act, including conduct constituting a substantial
 390 violation of subsection (1) or a violation of the applicable

HB 1265

2009

391 practice act which occurred prior to obtaining a license, it may
392 enter an order imposing one or more of the following penalties:

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

395 (b) Suspension or permanent revocation of a license.

396 (c) Restriction of practice or license, including, but not
397 limited to, restricting the licensee from practicing in certain
398 settings, restricting the licensee to work only under designated
399 conditions or in certain settings, restricting the licensee from
400 performing or providing designated clinical and administrative
401 services, restricting the licensee from practicing more than a
402 designated number of hours, or any other restriction found to be
403 necessary for the protection of the public health, safety, and
404 welfare.

405 (d) Imposition of an administrative fine not to exceed
406 \$10,000 for each count or separate offense. If the violation is
407 for fraud or making a false or fraudulent representation, the
408 board, or the department if there is no board, must impose a
409 fine of \$10,000 per count or offense.

410 (e) Issuance of a reprimand or letter of concern.

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

- 419 (g) Corrective action.
- 420 (h) Imposition of an administrative fine in accordance
- 421 with s. 381.0261 for violations regarding patient rights.
- 422 (i) Refund of fees billed and collected from the patient
- 423 or a third party on behalf of the patient.
- 424 (j) Requirement that the practitioner undergo remedial
- 425 education.

426

427 In determining what action is appropriate, the board, or

428 department when there is no board, must first consider what

429 sanctions are necessary to protect the public or to compensate

430 the patient. Only after those sanctions have been imposed may

431 the disciplining authority consider and include in the order

432 requirements designed to rehabilitate the practitioner. All

433 costs associated with compliance with orders issued under this

434 subsection are the obligation of the practitioner.

435 Section 14. Paragraph (a) of subsection (4) of section

436 381.00593, Florida Statutes, is amended to read:

437 381.00593 Public school volunteer health care practitioner

438 program.--

439 (4) (a) Notwithstanding any provision of chapter 458,

440 chapter 459, chapter 460, chapter 461, chapter 463, part I of

441 chapter 464, chapter 465, chapter 466, chapter 467, parts I and

442 X of chapter 468, or chapter 486 to the contrary, any health

443 care practitioner who participates in the program established in

444 this section and thereby agrees to provide his or her services,

445 without compensation, in a public school for at least 80 hours a

446 year for each school year during the biennial licensure period,

HB 1265

2009

447 or, if the health care practitioner is retired, for at least 400
 448 hours a year for each school year during the licensure period,
 449 upon providing sufficient proof from the applicable school
 450 district that the health care practitioner has completed such
 451 hours at the time of license renewal under procedures specified
 452 by the Department of Health, shall be eligible for the
 453 following:

- 454 1. Waiver of the biennial license renewal fee for an
 455 active license; and
- 456 2. Fulfillment of a maximum of 25 percent of the
 457 continuing education hours required for license renewal under s.
 458 456.013(10)~~(9)~~.

459
 460 The school district may establish a schedule for health care
 461 practitioners who participate in the program.

462 Section 15. Subsection (1) of section 381.0303, Florida
 463 Statutes, is amended to read:

464 381.0303 Special needs shelters.--

465 (1) PURPOSE.--The purpose of this section is to provide
 466 for the operation and closure of special needs shelters and to
 467 designate the Department of Health, through its county health
 468 departments, as the lead agency for coordination of the
 469 recruitment of health care practitioners, as defined in s.
 470 456.001(5)~~(4)~~, to staff special needs shelters in times of
 471 emergency or disaster and to provide resources to the department
 472 to carry out this responsibility. However, nothing in this
 473 section prohibits a county health department from entering into
 474 an agreement with a local emergency management agency to assume

475 the lead responsibility for recruiting health care
476 practitioners.

477 Section 16. Subsection (3) of section 456.074, Florida
478 Statutes, is amended to read:

479 456.074 Certain health care practitioners; immediate
480 suspension of license.--

481 (3) The department may issue an emergency order suspending
482 or restricting the license of any health care practitioner as
483 defined in s. 456.001 (5) ~~(4)~~ who tests positive for any drug on
484 any government or private sector preemployment or employer-
485 ordered confirmed drug test, as defined in s. 112.0455, when the
486 practitioner does not have a lawful prescription and legitimate
487 medical reason for using such drug. The practitioner shall be
488 given 48 hours from the time of notification to the practitioner
489 of the confirmed test result to produce a lawful prescription
490 for the drug before an emergency order is issued.

491 Section 17. Paragraph (b) of subsection (2) of section
492 456.41, Florida Statutes, is amended to read:

493 456.41 Complementary or alternative health care
494 treatments.--

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

496 (b) "Health care practitioner" means any health care
497 practitioner as defined in s. 456.001 (5) ~~(4)~~.

498 Section 18. Subsection (2) of section 468.703, Florida
499 Statutes, is amended to read:

500 468.703 Board of Athletic Training.--

501 (2) Five members of the board must be licensed athletic
502 trainers. One member of the board must be a physician licensed

503 | under chapter 458 or chapter 459. One member of the board must
 504 | be a physician licensed under chapter 460. Two members of the
 505 | board shall be consumer members, each of whom must be a resident
 506 | of this state who has never worked as an athletic trainer, who
 507 | has no financial interest in the practice of athletic training,
 508 | and who has never been a licensed health care practitioner as
 509 | defined in s. 456.001 (5) ~~(4)~~.

510 | Section 19. Section 627.6474, Florida Statutes, is amended
 511 | to read:

512 | 627.6474 Provider contracts.--A health insurer shall not
 513 | require a contracted health care practitioner as defined in s.
 514 | 456.001 (5) ~~(4)~~ to accept the terms of other health care
 515 | practitioner contracts with the insurer or any other insurer, or
 516 | health maintenance organization, under common management and
 517 | control with the insurer, including Medicare and Medicaid
 518 | practitioner contracts and those authorized by s. 627.6471, s.
 519 | 627.6472, or s. 641.315, except for a practitioner in a group
 520 | practice as defined in s. 456.053 who must accept the terms of a
 521 | contract negotiated for the practitioner by the group, as a
 522 | condition of continuation or renewal of the contract. Any
 523 | contract provision that violates this section is void. A
 524 | violation of this section is not subject to the criminal penalty
 525 | specified in s. 624.15.

526 | Section 20. Subsection (10) of section 641.315, Florida
 527 | Statutes, is amended to read:

528 | 641.315 Provider contracts.--

529 | (10) A health maintenance organization shall not require a
 530 | contracted health care practitioner as defined in s.

531 456.001(5)~~(4)~~ to accept the terms of other health care
532 practitioner contracts with the health maintenance organization
533 or any insurer, or other health maintenance organization, under
534 common management and control with the health maintenance
535 organization, including Medicare and Medicaid practitioner
536 contracts and those authorized by s. 627.6471, s. 627.6472, or
537 s. 641.315, except for a practitioner in a group practice as
538 defined in s. 456.053 who must accept the terms of a contract
539 negotiated for the practitioner by the group, as a condition of
540 continuation or renewal of the contract. Any contract provision
541 that violates this section is void. A violation of this section
542 is not subject to the criminal penalty specified in s. 624.15.

543 Section 21. Paragraph (a) of subsection (1) and subsection
544 (4) of section 766.1016, Florida Statutes, are amended to read:

545 766.1016 Patient safety data privilege.--

546 (1) As used in this section, the term:

547 (a) "Patient safety data" means reports made to patient
548 safety organizations, including all health care data,
549 interviews, memoranda, analyses, root cause analyses, products
550 of quality assurance or quality improvement processes,
551 corrective action plans, or information collected or created by
552 a health care facility licensed under chapter 395, or a health
553 care practitioner as defined in s. 456.001(5)~~(4)~~, as a result of
554 an occurrence related to the provision of health care services
555 which exacerbates an existing medical condition or could result
556 in injury, illness, or death.

557 (4) The exchange of patient safety data among health care
558 facilities licensed under chapter 395, or health care

559 practitioners as defined in s. 456.001(5)~~(4)~~, or patient safety
 560 organizations which does not identify any patient shall not
 561 constitute a waiver of any privilege established in this
 562 section.

563 Section 22. Paragraph (b) of subsection (2) of section
 564 766.1116, Florida Statutes, is amended to read:

565 766.1116 Health care practitioner; waiver of license
 566 renewal fees and continuing education requirements.--

567 (2) Notwithstanding any provision of chapter 458, chapter
 568 459, chapter 460, chapter 461, part I of chapter 464, chapter
 569 466, or chapter 467 to the contrary, any health care
 570 practitioner who participates as a health care provider under s.
 571 766.1115 and thereby agrees with a governmental contractor to
 572 provide his or her services without compensation and as an agent
 573 of the governmental contractor to low-income recipients in
 574 accordance with s. 766.1115 for at least 80 hours a year for
 575 each year during the biennial licensure period, or, if the
 576 health care practitioner is retired, for at least 400 hours a
 577 year for each year during the licensure period, upon providing
 578 sufficient proof from the applicable governmental contractor
 579 that the health care practitioner has completed the hours at the
 580 time of license renewal under procedures specified by the
 581 Department of Health, shall be eligible for:

582 (b) Fulfillment of a maximum of 25 percent of the
 583 continuing education hours required for license renewal under s.
 584 456.013(10)~~(9)~~.

585 Section 23. Paragraph (c) of subsection (2) of section
 586 768.13, Florida Statutes, is amended to read:

587 768.13 Good Samaritan Act; immunity from civil
 588 liability.--

589 (2)

590 (c)1. Any health care practitioner as defined in s.
 591 456.001(5)~~(4)~~ who is in a hospital attending to a patient of his
 592 or her practice or for business or personal reasons unrelated to
 593 direct patient care, and who voluntarily responds to provide
 594 care or treatment to a patient with whom at that time the
 595 practitioner does not have a then-existing health care patient-
 596 practitioner relationship, and when such care or treatment is
 597 necessitated by a sudden or unexpected situation or by an
 598 occurrence that demands immediate medical attention, shall not
 599 be held liable for any civil damages as a result of any act or
 600 omission relative to that care or treatment, unless that care or
 601 treatment is proven to amount to conduct that is willful and
 602 wanton and would likely result in injury so as to affect the
 603 life or health of another.

604 2. The immunity provided by this paragraph does not apply
 605 to damages as a result of any act or omission of providing
 606 medical care or treatment unrelated to the original situation
 607 that demanded immediate medical attention.

608 3. For purposes of this paragraph, the Legislature's
 609 intent is to encourage health care practitioners to provide
 610 necessary emergency care to all persons without fear of
 611 litigation as described in this paragraph.

612 Section 24. Paragraph (a) of subsection (12) of section
 613 768.28, Florida Statutes, is amended to read:

HB 1265

2009

614 768.28 Waiver of sovereign immunity in tort actions;
615 recovery limits; limitation on attorney fees; statute of
616 limitations; exclusions; indemnification; risk management
617 programs.--

618 (12) (a) A health care practitioner, as defined in s.
619 456.001 (5) ~~(4)~~, who has contractually agreed to act as an agent
620 of a state university board of trustees to provide medical
621 services to a student athlete for participation in or as a
622 result of intercollegiate athletics, to include team practices,
623 training, and competitions, shall be considered an agent of the
624 respective state university board of trustees, for the purposes
625 of this section, while acting within the scope of and pursuant
626 to guidelines established in that contract. The contracts shall
627 provide for the indemnification of the state by the agent for
628 any liabilities incurred up to the limits set out in this
629 chapter.

630 Section 25. This act shall take effect July 1, 2009.