form of a community pharmacy, unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client or his legal representative except as provided in s. 743.064, s. 768.13, or s. 768.46.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the osteopathic physician's professional practice, without regard to his intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the osteopathic physician to himself, except one prescribed, dispensed, or administered to the osteopathic physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An osteopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of osteopathic medicine with reasonable skill and safety to patients.

(t) Gross or repeated malpractice or the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 768.45 when enforcing this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

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

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

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

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesia; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction; or

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

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

(e) Issuance of a reprimand.

(f) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.

(3) The board shall not reinstate the license of an osteopathic physician, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of osteopathic medicine. The board may, by rule, require all licensees to complete continuing education courses not exceeding 30 hours each biennium as a prerequisite to licensure renewal. Such courses shall be approved by the board and shall be issued by the basic educational requirements for licensure as an osteopathic physician.

(4) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision...
or probation, or conditions of probation or reissuance of a license.

History.—s. 1, ch. 73-230; s. 3, ch. 80-304; s. 305, ch. 81-259; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

459.0153 Prescription or administration of amygdalin (laetrile); disciplinary action; signed release by patient.—

(1) As used in this section, unless the context clearly requires otherwise, "physician" means a doctor of medicine or osteopathic medicine licensed under chapter 458 or this chapter.

(2) No physician shall be subject to disciplinary action by the Board of Medical Examiners or Board of Osteopathic Medical Examiners for prescribing or administering amygdalin (laetrile) to a patient under his care who has requested the substance unless the Boards of Medical Examiners and Osteopathic Medical Examiners, in a hearing conducted under the provisions of the Administrative Procedure Act, chapter 120, have found by a preponderance of the evidence that the physician's use of amygdalin (laetrile) has not been approved as a treatment or cure by the Food and Drug Administration of the United States Department of Health and Human Services.

459.0154 Prescription or administration of dimethyl sulfoxide (DMSO).—

(1) As used in this section, unless the context clearly requires otherwise, "physician" means a doctor of medicine or osteopathic medicine licensed under chapter 458 or this chapter.

(2) No physician shall be subject to disciplinary action by the Board of Medical Examiners or Board of Osteopathic Medical Examiners for prescribing or administering dimethyl sulfoxide (DMSO) to a patient under his care who has requested the substance unless the Boards of Medical Examiners and Osteopathic Medical Examiners, in a hearing conducted under the provisions of the Administrative Procedure Act, chapter 120, have found by a preponderance of the evidence that the physician's use of dimethyl sulfoxide (DMSO) has not been approved as a treatment by the Food and Drug Administration of the United States Food and Drug Administration.

459.016 Reports of disciplinary actions by medical organizations.—

(1) The department shall be notified when any osteopathic physician:

(a) Has been removed or suspended or has had any other disciplinary action taken by his peers within any professional medical association, society, body, or professional standards review organization established pursuant to s. 459.227 of the Florida Administrative Code, in a hearing conducted under the provisions of the Administrative Procedure Act, chapter 120, has found by a preponderance of the evidence that the physician's use of amygdalin (laetrile) has not been approved as a treatment or cure by the Food and Drug Administration of the United States Department of Health and Human Services.

459.017 Osteopathic physician's consent; handwriting samples; mental or physical examinations.—Every osteopathic physician who accepts a license to practice osteopathic medicine in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, have given his consent during a lawful investigation of a complaint to the following:

(1) To render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against him.

(2) To waive the confidentiality and authorize the release of all medical records pertaining to the mental or physical condition of the osteopathic physician himself and to have waived any objection to the admissibility of the records as constituting privileged communications. Such material shall remain confidential in the hands of the department until probable cause is found and an administrative complaint issued.

459.018 Search warrants for certain violations.—When the department has reason to believe that violations of s. 459.017(1)(a) or s. 459.015(1) have occurred or are occurring, its agents or other duly authorized persons may search an osteopathic physician's place of practice at reasonable hours for purposes of securing such evidence as may be needed
for prosecution. Such evidence shall not include any medical records of patients unless pursuant to the patient's written consent. Notwithstanding the consent of the patient, such records shall be treated as confidential and shall not be transferred to any other agency. This section shall not limit the psychotherapist-patient privileges of s. 90.503. Prior to a search, the department shall secure a search warrant from any judge authorized by law to issue search warrants. The search warrant shall be issued upon probable cause, supported by oath or affirmation particularly describing the things to be seized. The application for the warrant shall be sworn to and subscribed, and the judge may require further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The application and supporting information, if required, must set forth the facts tending to establish the grounds of the application or probable cause that they exist. If the judge is satisfied that probable cause exists, he shall issue a search warrant signed by him with his name of office to any agent or other person duly authorized by the department to execute process, commanding the agent or person to search the place described in the warrant for the property specified. The search warrant shall be served only by the agent or person mentioned in it and by no other person except an aide of the agent or person when such agent or person is present and acting in its execution.

1459.019 Subpoena of certain records.—Notwithstanding the provisions of s. 455.241, the department may issue subpoenas duces tecum requiring the appearance of any or all of the patients of an osteopathic physician against whom a complaint has been filed pursuant to s. 455.225.

1459.021 Registration of hospital residents and interns.—
(1) Any person who holds a degree of Doctor of Osteopathy from a college of osteopathic medicine recognized and approved by the American Osteopathic Association who desires to serve as a resident or as an intern in an osteopathic hospital shall apply to the department for a certificate of registration. Upon certification by the board that the applicant holds a valid degree and that the hospital where he intends to serve is approved by the Bureau of Hospitals of the American Osteopathic Association, the department shall issue the certificate.

(2) A certificate for residency or internship may not be issued for a period greater than 1 year but may be renewed from time to time. No person shall hold a certificate for an aggregate of more than 4 years.

(3) Every osteopathic hospital having a resident or intern training program shall furnish, in January and July of each year, to the department a list of all residents and interns who have served in the hospital during the preceding 6-month period.

(4) The certificate may be revoked or the department may refuse to issue any certificate for any cause which would be a ground for its revocation or refusal to issue such license, or for failing to practice osteopathic medicine, as well as on the following grounds:
(a) Omission of the name of a certificate holder from the list of interns and residents required by subsection (3) to be furnished to the department by the hospital served by the certificate holder.
(b) Practicing osteopathic medicine outside of a bona fide hospital training program.
(c) In order that maximum skills may be obtained within a minimum time period of education, the osteopathic physician's assistant shall be specialized to the extent that he can operate efficiently and effectively in the specialty areas in which he has been trained or is experienced.
(d) This section is established to encourage the utilization of osteopathic physician's assistants by osteopathic physicians and to allow for innovative development of programs for the education of physician's assistants.

1459.022 Osteopathic physician's assistants.—
(1) LEGISLATIVE INTENT.—
(a) In its concern with the growing shortage and geographic maldistribution of health care services in this state, the Legislature intends to establish in this section a framework for development of a new category of health manpower, the osteopathic physician's assistant.
(b) The purpose of this section is to encourage the more effective utilization of the skills of osteopathic physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the health and welfare of patients.
(c) In order that maximum skills may be obtained within a minimum time period of education, the osteopathic physician's assistant shall be specialized to the extent that he can operate efficiently and effectively in the specialty areas in which he has been trained or is experienced.
(d) This section is established to encourage the utilization of osteopathic physician's assistants by osteopathic physicians and to allow for innovative development of programs for the education of physician's assistants.

(2) DEFINITIONS.—As used in this section:
(a) "Board" means the Board of Osteopathic Medical Examiners.
(b) "Department" means the Department of Professional Regulation.
(c) "Approved program" means a program for the education of osteopathic physician's assistants which has been formally approved by the board.
(d) "Trainee" means a person who is currently enrolled in an approved program.
(e) "Osteopathic physician's assistant" means a
person who is a graduate of an approved program or its equivalent and is approved by the department to perform medical services under the supervision of an osteopathic physician or group of physicians certified by the board to supervise such assistant.

(f) "Supervision" means responsible supervision and control, with the licensed osteopathic physician assuming legal liability for the services rendered by the osteopathic physician's assistant. Except in cases of emergency, supervision shall require the easy availability or physical presence of the licensed osteopathic physician for consultation and direction of the actions of the osteopathic physician's assistant. The board shall further establish rules as to what constitutes responsible supervision of the osteopathic physician's assistant.

(3) PERFORMANCE BY OSTEOPATHIC PHYSICIAN'S ASSISTANT.—Notwithstanding any other provision of law, an osteopathic physician's assistant may perform medical services when such services are rendered under the supervision of a licensed osteopathic physician or group of osteopathic physicians certified by the board, in the specialty area or areas for which the osteopathic physician's assistant is trained or experienced. Any osteopathic physician's assistant certified under this section to perform services may perform those services only:

(a) In the office of the office of the osteopathic physician to whom the osteopathic physician's assistant has been assigned, where such physician maintains his primary practice;
(b) When the osteopathic physician to whom he is assigned is present;
(c) In a hospital where the osteopathic physician to whom he is assigned is a member of the staff; or
(d) On calls outside said office, on the direct order of the osteopathic physician to whom he is assigned.

(4) PERFORMANCE BY TRAINEES.—Notwithstanding any other provision of law, a trainee may perform medical services when such services are rendered within the scope of an approved program.

(5) PROGRAM APPROVAL.—
(a) The department shall issue certificates of approval for programs for the education and training of osteopathic physician's assistants which meet board standards. Any basic program curriculum certified by the board shall cover a period of 24 months.
(b) In developing criteria for program approval, the board shall give consideration to, and encourage, the utilization of equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past education and experience in health fields.

(c) The board shall create groups of specialty classifications of training for osteopathic physician's assistants. These classifications will reflect the training and experience of the osteopathic physician's assistant. The osteopathic physician's assistant may receive training in one or more such classifications, which shall be shown on the certificate issued.
(d) The board shall adopt and publish standards to ensure that such programs operate in a manner which does not endanger the health and welfare of the patients who receive services within the scope of the program. The board shall review the quality of the curricula, facilities, and facilities of such programs; issue certificates of approval; and take whatever other action is necessary to determine that the purposes of this section are being met.

(6) APPLICATION APPROVAL.—
(a) The board shall formulate guidelines for the consideration of applications by a licensed osteopathic physician or group of licensed osteopathic physicians to supervise osteopathic physician's assistants. Each application made by an osteopathic physician or group of osteopathic physicians shall include all of the following:

1. The qualifications, including related experience, of the osteopathic physician's assistant intended to be employed.
2. The professional background and specialty of the osteopathic physician or physicians.
3. A description by the osteopathic physician of his, or physicians of their, practice and the way in which the assistant or assistants are to be utilized.

The board shall certify an application by a licensed osteopathic physician to supervise an osteopathic physician's assistant when the proposed assistant is a graduate of an approved program or its equivalent and is fully qualified by reason of experience and education to perform medical services under the responsible supervision of a licensed osteopathic physician and when the public will be adequately protected by the arrangement proposed in the application.

(b) The board shall certify no more than two osteopathic physician's assistants for any osteopathic physician practicing alone; four osteopathic physician's assistants for two osteopathic physicians practicing together formally or informally; or a ratio of two osteopathic physician's assistants to three osteopathic physicians in any group of osteopathic physicians practicing together formally or informally.

(7) PENALTY.—Any person who has not been certified by the board and approved by the department and who holds himself out as an osteopathic physician's assistant, or who uses any other term in indicating or implying that he is an osteopathic physician's assistant, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding $5,000.

(8) REVOCATION OF APPROVAL.—The certificate of approval to supervise an osteopathic physician's assistant held by any osteopathic physician or group of osteopathic physicians may be revoked when the board determines the intent of this section is not being carried out.

(9) RULES.—The board shall adopt rules necessary for the administration of the osteopathic physician's assistant program, and such rules shall be adopted in accordance with chapter 120. The board shall adopt such rules as are necessary to ensure both the continued competency of osteopathic physician's assistants and their proper utilization by osteopathic physicians or groups of osteopathic physicians. Rules shall be adopted to assure that every osteopathic physician's assistant performs his services under the
responsible supervision and control of an osteopathic physician or group of osteopathic physicians.

(10) FEES.—

(a) A fee not to exceed $100 as set by the board shall accompany the annual application by an osteopathic physician or group of physicians for authorization to supervise an osteopathic physician’s assistant.

(b) Upon approval of an application for certification of an osteopathic physician’s assistant in a specialty area, the applicant shall be charged an initial certification fee for the first biennium not to exceed $50, and a biennial renewal fee not to exceed $60 shall accompany each application for renewal of the osteopathic physician’s assistant certificate.

(11) EXISTING PROGRAMS.—Nothing in this section shall be construed to eliminate or supersede existing laws relating to other paramedical professions or services. It is the intent of this section to supplement, and be in addition to, all such existing programs relating to the certification and practice of paramedical professions, as may be authorized by law.

(12) LIABILITY.—All osteopathic physicians or physician groups utilizing osteopathic physician’s assistants shall be liable for any acts or omissions of physician’s assistants acting under their supervision and control.

History.—s. 1, 6, ch. 79-230; ss. 309, ch. 81-259; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'459.024 Saving clauses.—

(1) No judicial or administrative proceeding pending on July 1, 1979, shall be abated as a result of the repeal and reenactment of this chapter.

(2) All licenses or certificates valid on the effective date of this act shall remain in full force and effect. Henceforth, all licenses and certificates shall be applied for and renewed in accordance with this act.

History.—ss. 4, 5, 6, ch. 79-230; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.
CHAPTER 460
CHIROPRACTIC

460.401 Legislative findings; intent.---The Legislature finds that the practice of chiropractic by unskilled and incompetent practitioners presents a danger to the public health and safety. The Legislature further finds that it is difficult for the public to make an informed choice about chiropractic physicians and that the consequences of a wrong choice could seriously endanger their health and safety. The sole legislative purpose for enacting this chapter is to ensure that every chiropractic physician practicing in this state meet minimum requirements for safe practice. It is the legislative intent that chiropractic physicians who fall below minimum competency or who otherwise present a danger to the public health be prohibited from practicing in this state.

History.—ss. 1, 7, ch. 79-211; ss. 2, 3, ch. 81-318.

1Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

460.402 Exceptions.---The provisions of this chapter shall not apply to:

1(1) Other duly licensed health care practitioners acting within their authorized scope of practice.

(2) Any person furnishing medical assistance in case of an emergency.

(3) The domestic administration of recognized family remedies.

(4) The practice of the religious tenets of any church.

(5) Any masseur acting within his scope of practice authorized in chapter 480.

(6) A student or recent unlicensed graduate practicing under the direct supervision of a licensed chiropractic physician in an extern program approved by the board pursuant to rules adopted by the board, pending the results of the first licensure examination for which the extern is qualified.

History.—s. 1, ch. 79-211; s. 2, ch. 81-318.

1Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

460.403 Definitions.---As used in this chapter:

1(1) "Department" means the Department of Professional Regulation.

(2) "Board" means the Board of Chiropractic.

(3)(a) "Practice of chiropractic" means a noncombative principle and practice consisting of the science of the adjustment, manipulation, and treatment of the human body in which vertebral subluxations and other malpositioned articulations and structures that are interfering with the normal generation, transmission, and expression of nerve impulse between the brain, organs, and tissue cells of the body, thereby causing disease, are adjusted, manipulated, or treated, thus restoring the normal flow of nerve impulse which produces normal function and consequent health.

(b) Any chiropractic physician who has complied with the provisions of this chapter may examine, analyze, and diagnose the human living body and its diseases by the use of any physical, chemical, electrical, or thermal method; use the X ray for diagnosing; and use any other general method of examination for diagnosis and analysis taught in any school of chiropractic recognized and approved by the Board of Chiropractic.

(c) Chiropractic physicians may adjust, manipulate, or treat the human body by manual, mechanical, electrical, or natural methods or by the use of physical means or physiotherapy, including light, heat, water, or exercise, or by the oral administration of foods, food concentrates, and food extracts and may apply first aid and hygiene, but chiropractic physicians are expressly prohibited from prescribing or administering to any person any medicine or drug, from performing any surgery except as stated herein, or from practicing obstetrics.

(d) Chiropractic physicians shall have the privileges of services from the Department of Health and Rehabilitative Services laboratories.

(e) The term "chiropractor" or "doctor of chiropractic" shall be synonymous with "chiropractic physician," and each term shall be construed to mean a practitioner of chiropractic as the same has been defined herein. Chiropractic physicians may analyze and diagnose the physical conditions of the human body to determine the abnormal functions of the human organism and to determine such functions as are abnormally expressed and the cause of such abnormal expression.

(f) Any chiropractic physician who has complied with the provisions of this chapter is authorized to analyze and diagnose abnormal bodily functions and to adjust the physical representative of the primary cause of disease as is herein defined and provided. As an incident to the care of the sick, chiropractic physicians may advise and instruct patients in all matters pertaining to hygiene and sanitary measures as taught and approved by recognized chiropractic schools and colleges.

(4) "Chiropractic physician" means any person li-
censed to practice chiropractic pursuant to this chapter.

History.—s. 1, 7, ch. 79-211; s. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1460.404 Board of Chiropractic; membership; appointment; terms.—
(1) The Board of Chiropractic is created within the Department of Professional Regulation and shall consist of seven members to be appointed by the Governor and confirmed by the Senate.

(2) Five members of the board shall be licensed chiropractic physicians who are residents of the state and who have been licensed chiropractic physicians engaged in the practice of chiropractic for at least 4 years, and the remaining two members shall be residents of the state who are not and have never been licensed as chiropractic physicians or members of any closely related profession.

(3) Within 30 days after June 30, 1979, the Governor shall appoint seven eligible and qualified persons to be members of the board as follows:
(a) Two members for terms of 2 years each.
(b) Two members for terms of 3 years each.
(c) Three members for terms of 4 years each.
(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. The members of the board serving on the effective date of this act shall continue in office until their successors are appointed.

(5) All provisions of chapter 455 relating to the board shall apply.

History.—s. 1, 7, ch. 79-211; s. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1460.405 Authority to make rules.—The Board of Chiropractic is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter and as may be necessary to protect the health, safety, and welfare of the public.

History.—s. 1, 7, ch. 79-211; s. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1460.406 Licensure by examination.—
(1) Any person desiring to be licensed as a chiropractic physician shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:
(a) Completed the application form and remitted an examination fee set by the board not to exceed $250.
(b) Submitted proof satisfactory to the department that he is not less than 18 years of age and is a graduate of a chiropractic college maintaining a standard and reputation approved by the board, which college is accredited by, or has status with an agency or its successor which is recognized and approved by, the United States Office of Education or the Council on Postsecondary Accreditation or by the department, provided that the department applies the same standards used by the United States Office of Educa-

tion which are applicable to the State of Florida when approving an agency. In evaluating any application for approval as an accrediting agency, the department shall give full recognition to the different philosophies of chiropractic prevailing in the profession and shall not reject any application solely because the accrediting agency is an adherent of one such philosophy as distinguished from another. No application for a license to practice chiropractic shall be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic as distinguished from another. Any application for approval filed by any accrediting agency shall be acted upon by the department within 180 days of the filing of the application.
(c) Completed at least 2 years of resident college work, consisting of a minimum of one-half the work acceptable for a bachelor's degree granted on the basis of a 4-year period of study, in a college or university accredited by an accrediting agency recognized and approved by the United States Office of Education.

(2) For those applicants who have matriculated prior to July 1, 1979, in a chiropractic college, the board shall waive the provisions of paragraph (1)(b) if the applicant is a graduate of a chiropractic college which has been denied accreditation or approval on the grounds that its curriculum does not include all of, or is deficient in, the subjects necessary for the completion of the state examination or if the applicant is a graduate of a chiropractic college where such subjects are not taught or offered, provided that the applicant can show that he has successfully completed such supplemental courses, the completion of which is upon July 1, 1979, a condition of admission to take the exam. In the event the department determines that such supplemental courses are unavailable or otherwise inaccessible, the department shall make available continuing education courses relating to such subjects as may be provided by rule.

History.—s. 1, 7, ch. 79-211; s. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1460.407 Renewal of license.—
(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed $150.

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

(3) Any license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status. Such license may be reactivated only if the licensee meets the other qualifications for reactivation in s. 460.409.

(4) Sixty days prior to the end of the biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the licensee.

History.—s. 1, 7, ch. 79-211; s. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1460.408 Continuing chiropractic education.

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460.409 Inactive status.—
(1) A licensee may request that his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the board not to exceed $50.
(2) A license which has been inactive for less than 1 year after the end of the biennium prescribed by the department may be renewed pursuant to § 11 upon payment of the late renewal penalty. The renewed license shall expire 2 years after the date the license automatically reverts to inactive status.
(3) A license which has been inactive for more than 1 year may be reactivated upon application to the department. The board shall prescribe, by rule, continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed 12 classroom hours for each year the license was inactive and in no event shall exceed 120 classroom hours for all years in which the license was inactive. Any license which is inactive for more than 10 years shall automatically be suspended. One year prior to the suspension, the department shall give notice to the licensee. A suspended license may be reinstated as provided in s. 460.413.

460.4095 Medicare assignments.—
(1) The Department of Professional Regulation shall require from each person applying for licensure or renewal of licensure under this chapter a response to the question of whether or not the chiropractic physician will accept Medicare assignments for services to patients eligible for Medicare reimbursement. In cooperation with the Department of Health and Rehabilitative Services, the Department of Professional Regulation shall provide to each Department of Health and Rehabilitative Services district office a list of those persons licensed under this chapter in the district who will accept Medicare assignments. Each district office shall make such information available to the public upon request.

460.411 Violations and penalties.—
(1) Each of the following acts constitutes a violation of this chapter and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:
(a) Practicing or attempting to practice chiropractic without an active license or with a license fraudulently obtained.
(b) Using or attempting to use a license to practice chiropractic which has been suspended or revoked.
(2) Each of the following acts constitutes a violation of this chapter and is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:
(a) Selling or fraudulently obtaining or furnishing any chiropractic diploma, license, or record of registration or aiding or abetting in the same.
(b) Making any willfully false oath or affirmation whenever an oath or affirmation is required by this chapter.
(c) Using the name or title “chiropractic physician,” “doctor of chiropractic,” or any other name or title which would lead the public to believe that such person is engaging in the practice of chiropractic, unless such person is licensed as a chiropractic physician in this state.
(d) Knowingly concealing any information relative to violations of this chapter.

460.412 Sexual misconduct in the practice of chiropractic.—The chiropractic physician-patient relationship is founded on mutual trust. Sexual misconduct in the practice of chiropractic means violation of the chiropractic physician-patient relationship through which the chiropractic physician uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to
engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of chiropractic is prohibited.

History.—s. 1, ch. 79-211; s. 311, ch. 81-259; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1460.413 Grounds for disciplinary action; action by the board.—
(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:
(a) Attempting to obtain, obtaining, or renewing a license to practice chiropractic by bribery, by fraudulent misrepresentations, or through an error of the department or the board.
(b) Having a license to practice chiropractic revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.
(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of chiropractic or to the ability to practice chiropractic. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.
(d) False, deceptive, or misleading advertising.
(e) Causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify himself as a chiropractic physician or identify such chiropractic clinic or related institution in which he practices or in which he is owner, in whole or in part, as a chiropractic institution.
(f) Advertising, practicing, or attempting to practice under a name other than one's own.
(g) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.
(h) Aiding, assisting, procuring, or advising any unlicensed person to practice chiropractic contrary to this chapter or to a rule of the department or the board.
(i) Failing to perform any statutory or legal obligation placed upon a licensed chiropractic physician.
(j) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, wilfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity of a licensed chiropractic physician.
(k) Paying or receiving any commission, bonus, kickback, or rebate or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies.
(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of chiropractic or employing a trick or scheme in the practice of chiropractic when such scheme or trick fails to conform to the generally prevailing standards of treatment in the chiropractic community.
(m) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.
(n) Failing to keep written chiropractic records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.
(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs.
(p) Performing professional services which have not been duly authorized by the patient or client or his legal representative except as provided in ss. 458.21, 768.13, and 768.46.
(q) Prescribing, dispensing, or administering any medicinal drug, performing any surgery, or practicing obstetrics.
(r) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A chiropractic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of chiropractic with reasonable skill and safety to patients.
(s) Gross or repeated malpractice or the failure to practice chiropractic at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 768.45 in interpreting this provision.
(t) Failing to perform any procedure or prescribing any therapy which, by the prevailing standards of chiropractic practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.
(u) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform.
(v) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.
(w) Violating any provision of this chapter, any rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.
(x) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his services.
(y) Submitting to any third-party payor a claim
for a service or treatment which was not actually provided to a patient.

(c) Failing to preserve identity of funds and property of a patient. As provided by rule of the board, money or other property entrusted to a chiropractic physician for a specific purpose, including advances for costs and expenses of examination or treatment, is to be held in trust and must be applied only to that purpose. Money and other property of patients coming into the hands of a chiropractic physician are not subject to counterclaim or setoff for chiropractic physician’s fees, and a refusal to account for and deliver over such money and property upon demand shall be deemed a conversion. This is not to preclude the retention of money or other property upon which the chiropractic physician has a valid lien for services or to preclude the payment of agreed fees from the proceeds of transactions for examinations or treatments. Controversies as to the amount of the fees are not grounds for disciplinary proceedings unless the amount demanded is clearly excessive or extortionate or the demand is fraudulent. All funds of patients paid to a chiropractic physician, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the chiropractic physician’s office is situated, and no funds belonging to the chiropractic physician shall be deposited therein except as follows:

1. Funds reasonably sufficient to pay bank charges may be deposited therein.

2. Funds belonging in part to a patient and in part presently or potentially to the physician must be deposited therein, but the portion belonging to the physician may be withdrawn when due unless the right of the patient to receive it is disputed by the patient, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

Every chiropractic physician shall maintain complete records of all funds, securities, and other properties of a patient coming into the possession of the physician and render appropriate accounts to the patient regarding them. In addition, every chiropractic physician shall promptly pay or deliver to the patient, as requested by the patient, the funds, securities, or other properties in the possession of the physician which the patient is entitled to receive. (1) LEGISLATIVE INTENT.—

(2) Each chiropractic physician who is duly licensed to practice in this state, intends to establish a framework for development of a new category of health manpower: the certified chiropractic physician’s assistant.

(3) The purpose of this section is to encourage the more effective utilization of the skills of chiropractic physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the patient’s health and welfare.

(4) In order that maximum skills may be obtained within a minimum period of education, the certified chiropractic physician’s assistant shall be specialized to the extent that he can operate effi-
cients and effectively in the specialty areas in which he has been trained or is experienced.

(d) This section is established to encourage the utilization of certified chiropractic physician’s assistants by chiropractic physicians and to allow for innovative development of programs for the education of physician’s assistants.

(2) DEFINITIONS.—As used in this section:
(a) “Board” means the Board of Chiropractic.
(b) “Department” means the Department of Professional Regulation.
(c) “Approved program” means a program for the education of certified chiropractic physician’s assistants which program has been formally approved by the board.
(d) “Trainee” means a person who is currently enrolled in an approved program.
(e) “Certified chiropractic physician’s assistant” means a person who is a graduate of an approved program or its equivalent and is approved by the department to perform chiropractic services under the supervision of a chiropractic physician or group of physicians certified by the board to supervise such assistant.
(f) “Supervision” means responsible supervision and control, with the licensed chiropractic physician assuming legal liability for the services rendered by the certified chiropractic physician’s assistant. Except in cases of emergency, supervision shall require the easy availability or physical presence of the licensed chiropractic physician for consultation and direction of the actions of the certified chiropractic physician’s assistant. The board shall further establish rules as to what constitutes responsible supervision of the certified chiropractic physician’s assistant.

(3) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN’S ASSISTANT.—Notwithstanding any other provision of law, a certified chiropractic physician’s assistant may perform chiropractic services in the specialty area or areas for which the certified chiropractic physician’s assistant is trained or experienced when such services are rendered under the supervision of a licensed chiropractic physician or group of chiropractic physicians certified by the board. Any certified chiropractic physician’s assistant certified under this section to perform services may perform those services only:
(a) In the office of the chiropractic physician to whom the certified chiropractic physician’s assistant has been assigned, in which office such physician maintains his primary practice;
(b) When the chiropractic physician to whom he is assigned is present;
(c) In a hospital in which the chiropractic physician to whom he is assigned is a member of the staff; or
(d) On calls outside said office, on the direct order of the chiropractic physician to whom he is assigned.

(4) PERFORMANCE BY TRAINEES.—Notwithstanding any other provision of law, a trainee may perform chiropractic services when such services are rendered within the scope of an approved program.

(5) PROGRAM APPROVAL.—The department shall issue certificates of approval for programs for the education and training of certified chiropractic physician’s assistants which meet board standards. Any basic program curriculum certified by the board shall cover a period of 24 months.
(a) In developing criteria for program approval, the board shall give consideration to, and encourage, the utilization of equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past education and experience in health fields.
(b) The board shall create groups of specialty classifications of training for certified chiropractic physician’s assistants. These classifications shall reflect the training and experience of the certified chiropractic physician’s assistant. The certified chiropractic physician’s assistant may receive training in one or more such classifications, which shall be shown on the certificate issued.
(c) The board shall adopt and publish standards to ensure that such programs operate in a manner which does not endanger the health and welfare of the patients who receive services within the scope of the program. The board shall review the quality of the curricula, faculties, and facilities of such programs; issue certificates of approval; and take whatever other action is necessary to determine that the purposes of this section are being met.

(6) APPLICATION APPROVAL.—
(a) The board shall formulate guidelines for the consideration of applications by a licensed chiropractic physician or a group of licensed chiropractic physicians to supervise certified chiropractic physician’s assistants. Each application made by a chiropractic physician or group of chiropractic physicians shall include all of the following:
1. The qualifications, including related experience, of the certified chiropractic physician’s assistant intended to be employed.
2. The professional background and specialty of the chiropractic physician or the group of chiropractic physicians.
3. A description by the chiropractic physician of his practice, or by the chiropractic physicians of their practice, and of the way in which the assistant or assistants are to be utilized.

The board shall certify an application by a licensed chiropractic physician to supervise a certified chiropractic physician’s assistant when the proposed assistant is a graduate of an approved program or its equivalent and is fully qualified by reason of experience and education to perform chiropractic services under the responsible supervision of a licensed chiropractic physician and when the board is satisfied that the public will be adequately protected by the arrangement proposed in the application.
(b) The board shall certify no more than two certified chiropractic physician’s assistants for any chiropractic physician practicing alone; no more than four chiropractic physician’s assistants for two chiropractic physicians practicing together formally or informally; or no more than a ratio of two certified chiropractic physician’s assistants to three chiropractic
physicians in any group of chiropractic physicians practicing together formally or informally.

(7) PENALTY.—Any person who has not been certified by the board and approved by the department and who represents himself as a certified chiropractic physician's assistant or who uses any other term in indicating or implying that he is a certified chiropractic physician's assistant is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding $5,000.

(8) REVOCATION OF APPROVAL.—The certificate of approval to supervise a certified chiropractic physician's assistant held by any chiropractic physician or group of chiropractic physicians may be revoked when the board determines that the intent of this section is not being carried out.

(9) RULES.—The board shall adopt rules necessary for the administration of the certified chiropractic physician's assistant program, and such rules shall be adopted in accordance with chapter 120. The board shall adopt such rules as are necessary to ensure both the continued competency of certified chiropractic physician's assistants and the proper utilization of such assistants by a chiropractic physician or group of physicians. Rules shall be adopted to ensure that every certified chiropractic physician's assistant performs his services under the responsible supervision and control of a chiropractic physician or a group of chiropractic physicians.

(10) FEES.—
(a) A fee not to exceed $100 set by the board shall accompany the annual application by a chiropractic physician or group of chiropractic physicians for authorization to supervise a certified chiropractic physician's assistant.
(b) Upon approval of an application for certification of a certified chiropractic physician's assistant in a specialty area, the applicant shall be charged an initial certification fee for the first biennium not to exceed $50; and a biennial renewal fee not to exceed $50 shall accompany each application for renewal of the certified chiropractic physician's assistant certificate.

(11) EXISTING PROGRAMS.—Nothing in this section shall be construed to eliminate or supersede existing laws relating to other paramedical professions or services. It is the intent of this section to supplement all such existing programs relating to the certification and the practice of paramedical professions as may be authorized by law.

(12) LIABILITY.—Each chiropractic physician or group of chiropractic physicians utilizing certified chiropractic physician's assistants shall be liable for any act or omission of any physician's assistant acting under his or its supervision and control.

(13) EFFECT OF FUTURE REPEAL OF THIS CHAPTER BY CH. 79-211, LAWS OF FLORIDA.—If chapter 460 is repealed in accordance with the intent expressed in s. 7 of chapter 79-211, Laws of Florida, it is the intent of the Legislature that this section shall also be repealed on the same date as is therein provided.

History.—ss. 1, 2, ch. 80-393; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.02 in advance of that date.

*Note.—Section 7, ch. 79-211, was repealed by s. 3, ch. 81-318.
CHAPTER 461
PODIATRY

461.001 Legislative findings; intent; scope.

The Legislature finds that the practice of podiatry by unskilled and incompetent practitioners presents a danger to the public health and safety. The Legislature finds further that it is difficult for the public to make an informed choice about podiatrists and that the consequences of a wrong choice could seriously endanger their health and safety. The sole legislative purpose for enacting this chapter is to ensure that every podiatrist practicing in this state meet minimum requirements for safe practice. It is the legislative intent that podiatrists who fall below minimum competency or who otherwise present a danger to the public health be prohibited from practicing in this state.

History.—ss. 1, 6, ch. 79-229; ss. 2, 3, ch. 81-318.

461.002 Exceptions.

(1) The provisions of this chapter shall not apply to other duly licensed health care practitioners acting within their authorized scope of practice.

(2) This chapter shall not prohibit the manufacture, advertisement, or sale of proprietary foot appliances or remedies or corrective shoes.

History.—ss. 1, 6, ch. 79-229; ss. 2, 3, ch. 81-318.

461.003 Definitions.—As used in this chapter:

(1) “Department” means the Department of Professional Regulation.

(2) “Board” means the Board of Podiatry as created in this chapter.

(3) “Practice of podiatry” means the diagnosis and medical, surgical, palliative, and mechanical treatment of ailments of the human foot and leg. The surgical treatment of ailments of the human foot and leg shall be limited anatomically to that part below the anterior tibial tubercle. The practice of podiatry shall include the amputation of the toes or other parts of the foot but shall not include the amputation of the foot or leg in its entirety. A podiatrist may prescribe drugs that relate specifically to the scope of practice authorized herein.

(4) “Podiatrist” means any person licensed to practice podiatry pursuant to this chapter.

History.—ss. 1, 6, ch. 79-229; ss. 2, 3, ch. 81-318.

461.004 Board of Podiatry; membership; appointment; terms.

(1) The Board of Podiatry is created within the Department of Professional Regulation and shall consist of seven members to be appointed by the Governor and confirmed by the Senate.

(2) Five members of the board shall be licensed podiatrists who are residents of the state and who have been licensed podiatrists engaged in the practice of podiatry for at least 4 years, and the remaining two members shall be residents of the state who are not and have never been licensed as podiatrists or members of any closely related profession.

(3) Within 60 days after June 30, 1979, the Governor shall appoint seven eligible and qualified persons to be members of the board as follows:

(a) Two members for terms of 2 years each.

(b) Two members for terms of 3 years each.

(c) Three members for terms of 4 years each.

(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. The members of the board serving on July 1, 1979, shall continue in office until their successors are appointed.

(5) All provisions of chapter 455 relating to the board shall apply.

History.—ss. 1, 6, ch. 79-229; ss. 2, 3, ch. 81-318.

461.005 Authority to make rules.—The Board of Podiatry is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter and as may be necessary to protect the health, safety, and welfare of the public.

History.—ss. 1, 6, ch. 79-229; ss. 2, 3, ch. 81-318.

461.006 Licensure by examination.—

(1) Any person desiring to be licensed as a podiatrist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:

(a) Completed the application form and remitted the examination fee set by the board not to exceed $250.

(b) Submitted proof satisfactory to the department that he is not less than 18 years of age and is a recipient of a degree from a school or college of podiatry or chiropody recognized and approved by the Council on Podiatry Education. For applicants who matriculated prior to 1953, the course of study shall
have been at least 3 years. For applicants who matriculated during or subsequent to 1953, the course of study shall be at least 4 years or the total hourly equivalent of a 4-year course of study.

(2) The department shall issue a license to practice podiatry to any applicant who successfully completes the examination in accordance with this section. The department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this act. Upon the completion of the investigation, the provisions of s. 461.013 shall apply.

History.--s. 1, ch. 79-229; s. 2, ch. 81-318.

'461.009 Itemized patient billing.--Whenever a podiatrist licensed under this chapter renders professional services to a patient, the podiatrist is required, upon request, to submit to the patient, to the patient's insurer, or to the administrative agency for any federal or state health program under which the patient is entitled to benefits, an itemized statement of the specific services rendered and the charge for each, no later than the podiatrist's next regular billing cycle which follows the fifth day after rendering of professional services. A podiatrist may not condition the furnishing of an itemized statement upon prior payment of the bill.

History.--s. 6, ch. 79-198; s. 2, ch. 81-318.

'Note.--Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'461.012 Violations and penalties.--

(1) Each of the following acts constitutes a violation of this chapter and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing or attempting to practice podiatry without an active license or with a license fraudulently obtained.

(b) Using or attempting to use a license to practice podiatry which has been suspended or revoked.

(2) Each of the following acts constitutes a violation of this chapter and is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Selling or fraudulently obtaining or furnishing any podiatry diploma, license, or record of registration or aiding or abetting the same.

(b) Making any willfully false oath or affirmation whenever an oath or affirmation is required by this chapter.

(c) Using the name or title "Podiatrist," "Doctor of Podiatry," "Doctor of Podiatric Medicine," or any other name or title which would lead the public to believe that such person is engaging in the practice of podiatry, unless such person is licensed as a podiatrist in this state.

(d) Knowingly concealing any information relative to violations of this chapter.

History.--s. 1, ch. 79-229; s. 2, ch. 81-318.

'Note.--Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'461.013 Grounds for disciplinary action; action by the board.--

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

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

(b) Having a license to practice podiatry revoked, suspended, or otherwise acted against, including the...
(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of podiatry or to the ability to practice podiatry. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one’s own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice podiatry contrary to this chapter or to rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed podiatrist.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such report or records shall include only those which are signed in the capacity of a licensed podiatrist.

(j) Paying or receiving any commission, bonus, kickback, rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. This provision shall not be construed to prohibit a podiatrist from receiving consultation fees for professional services rendered.

(k) Making misleading, deceptive, untrue, or fraudulent representations in the practice of podiatry or employing a trick or scheme in the practice of podiatry when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community.

(l) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

(m) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state “This prescription may be filled at any pharmacy of your choice.”

(o) Performing professional services which have not been duly authorized by the patient or client or his legal representative except as provided in ss. 458.21, 768.13, and 768.46.

(p) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatrist’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the podiatrist’s professional practice, without regard to his intent.

(q) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatrist to himself except those prescribed, dispensed, or administered to the podiatrist by another practitioner authorized to prescribe, dispense, or administer them.

(r) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to chapter 893.

(s) Being unable to practice podiatry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the department shall, upon probable cause, have authority to compel a podiatrist to submit to a mental or physical examination by physicians designated by the department. Failure of a podiatrist to submit to such examination when directed shall constitute an admission of the allegations against him, unless the failure was due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatrist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of podiatry with reasonable skill and safety to patients.

(t) Gross or repeated malpractice or the failure to practice podiatry at a level of care, skill, and treatment which is recognized by a reasonably prudent podiatrist as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 768.45 in interpreting this provision.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of podiatric practice in the community, would constitute experimentation on human subjects without first obtaining full, informed, and written consent.

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

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is
not qualified by training, experience, or licensure to perform them.

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

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his services.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

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

(e) Issuance of a reprimand.

(f) Placing the podiatrist on probation for a period of time and subject to such conditions as the board may specify, including requiring the podiatrist to submit to treatment, to attend continuing education courses, to submit to reexamination, and to work under the supervision of another podiatrist.

(3) The department shall not reinstate the license of a podiatrist, or cause a license to be issued to a person the board has deemed unqualified, until such time as the board is satisfied that he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of podiatry.

(4) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license.

History.—ss. 1, 5, ch. 79-235; ss. 2, 3, ch. 81-318.

'461.0134 Prescription or administration of dimethyl sulfoxide (DMSO).—No podiatrist licensed under this chapter shall be subject to disciplinary action by the board for prescribing or administering dimethyl sulfoxide (DMSO) to a patient under his care who has requested the substance.

History.—ss. 5, 6, ch. 81-36.

Note.—Expires July 1, 1985, pursuant to s. 6, ch. 81-36, and is scheduled for renewal pursuant to s. 11.61 in advance of that date.

'461.014 Residency.—The board shall encourage and develop podiatric residency programs in hospitals in this state and shall establish such programs by the promulgation of rules, subject to the following conditions:

(1) Any residency program shall be approved by the Council of Podiatry Education of the American Podiatry Association.

(2) A residency program may be established only at a hospital where a duly licensed podiatrist is on the hospital staff or is otherwise in a supervisory position.

(3) Every resident shall register with the board through the submission of forms provided by the board, which forms shall, besides other required information, reflect the date of commencement of residency.

(4) Every hospital having a residency program shall semiannually, on January 1 and July 1 of each year, provide the board with a list of podiatric residents and such other information as is required by the board.

(5) No program in residency shall allow a resident to continue as such, unlicensed, for an aggregate period of time in excess of 2 years.

History.—s. 1, ch. 80-111; 8.314, ch. 81-259; 8.2, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and is scheduled for renewal pursuant to s. 11.61 in advance of that date.

'461.015 Saving clauses.—

(1) No judicial or administrative proceeding pending on July 1, 1979, shall be abated as a result of the repeal and reenactment of this chapter.

(2) Each podiatrist who is duly licensed on June 30, 1979, shall be entitled to hold such license. Henceforth, such license shall be renewed in accordance with the provisions of this act.

History.—ss. 4, 5, 6, ch. 79-235; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and is scheduled for renewal pursuant to s. 11.61 in advance of that date.
CHAPTER 462
NATUROPATHY

462.01 “Naturopathy” defined.
462.02 Board of Naturopathic Examiners.
462.022 Abolition of licensing power of board.
462.03 Oath of members of board.
462.04 Organization, meetings; powers and duties of board.
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462.16 Reissue of license.
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462.01 “Naturopathy” defined.—For the purpose of this law, “naturopathy” and “naturopathy” shall be construed as synonymous terms and are hereby defined to mean the use and practice of psychological, mechanical, and material health sciences to aid in purifying, cleansing, and normalizing human tissues for the preservation or restoration of health, according to the fundamental principles of anatomy, physiology, and applied psychology, as may be required. Naturopathic practice employs, among other agencies, phytotherapy, dietetics, psychotherapy, suggestotherapy, hydrotherapy, zone therapy, biochemistry, external applications, electrotherapy, mesotherapy, mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy; provided, however, that nothing in this chapter shall be held or construed to authorize any naturopathic physician licensed hereunder to practice materia medica or surgery or chiropractic, nor shall the provisions of this law in any manner apply to or affect the practice of osteopathy, chiropractic, Christian Science, or any other treatment authorized and provided for by law for the care or prevention of disease and ailments.

History.—s. 4, ch. 12286, 1927; COL 3469; s. 1, ch. 21707, 1943; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 13, 15, 16, 18, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318.

462.02 Board of Naturopathic Examiners.—(1) An examining and licensing board is created within the Department of Professional Regulation to be known as the “Board of Naturopathic Examiners.” Said board shall be composed of three practicing naturopathic physicians, of integrity and ability, who shall be residents of this state, shall have graduated from a reputable naturopathic school, and shall have been engaged in the active practice of their profession within this state for at least 1 year prior to their appointments, but none of them shall be connected in any way with, or have any interest in, any naturopathic school or college.

(2) The said members shall be appointed by the Governor for terms of 4 years from the termination of the term of office of each member of said board, or whenever a vacancy shall occur thereon, the Governor shall appoint a naturopathic physician to fill such vacancy. The members of said board shall hold office until their successors are appointed and qualified.

(3) The board shall perform such duties and be vested with and exercise such powers relative to the protection of the public health and the control and regulation of the practice of naturopathy in the state as shall in this chapter be prescribed and conferred upon it.

History.—s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

462.03 Oath of members of board.—Before entering upon the duties of the office, the members of the Board of Naturopathic Examiners shall take the constitutional oath of office and shall file the same with the Department of State; and there shall thereupon issue to them a commission pursuant to the fundamental principles of anatomy, physiology, and applied psychology, as may be required. Naturopathic practice employs, among other agencies, phytotherapy, dietetics, psychotherapy, suggestotherapy, hydrotherapy, zone therapy, biochemistry, external applications, electrotherapy, mesotherapy, mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy; provided, however, that nothing in this chapter shall be held or construed to authorize any naturopathic physician licensed hereunder to practice materia medica or surgery or chiropractic, nor shall the provisions of this law in any manner apply to or affect the practice of osteopathy, chiropractic, Christian Science, or any other treatment authorized and provided for by law for the care or prevention of disease and ailments.

History.—s. 4, ch. 12286, 1927; COL 3469; s. 1, ch. 21707, 1943; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 13, 15, 16, 18, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318.

462.04 Organization, meetings; powers and duties of board.—(1) Immediately after the appointment and qualification of its members, the Board of Naturopathic Examiners shall meet and organize. The board shall elect a chairman and vice chairman from its membership. The board shall hold one regular meeting each year at some convenient place in the state, and on such date as the board may determine. Notice of the meeting shall be given pursuant to chapter 120.

(2) Special or call meetings may be held at such times and places and upon such notice as the majority of the board may determine. The board shall adopt a seal which must be affixed to all licenses issued by it.
sued by it. The board shall, from time to time, adopt rules and regulations not inconsistent with this chapter, as it may deem necessary for the performance of its duties, and shall examine and pass upon the qualifications of applicants for the practice of naturopathy in this state as provided in this chapter. A majority of the members of the board shall constitute a quorum for the transaction of business.

History.—s. 5, ch. 12286, 1927; CGL 3474; s. 3, ch. 76-168; s. 1, ch. 77-137; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 13, 17, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1965, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

cf.—s. 462.13 Additional duties of board.

462.08 Renewal of license to practice naturopathy.—Each licenseholder shall biennially renew his license to practice naturopathy on or before May 1 of each year in the following manner:

(1) At least 30 days prior to May 1, the department shall mail to each person holding a valid current license, at the last address of record, an application for license.

(2) The applicant shall fill in the application blank and return it to the department on or before May 1.

(3) The applicant shall furnish to the board such evidence as it may require of having complied with s. 462.18 relating to the educational requirements.

(4) The biennial renewal fee, the amount of which shall be determined annually by the board but shall not exceed $50, shall be paid at the time the application for renewal of license is filed.

History.—s. 9, ch. 12286, 1927; CGL 3477; s. 3, ch. 21707, 1943; s. 1, ch. 63-374; s. 1, ch. 73-325; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 1, 3, ch. 78-139; s. 13, 15, 18, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1965, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

cf.—s. 462.13 Additional duties of board.

462.09 Disposition of fees; report; bond of secretary-treasurer; compensation of board members.—All fees received under this chapter shall be paid to the secretary-treasurer. The secretary-treasurer shall be required to give a good and sufficient bond in such amount and upon such terms and conditions as the board may require, said bond to be approved by the board. Members of the board shall receive $10 per day, or any part of a day, while attending official board meetings, not to exceed 12 meetings per year, and shall receive per diem and mileage as provided in s. 112.061, from place of their residence to place of meeting and return. All moneys received by the board under this chapter shall be deposited and expended pursuant to the provisions of s. 215.37. All expenditures authorized by this chapter shall be paid upon presentation of vouchers signed by the secretary-treasurer and approved by the president of the board. The secretary-treasurer shall, on the first Tuesday of October of every year, file with the Governor of the state a report of all receipts and disbursements of said board for the preceding fiscal year.

History.—s. 10, ch. 12286, 1927; CGL 3478; s. 96, ch. 39699, 1951; s. 12, ch. 28215, 1955; s. 7, ch. 61-514; s. 3, ch. 76-168; s. 1, ch. 76-168; s. 3, ch. 77-457; s. 13, ch. 78-139; s. 1, ch. 81-318.

Note.—Repealed effective October 1, 1965, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

cf.—s. 455.219 Fees; receipt; disposition.

462.10 Recording of licenses.—All licenses is-
(b) That he has been convicted of a felony. The conviction of a felony shall be the conviction of any offense which, if committed within the state, would constitute a felony under the laws of this state;

(c) That he is engaged in the practice of naturopathy under a false or assumed name, or the impersonation of another practitioner of a like or different name;

(d) That he is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate him from the performance of his professional duties;

(e) That he is guilty of untrue, fraudulent, misleading, or deceptive advertising;

(f) Causing the publication or circulation of an advertisement of any modality by means whereby the monthly period of women can be regulated or the menses, if suppressed, can be established;

(g) The procuring, or aiding or abetting in procuring, of a criminal abortion; or

(h) That he has prescribed, ordered, dispensed, administered, supplied, sold, or given any drug which is an amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction; or

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities;

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(2) The license or registration of a practitioner of naturopathy shall be revoked and surrendered to the board immediately upon conviction, in any court in this state, of the following:

(a) Any felony committed while practicing naturopathy; or

(b) Any felony which relates to the authority vested by the practitioner issued by the board.

History.--s. 16, ch. 12286, 1927; CGL 3484; s. 3, ch. 76-168; s. 166, ch. 77-104; s. 1, ch. 77-457; s. 2, ch. 78-139; s. 4, ch. 80-354; s. 2, ch. 81-318.

Note.--Repealed effective October 1, 1985, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'462.16 Reissue of license.—Any person who shall practice naturopathy after his license has been revoked and registration annulled shall be deemed to have practiced naturopathy without a license; provided, however, at any time after 6 months after the date of said conviction, said board, by a majority vote may issue a new license, or grant a license to the person affected, restoring to or conferring upon him all the rights and privileges of and pertaining to the practice of naturopathy as defined and regulated by this chapter. The fee therefor shall be the same as upon the issuance of the original license.

History.--s. 18, ch. 12286, 1927; CGL 3486; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 1, ch. 81-318.

Note.--Repealed effective October 1, 1985, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'462.17 Penalty for offenses relating to naturopathy.—Any person who shall:

(1) Sell, fraudulently obtain, or furnish any naturopathic diploma, license, record, or registration or aid or abet in the same;

(2) Practice naturopathy under the cover of any diploma, license, record, or registration illegally or fraudulently obtained or secured or issued unlawfully or upon fraudulent representations;

(3) Advertise to practice naturopathy under a name other than his own or under an assumed name;

(4) Falsely impersonate another practitioner of a like or different name;

(5) Practice or advertise to practice naturopathy or use in connection with his name any designation tending to imply or to designate him as a practitioner of naturopathy without then being lawfully licensed and authorized to practice naturopathy in this state; or

(6) Practice naturopathy during the time his license is suspended or revoked

shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 19, ch. 12286, 1927; CGL 7726; s. 396, ch. 71-146; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-139; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1985, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'462.18 Educational requirements.—

(1) At the time each licensee shall renew his li-
license as otherwise provided in this chapter, each licensee, beginning with the license renewal due May 1, 1944, in addition to the payment of the regular renewal fee, shall furnish to the Board of Naturopathic Examiners satisfactory evidence that, in the year preceding each such application for renewal, he has attended the 2-day educational program as promulgated and conducted by the Florida Naturopathic Physicians Association, Inc., or, as a substitute therefor, the equivalent of that program as approved by the board. The Department of Professional Regulation shall send a written notice to this effect to every person holding a valid license to practice naturopathy within this state at least 30 days prior to May 1 in each biennial year, directed to the last known address of such licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. All of the details and requirements of the aforesaid educational program shall be adopted and prescribed by the Board of Naturopathic Examiners. In the event of national emergencies, or for sufficient reason, the Board of Naturopathic Examiners shall have the power to excuse the naturopathic physicians as a group or as individuals from taking this postgraduate course.

(2) The determination of whether a substitute annual educational program is necessary shall be solely within the discretion of the board.

History.—s. 4, ch. 21707, 1943; s. 1, ch. 63-416; s. 3, ch. 76-166; s. 1, ch. 77-457; s. 3, ch. 78-139; ss. 13, 15, 21, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318.

(3) Any license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status. Such license may be reactivated only if the licensee meets the other qualifications for reactivation in subsections (5), (6), and (7).

(4) Sixty days prior to the end of the biennium and automatic reversion of a license to inactive status, the department shall mail notice of renewal and possible reversion to the last known address of the licensee.

(5) A licensee may request that his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the board not to exceed $50.

(6) A license which has been inactive for less than 1 year after the end of the biennium prescribed by the department may be renewed pursuant to subsections (1) and (2) upon payment of the late renewal penalty. The renewed license shall expire 2 years after the date the license automatically reverted to inactive status.

(7) A license which has been inactive for more than 1 year may be reactivated upon application to the department. The board shall prescribe, by rule, continuing-education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed 12 classroom hours for each year the license was inactive and in no event shall it exceed 120 classroom hours. Any license which is inactive for more than 10 years shall be automatically suspended. One year prior to the suspension, the department shall give notice to the licensee.

History.—s. 5, ch. 21707, 1943; s. 3, ch. 76-166; s. 1, ch. 77-457; s. 3, ch. 78-139; ss. 13, 15, 21, 25, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1985, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1462.19 Renewal of license; inactive status.

(1) The department shall renew a license upon receipt of the renewal application and fee.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.
CHAPTER 463
OPTOMETRY

463.001 Purpose; legislative findings; intent.
463.002 Definitions.
463.003 Board of Optometry.
463.004 Board headquarters.
463.005 Authority to make rules.
463.006 Licensure by examination.
463.007 Renewal of license; periodic demonstration of competency.
463.008 Inactive status.
463.009 Supportive personnel.
463.011 Exhibition of license; prerequisite to occupational license.
463.012 Prescriptions; filing; duplication.
463.013 Optometric services for certain public agencies.
463.014 Certain acts prohibited.
463.015 Violations and penalties.
463.016 Grounds for disciplinary action; action by the board.
463.017 Prosecution of criminal violations.
463.018 Reciprocity.
463.019 Saving clauses.

463.001 Purpose; legislative findings; intent.
(1) The Legislature finds that the practice of optometry is declared a health care profession. Unskilled and incompetent practitioners present a danger to the public health and safety. The Legislature finds further that it is difficult for the public to make an informed choice when selecting an optometrist and that the consequences of a wrong choice could seriously endanger the public health and safety. The Legislature declares that the only way to protect the public from the incompetent practice of optometry is through the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the law.

(2) The sole legislative purpose in enacting this chapter is to ensure the protection of the public health and safety.

(3) Nothing in this chapter shall be construed to prevent a person licensed under chapter 458, chapter 459, or chapter 464 from performing those services which he is licensed to perform or delegating to his supportive personnel those services which he is licensed to perform.

463.002 Definitions.—As used in this chapter:
(1) "Board" means the Board of Optometry.
(2) "Department" means the Department of Professional Regulation.
(3) "Optometrist" means a person who is licensed to engage in the practice of optometry in this state under the authority of this chapter.
(4) "Optometry" means the diagnosis of the human eye and its appendages; the employment of any objective or subjective means or methods for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages; and the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and any other means or methods for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages.

463.003 Board of Optometry.—
(1) There is created within the Department of Professional Regulation a Board of Optometry, composed of seven members appointed by the Governor and confirmed by the Senate.

(2) Five members of the board shall be licensed optometrists in good standing in this state, and the remaining two members shall be citizens of the state who are not, nor have ever been, licensed optometrists and who are in no way connected with the practice of optometry.

(3) Within 60 days after June 30, 1979, the Governor shall appoint seven eligible and qualified members of the board as follows:
(a) Two members for terms of 2 years each.
(b) Two members for terms of 3 years each.
(c) Three members for terms of 4 years each.

(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. The members of the board serving on July 1, 1979, shall continue in office until their successors are appointed.

(5) All applicable provisions of chapter 455 relating to activities of regulatory boards shall apply.

463.004 Board headquarters.—The board shall maintain its official headquarters in the City of Tallahassee.

463.005 Authority to make rules.—The Board of Optometry is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter and as may be necessary to protect the health, safety, and welfare of the public. Such rules shall include, but not be limited to, rules relating to:
(1) A standard of practice for licensed optometrists.
(2) Minimum equipment which an optometrist shall at all times possess to engage in the practice of optometry.

(3) Procedures for transfer of prescription files or case records upon the going out of business of an optometrist.

History.-s. 1, 6, ch. 79-194; ss. 2, 3, ch. 81-318. ¹Note.-Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

463.009 Supportive personnel.—No person other than a licensed optometrist may engage in the practice of optometry, except that a licensed optometrist may delegate to unlicensed supportive personnel those duties, tasks, and functions which do not fall within the purview of s. 463.002(4). All such delegated acts shall be performed under the direct supervision of a licensed optometrist who shall be responsible for all such acts performed by persons under his supervision.

History.-s. 1, 6, ch. 79-194; ss. 2, 3, ch. 81-318. ¹Note.-Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

463.012 Prescriptions; filing; duplication.—

(1) A licensed optometrist shall keep on file for a period of at least 2 years any prescription he writes.

(2) An optometrist shall, upon request by a pa-
such services is incidental to the legitimate business licensed under part I of chapter 641.

or other lawful purposes of such corporation or labor organizations formed primarily for such purposes unless such corporation or organization is licensed under part I of chapter 641.

463.014 Certain acts prohibited.—
(1) Except as otherwise provided in this section:
(a) No optometrist shall practice or attempt to practice under a name other than his own or under the name of a professional association. No optometrist shall practice under the name of any company, corporation, trade name, business name, or other fictitious entity.
(b) No corporation, lay body, organization, or individual other than a licensed optometrist shall engage in the practice of optometry through the means of engaging the services, upon a salary, commission, or other means or inducement, of any person licensed to practice optometry in this state.
(c) No optometrist shall engage in the practice of optometry with any organization, corporation, group, or lay individual. This provision shall not prohibit optometrists from employing, or from forming partnerships or professional associations with, optometrists licensed in this state.
(d) No rule of the board shall forbid the practice of optometry in or on the premises of a commercial or mercantile establishment.
(e) A violation or repeated violations of provisions of this chapter, or of chapter 455, and any rules promulgated pursuant thereto.
(2) Any person who violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

463.015 Violations and penalties.—
(1) No person shall:
(a) Practice optometry unless the person holds an active license pursuant to this act;
(b) Use the name or title “optometrist” when the person has not been licensed pursuant to this act;
(c) Present as his own the license of another;
(d) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a license;
(e) Use or attempt to use a license to practice optometry which has been suspended or revoked;
(f) Knowingly employ unlicensed persons in the practice of optometry;
or
(g) Knowingly conceal information relative to violations of this chapter.

463.016 Grounds for disciplinary action; action by the board.—
(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:
(a) Procuring or attempting to procure a license to practice optometry by bribery, by fraudulent misrepresentations, or through an error of the department or board.
(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.
(c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.
(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry.
(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in his capacity as a licensed optometrist.
(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.
(g) Fraud or deceit, negligence or incompetency, or misconduct in the practice of optometry.
(h) A violation or repeated violations of provisions of this chapter, or of chapter 455, and any rules promulgated pursuant thereto.
(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising his services.
(j) Willfully submitting to any third-party payor

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a claim for services which were not provided to a patient.

(k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

(l) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board.

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

(n) Gross or repeated malpractice.

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

(p) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An optometrist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of optometry with reasonable skill and safety to patients.

(q) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida laws or rules regulating optometry.

(r) Violating any provision of s. 463.015.

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

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

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

(d) Issuance of a reprimand.

(e) Placement of the optometrist on probation for a period of time and subject to such conditions as the board may specify, including requiring the optometrist to submit to treatment, to attend continuing education courses, or to work under the supervision of another optometrist.

(3) The board shall not reinstate the license of an optometrist, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of optometry.

History.—ss. 1, 6, ch. 79-194; ss. 2, 3, ch. 81-318.

1 Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1463.017 Prosecution of criminal violations.—The board shall report any criminal violation of this act to the proper prosecuting authority for prompt prosecution.

History.—ss. 1, 6, ch. 79-194; ss. 2, 3, ch. 81-318.

1 Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1463.018 Reciprocity.—In order to ensure that optometrists licensed in this state may be considered for licensure in other states, the board may enter into reciprocity agreements with other states.

History.—ss. 1, 6, ch. 79-194; ss. 2, 3, ch. 81-318.

1 Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1463.019 Saving clauses.—

(1) No judicial or administrative proceeding pending on July 1, 1979, shall be abated as a result of the repeal and reenactment of this chapter.

(2) All licenses valid on July 1, 1979, shall remain in full force and effect. Henceforth, all licenses shall be applied for and renewed in accordance with this act.

History.—ss. 3, 4, 6, ch. 79-194; ss. 2, 3, ch. 81-318.

1 Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.
CHAPTER 464
NURSING

464.001 Short title. This chapter shall be known as the "Nurse Practice Act."

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

464.002 Purpose.—The Legislature finds that the practice of nursing by unskilled and incompetent practitioners presents a danger to the public health and safety. The Legislature finds further that it is difficult for the public to make an informed choice about nurses and that the consequences of a wrong choice could seriously endanger their health and safety. The sole legislative purpose in enacting this chapter is to ensure that every nurse practicing in this state meet minimum requirements for safe practice. It is the legislative intent that nurses who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state.

History.—ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

464.003 Definitions.—As used in this chapter:
(1) “Department” means the Department of Professional Regulation.

(2) “Board” means the Board of Nursing as created in this chapter.

(3) “Practice of professional nursing” means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the maintenance of health and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.

(b) “Practice of practical nursing” means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm and the maintenance of health and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatrist, or a licensed dentist.

The professional nurse and the practical nurse shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

(c) “Advanced or specialized nursing practice” means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of post-basic specialized education, training, and experience, are proper to be performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee composed of three members of the Board of Nursing, one of whom shall be the advanced registered nurse practitioner member, three members of the Board of Medical Examiners, and the secretary of the department or the secretary's designee. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts shall be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance.

(d) “Nursing diagnosis” means the observation and evaluation of physical or mental conditions, behaviors, signs and symptoms of illness, and reactions to treatment and the determination as to whether such conditions, signs, symptoms, and reactions represent a deviation from normal.

(e) “Nursing treatment” means the establishment and implementation of a nursing regimen for the care and comfort of individuals, the prevention of illness, and the education, restoration, and maintenance of health.
464.004 Board of Nursing; membership; appointment; terms.
(1) The Board of Nursing is created within the Department of Professional Regulation and shall consist of nine members to be appointed by the Governor and confirmed by the Senate.
(2) Five members of the board shall be registered nurses who are residents of this state and who have been engaged in the practice of professional nursing for at least 4 years, including at least one advanced registered nurse practitioner. In addition, two members of the board shall be licensed practical nurses who are residents of this state and who have been actively engaged in the practice of practical nursing for at least 4 years prior to their appointment. The remaining two members shall be residents of the state who have never been licensed as nurses and who are in no way connected with the practice of nursing. No person shall be appointed as a lay member who is in any way connected with, or has any financial interest in, any health care facility, agency, or insurer.
(3) Within 30 days after June 30, 1979, the Governor shall appoint nine eligible and qualified persons to be members of the board as follows:
(a) Two members for terms of 2 years each.
(b) Three members for terms of 3 years each.
(c) Four members for terms of 4 years each.
(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. The members of the board serving on the effective date of this act shall continue in office until their successors are appointed.
(5) All provisions of chapter 455 relating to activities of the board shall apply.

464.005 Board headquarters.—The board shall maintain its official headquarters in the city in which it has been domiciled for the past 5 years.

464.006 Authority to make rules.—The Board of Nursing is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter and as may be necessary to protect the health, safety, and welfare of the public.

1464.007 Disposition of fees; expenditures.
(1) All moneys received under this chapter shall be deposited and expended pursuant to the provisions of s. 215.37. All expenditures for duties of the board authorized by this chapter shall be paid upon presentation of vouchers approved by the executive director of the board.

1464.008 Licensure by examination.—
(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the department to take the licensure examination. The department shall examine each applicant who:
(a) Has completed the application form and remitted an examination fee set by the board not to exceed $100.
(b) Is in good mental and physical health, a recipient of a high school diploma or its equivalent, and a graduate of an approved program for the preparation of registered nurses or licensed practical nurses, whichever is applicable. Courses successfully completed in a professional nursing program at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.
(c) Has the ability to communicate in the English language, which may be determined by an examination given by the department.
(2) Each applicant who passes the examination shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

1464.009 Licensure by endorsement.—
(1) The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department and remitting a fee set by the board not to exceed $100, demonstrates to the board that he:
(a) Holds a valid license to practice professional or practical nursing in another state of the United States, provided that when the applicant secured his original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time; or
(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department.
(2) Such examinations and requirements from other states shall be presumed to be substantially equivalent to or more stringent than those in this
state, unless the board by rule finds otherwise. Such presumption shall not arise until January 1, 1980.

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

History.--s. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318.

Note.---Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

464.012 Certification of advanced registered nurse practitioners; fees.---

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he holds a current license to practice professional nursing and that he meets one or more of the following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least 1 academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills.

(2) The board shall provide by rule the appropriate requirements for the following categories:

(a) Nurse anesthetist.

(b) Nurse midwife.

(c) Family nurse practitioner.

(d) Family planning nurse practitioner.

(e) Geriatric nurse practitioner.

(f) Pediatric nurse practitioner.

(g) Adult primary care nurse practitioner.

(h) Clinical specialist in psychiatric mental health nursing.

(i) Other categories as may be determined by rule of the board.

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Monitor and alter drug therapies.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(3)(c).

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his specialty:

(a) The nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensitive to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. This shall include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The nurse midwife may, to the extent authorized by established protocol approved by the medical staff of the health care facility in which midwifery services are performed, perform any or all of the following:

1. Perform superficial minor surgical procedures.

2. Manage patient during labor and delivery to include amniotomy, episiotomy, and repair.

3. Order, initiate, and perform appropriate anesthetic procedures.

4. Perform post partum examination.

5. Order appropriate medications.

6. Provide family-planning services.

7. Manage the medical care of the normal obstetrical patient.

(c) The family nurse practitioner may perform any or all of the following acts:

1. Manage selected medical problems.

2. Order physical therapy.

(d) The family-planning nurse practitioner may provide family-planning services.

(e) The geriatric nurse practitioner may perform any or all of the following:

1. Manage selected medical problems.

2. Order physical therapy.

(f) The pediatric nurse practitioner may perform any or all of the following:
1. Initiate, monitor, or alter therapies for certain uncomplicated, acute illnesses within the framework of the standing protocol.
2. Initiate childhood immunizations.
3. The adult primary care nurse practitioner may perform any or all of the following:
   1. Initiate appropriate medications by defined protocol.
   2. Initiate immunizations.
   3. Monitor and manage patients with stable chronic diseases.
   4. Initiate treatments and medications and alter dosage within the established protocol.
   (h) The clinical nurse specialist in psychiatric mental health nursing may perform the following:
   1. Establish behavioral problems diagnosis and make treatment recommendations.
   2. Monitor and adjust dosages of prescribed psychotropic medications as indicated within the framework of the established protocol.
   3. The board shall certify, and the department shall issue a certificate to, any nurse meeting the qualifications for reactivation in s. 464.014.
   4. The department shall renew a license upon
      receipt of the renewal application and fee.
      (a) Practicing advanced or specialized, professional or practical nursing, as defined in this chapter, unless holding an active license or certificate to do so.
      (b) Using or attempting to use a license or certificate which has been suspended or revoked.

1. Initiate appropriate medications by defined protocol.
2. Initiate immunizations.
3. The adult primary care nurse practitioner may perform any or all of the following:
1. Initiate appropriate medications by defined protocol.
2. Initiate immunizations.
3. Monitor and manage patients with stable chronic diseases.
4. Initiate treatments and medications and alter dosage within the established protocol.
(h) The clinical nurse specialist in psychiatric mental health nursing may perform the following:
1. Establish behavioral problems diagnosis and make treatment recommendations.
2. Monitor and adjust dosages of prescribed psychotropic medications as indicated within the framework of the established protocol.
3. The board shall certify, and the department shall issue a certificate to, any nurse meeting the qualifications for reactivation in s. 464.014.
4. The department shall renew a license upon receipt of the renewal application and fee.
   (a) Practicing advanced or specialized, professional or practical nursing, as defined in this chapter, unless holding an active license or certificate to do so.
   (b) Using or attempting to use a license or certificate which has been suspended or revoked.

1. Initiate, monitor, or alter therapies for certain uncomplicated, acute illnesses within the framework of the standing protocol.
2. Initiate childhood immunizations.
3. The adult primary care nurse practitioner may perform any or all of the following:
   1. Initiate appropriate medications by defined protocol.
   2. Initiate immunizations.
   3. Monitor and manage patients with stable chronic diseases.
   4. Initiate treatments and medications and alter dosage within the established protocol.
   (h) The clinical nurse specialist in psychiatric mental health nursing may perform the following:
   1. Establish behavioral problems diagnosis and make treatment recommendations.
   2. Monitor and adjust dosages of prescribed psychotropic medications as indicated within the framework of the established protocol.
   3. The board shall certify, and the department shall issue a certificate to, any nurse meeting the qualifications for reactivation in s. 464.014.
   4. The department shall renew a license upon receipt of the renewal application and fee.
      (a) Practicing advanced or specialized, professional or practical nursing, as defined in this chapter, unless holding an active license or certificate to do so.
      (b) Using or attempting to use a license or certificate which has been suspended or revoked.
(c) Knowingly employing unlicensed persons in the practice of nursing.

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Obtaining, or attempting to obtain, a license or certificate under this chapter through bribery or fraudulent misrepresentations.

(b) Using the name or title "Registered Nurse," "Licensed Practical Nurse," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.

(c) Knowingly concealing information relating to violations of this chapter.

History. - ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318.

Note. - Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

"Licensed Practical Nurse," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.

(c) Knowingly concealing information relating to violations of this chapter.

History. - ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318.

Note. - Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

464.017 Sexual misconduct in the practice of nursing. - The nurse-patient relationship is sexual misconduct in the practice of nursing means violation of the nurse-patient relationship through which the nurse uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of nursing is prohibited.

History. - ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318.

Note. - Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

464.018 Disciplinary actions. -

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

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

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

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing. A plea of nolo contendere shall be considered a conviction for purposes of this provision.

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

(e) False, misleading, or deceptive advertising.

(f) Unprofessional conduct, which shall include, but not be limited to, any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice, in which case actual injury need not be established.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes.

(h) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A nurse affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she can resume the competent practice of nursing with reasonable skill and safety.

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

(j) Willfully or repeatedly violating any provision of this chapter, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

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

(d) Issuance of a reprimand.

(e) Placement of the nurse on probation for a period of time and subject to such conditions as the board may specify, including requiring the nurse to submit to treatment, to attend continuing education courses, to take an examination, or to work under the supervision of another nurse.

(3) The board shall not reinstate the license of a nurse, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of nursing.

(4) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license.

History. - ss. 1, 6, ch. 79-225; ss. 2, 3, ch. 81-318.

Note. - Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

464.019 Approval of nursing programs. -

(1) An institution desiring to conduct an approved program for the education of professional or practical nurses shall apply to the department and submit such evidence as may be required to show that it complies with the provisions of this chapter and with the rules of the board.

(2) The board shall adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and clinical training as are necessary to ensure that approved
programs graduate nurses capable of competent practice under this act.

(3) The department shall survey each institution applying for approval and submit its findings to the board. If the board is satisfied that the program meets the requirements of this chapter and rules pursuant thereto, it shall certify the program for approval and the department shall approve the program.

(4) If the board, through an investigation by the department, finds that an approved program no longer meets the required standards, it may place the program on probationary status until such time as the standards are restored. If a program fails to correct these conditions within a specified period of time, the board may rescind the approval. Any program having its approval rescinded shall have the right to reapply.

(5) Provisional approval of new programs may be granted pending the licensure results of the first graduating class.

464.022 Exceptions.—No provision of this chapter shall be construed to prohibit:

(1) The care of the sick by friends or members of the family without compensation, the incidental care of the sick by domestic servants, or the incidental care of noninstitutionalized persons by a surrogate family, as long as such persons do not practice nursing within the meaning of this chapter.

(2) Assistance by anyone in the case of an emergency.

(3) The practice of nursing by students enrolled in approved schools of nursing.

(4) The practice of nursing by graduates of approved programs or the equivalent, pending the result of the first licensing examination for which they are eligible following graduation, provided they practice under direct supervision of a registered professional nurse. The board may by rule define what constitutes direct supervision.

(5) The rendering of services by nursing assistants acting under the direct supervision of a registered professional nurse.

(6) Any nurse practicing in accordance with the practices and principles of the body known as the Church of Christ Scientist; nor shall any rule of the board apply to any sanitarium, nursing home, or rest home operated in accordance with the practices and principles of the body known as the Church of Christ Scientist.

(7) The practice of any legally qualified nurse or licensed attendant of another state who is employed by the United States Government, or any bureau, division, or agency thereof, while in the discharge of official duties.

(8) Any nurse currently licensed in another state from performing nursing services in this state for a period of 30 days after furnishing to the employer satisfactory evidence of current licensure in another state and having submitted proper application and fees to the board for licensure prior to employment. The board may extend this time for administrative purposes when necessary.

(9) The rendering of nursing services on a fee-for-service basis, or the reimbursement for nursing services directly to a nurse rendering such services by any government program, commercial insurance company, hospital or medical services plan, or any other third-party payer.

(10) The establishment of an independent practice by one or more nurses for the purpose of rendering to patients nursing services within the scope of the nursing license.

464.023 Saving clauses.—

(1) No judicial or administrative proceeding pending on July 1, 1979, shall be abated as a result of the repeal and reenactment of this chapter.

(2) Each licensee or holder of a certificate who was duly licensed or certified on June 30, 1979, shall be entitled to hold such license or certificate. Henceforth, such license or certificate shall be renewed in accordance with the provisions of this act.
CHAPTER 465
PHARMACY

(a) “Community pharmacies” includes every store, shop, office, hospital, nursing home, sanitarium, clinic, dispensary, or other place where medicinal drugs are compounded, dispensed, or sold or where prescriptions are filled or dispensed on an outpatient basis.

(b) “Institutional pharmacies” includes all of those areas of every hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility, hereinafter referred to as “health care institutions,” where medicinal drugs are dispensed or stored.

(4) “Prescription” includes any order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so and, in the case of an oral prescription, includes an order orally transmitted by the lawfully designated agent of such practitioner. The term also includes an order for drugs or medicinal supplies so transmitted or written by a practitioner licensed to practice in a state other than Florida, but only if the pharmacist called upon to fill such order determines, in the exercise of his professional judgment, that the order was issued pursuant to a valid patient-physician relationship, that it is authentic, and that the drugs or medicinal supplies so ordered are considered necessary for the continuation of treatment of a chronic or recurrent illness. However, if the physician writing the prescription is not known to the pharmacist, the pharmacist shall obtain proof to a reasonable certainty of the validity of the prescription.

(5) “Pharmacist” means any person licensed pursuant to this chapter to practice the profession of pharmacy.

(6) “Practice of the profession of pharmacy” includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug and consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders, or any other act, service, operation, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training.

(7) “Medicinal drugs” or “drugs” means those substances or preparations commonly known as prescription or legend drugs which are required by federal or state law to be dispensed only on a prescription, but shall not include patents or proprietary preparations as hereafter defined.

(8) “Patent or proprietary preparation” means a medicine in its unbroken, original package which is sold to the public by, or under the authority of, the manufacturer or primary distributor thereof and
which is not misbranded under the provisions of the Florida Food, Drug, and Cosmetic Law.

(9) "Dispense" means the transfer of possession of one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user. The actual sales transaction and delivery of such drug shall not be considered dispensing. The administration, as hereinafter defined, in a health care institution of medicinal drugs to a patient, or the administration of medicinal drugs by a physician to his patient, shall not be considered dispensing.

(10) "Pharmacy intern" means a person who is currently registered in, and attending, a duly accredited college or school of pharmacy, or who is a graduate of such a school or college of pharmacy, and who is duly and properly registered with the department as provided for under its rules.

(11) "Consultant pharmacist" means a pharmacist licensed by the department and certified as a consultant pharmacist. The consultant pharmacist shall be responsible for maintaining all drug records required by law and for establishing drug-handling procedures for the safe handling and storage of drugs. The consultant pharmacist must have completed such additional training and demonstrate such additional qualifications in the practice of institutional pharmacy as shall be required by the Board of Pharmacy in addition to licensure as a registered pharmacist. The board shall promulgate rules necessary to implement and administer this subsection.

(12) "Administration" means the obtaining and giving of a single dose of medicinal drugs to a patient or the giving of a single dose by a physician to his patient for consumption by the patient.

(13) "Radio pharmacist" means a pharmacist licensed by the department and certified as a radio pharmacist. The radio pharmacist must have completed such additional training and demonstrate such additional qualifications in the practice of radio pharmacy as shall be required by the Board of Pharmacy in addition to licensure as a registered pharmacist.

1465.004 Board of Pharmacy.—
(1) The Board of Pharmacy is created within the Department of Professional Regulation and shall consist of seven members to be appointed by the Governor and confirmed by the Senate.

(2) Five members of the board shall be licensed pharmacists who are residents of this state and who have been engaged in the practice of the profession of pharmacy for at least 4 years, and the remaining two members shall be residents of the state who have never been licensed as pharmacists and who are in no way connected with the practice of the profession of pharmacy. No person shall be appointed as a lay member who is in any way connected with a drug manufacturer or wholesaler.

(3) Within 30 days after June 30, 1979, the Governor shall appoint seven eligible and qualified persons to be members of the board as follows:
(a) Two members for terms of 2 years each.
(b) Two members for terms of 3 years each.
(c) Three members for terms of 4 years each.

(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed. The members of the board serving on the effective date of this act shall continue in office until their successors are appointed.

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

History.—s. 1, ch. 79-226; ss. 2, 3, ch. 81-318.

1465.005 Authority to make rules.—The Board of Pharmacy is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter and as may be necessary to protect the health, safety, and welfare of the public.

History.—s. 1, ch. 79-226; ss. 2, 3, ch. 81-318.

1465.006 Disposition of fees; expenditures.—All moneys received under this chapter shall be deposited and expended pursuant to the provisions of s. 215.37. All expenditures for duties of the board authorized by this chapter shall be paid upon presentation of vouchers approved by the executive director of the board.

History.—s. 1, ch. 79-226; ss. 2, 3, ch. 81-318.

1465.007 Licensure by examination.—
(1) Any person desiring to be licensed as a pharmacist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:
(a) Completed the application form and remitted an examination fee set by the board not to exceed $250.
(b) Submitted satisfactory proof that he is not less than 18 years of age and is a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education.
(c) Submitted satisfactory proof that he has completed an internship program approved by the board. No such program shall exceed 2,080 hours, all of which may be obtained prior to graduation.

(2) The department may permit an applicant who has satisfied all requirements of subsection (1), except those relating to age or experience, to take the written examination, but the passing of the examination shall confer no rights or privileges upon the applicant in connection with the practice of pharmacy in this state.

(3) Except as provided in subsection (2), the de-
partment shall issue a license to practice pharmacy to any applicant who successfully completes the examination in accordance with this section.

History.—s. 1, ch. 79-226; ss. 13, 15, 23, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318.

'465.008 Renewal of license.—
(1) The department shall renew a license upon receipt of the renewal application and a fee set by the board not to exceed $250.

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

(3) Any license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status. Such license may be reactivated only if the licensee meets the other qualifications for reactivation in s. 465.012.

(4) Sixty days prior to the end of the biennium and automatic reversion of a license to inactive status, the department shall mail a notice of renewal and possible reversion to the last known address of the licensee.

(5) Any person licensed under this chapter for 50 years or more shall be exempt from the payment of the renewal or delinquent fee, and a lifetime license shall be issued by the department to such person.

History.—s. 1, ch. 79-226; ss. 2, 3, ch. 81-318.

'465.009 Continuing professional pharmaceutical education.—
(1) No license renewal shall be issued by the department until the licensee submits proof satisfactorily to the board that during the 2 years prior to his application for renewal he has participated in not less than 15 hours per year of continuing professional pharmaceutical education in courses approved by the board.

(2) The board shall approve only those courses that build upon the basic courses offered in the curricula of accredited colleges or schools of pharmacy.

(3) Upon initial licensure, the department may reduce the number of required hours consistent with the requirements of biennial renewal.

(4) The department may make exception from the requirements of this section in an emergency or hardship case. The board may adopt rules within the requirements of this section that are necessary for its implementation, including a rule creating a committee composed of equal representation from the board, the colleges of pharmacy in the state, and practicing pharmacists within the state, whose purpose shall be to approve the content of each course offered for continuing education credit prior to the time such course is offered.

History.—s. 1, ch. 79-226; ss. 2, 3, ch. 81-318.

'465.012 Inactive status.—
(1) A licensee may request that his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the board not to exceed $50.

(2) A license which has been inactive for less than 1 year after the end of the biennium prescribed by the department may be renewed pursuant to s. 465.008 upon payment of the late renewal penalty. The renewed license shall expire 2 years after the date the license automatically reverted to inactive status.

(3) A license which has been inactive for more than 1 year may be reactivated upon application to the department. The board shall prescrib, by rule, continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed 12 classroom hours for each year the license was inactive and in no event shall exceed 120 classroom hours for all years in which the license was inactive. Any license which is inactive for more than 10 years shall automatically be suspended. One year prior to the suspension, the department shall give notice to the licensee. A suspended license may be reinstated as provided in s. 465.016.

History.—s. 1, ch. 79-226; ss. 2, 3, ch. 81-318.

'465.013 Registration of pharmacy interns.—The department shall register as pharmacy interns persons certified by the board as being enrolled in an intern program at an accredited school or college of pharmacy or who are graduates of accredited schools or colleges of pharmacy and are not yet licensed in the state. The board may refuse to certify to the department or may revoke the registration of any intern for good cause, including grounds enumerated in this chapter for revocation of pharmacists' licenses.

History.—s. 1, ch. 79-226; ss. 3, 18, ch. 81-318.

'465.014 Supportive personnel.—No person other than a licensed pharmacist or pharmacy intern may engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to nonlicensed supportive personnel those duties, tasks, and functions which do not fall within the purview of s. 465.003(6). All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his supervision. Unless otherwise permitted by the Board of Pharmacy, no licensed pharmacist shall supervise more than one supportive person.

History.—s. 1, ch. 79-226; ss. 2, ch. 81-318.

'465.015 Violations and penalties.—
(1) It is unlawful for any person to own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a pharmacy:

(a) Which is not registered under the provisions of this chapter.

(b) In which a person not licensed as a pharmacist in this state or not registered as an intern in this state or in which an intern who is not acting under the direct and immediate personal supervision of a li-
licensed pharmacist fills, compounds, or dispenses any prescription or dispenses medicinal drugs.

(2) It is unlawful for any person:
(a) To make a false or fraudulent statement, either for himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.
(b) To fill, compound, or dispense prescriptions or to dispense medicinal drugs if such person does not hold an active license as a pharmacist in this state, is not registered as an intern in this state, or is an intern not acting under the direct and immediate personal supervision of a licensed pharmacist.
(c) To sell or dispense drugs as defined in s. 465.003(7) without first being furnished with a prescription.
(d) To provide samples or complimentary packages of drug products listed within the provisions of s. 893.03 except for use in clinical trials or other research use for educational purposes, if such distribution is not for resale. This provision shall not apply to persons licensed as pharmacists in this state.
(3)(a) It is unlawful for any person other than a pharmacist licensed under this chapter to use the title "pharmacist" or "druggist" or otherwise lead the public to believe that he is engaged in the practice of pharmacy.
(b) It is unlawful for any person other than an owner of a pharmacy registered under this chapter to display any sign or to take any other action that would lead the public to believe that such person is engaged in the business of compounding, dispensing, or retailing any medicinal drugs. This paragraph shall not preclude a person not licensed as a pharmacist from owning a pharmacy.
(4) Any person who violates any provision of subsection (1) or subsection (3) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who violates any provision of subsection (2) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In any warrant, information, or indictment, it shall not be necessary to negative any exceptions, and the burden of any exception shall be upon the defendant.

1465.016 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:
(a) Obtaining a license by misrepresentation or fraud or through an error of the department or the board.
(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.
(c) Permitting any person not licensed as a pharmacist in this state or not registered as an intern in this state, or permitting a registered intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist, to fill, compound, or dispense any prescriptions in a pharmacy owned and operated by said pharmacist or in a pharmacy where said pharmacist is employed or on duty.
(d) Being unfit or incompetent to practice pharmacy by reason of:
1. Habitual intoxication.
2. The misuse or abuse of any medicinal drug appearing in any schedule set forth in chapter 893.
3. Any abnormal physical or mental condition which threatens the safety of persons to whom he might sell or dispense prescriptions, drugs, or medical supplies or for whom he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies.
(e) Violating any of the requirements of this chapter; chapter 500, known as the "Florida Food, Drug, and Cosmetic Law"; 21 U.S.C., ss. 301-392, known as the "Federal Food, Drug, and Cosmetic Act"; or chapter 893.
(f) Having been convicted or found guilty, regardless of adjudication, in a court of this state or other jurisdiction, of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy. A plea of nolo contendere shall constitute a conviction for purposes of this provision.
(g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in s. 465.025.
(h) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of this chapter.
(i) Compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of professional practice of pharmacy. For purposes of this paragraph, it shall be legally presumed that the compounding, dispensing, or distributing of legend drugs in excessive or inappropriate quantities is not in the best interests of the patient and is not in the course of the professional practice of pharmacy.
(j) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which the licensee is required to make or file in his capacity as a licensed pharmacist.
(k) Failing to make prescription fee or price information readily available by failing to provide such information upon request and upon the presentation of a prescription for pricing or dispensing. Nothing in this section shall be construed to prohibit the quotation of price information on a prescription drug to a potential consumer by telephone.
(l) Placing in the stock of any pharmacy any part of any prescription compounded or dispensed which is returned by a patient; however, in a hospital, nursing home, or extended care facility in which unit-dose medication is dispensed to inpatients, each dose being individually sealed and the individual unit dose or unit-dose system labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any, the unused unit dose of medication may be returned to the pharmacy for redispensing. Each pharmacist shall maintain appro
priate records for any unused or returned medicinal drugs.

(m) Being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A pharmacist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of pharmacy with reasonable skill and safety to his customers.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.
(b) Revocation or suspension of a license.
(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.
(d) Issuance of a reprimand.
(e) Placement of the pharmacist on probation for a period of time and subject to such conditions as the board may specify, including requiring the pharmacist to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another pharmacist.

(3) The board shall not reinstate the license of a pharmacist, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of pharmacy.

(4) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license.

History.---s. 1, ch. 79-226; ss. 13, 15, 24, 25, 30, 34, 62, ch. 80-406; s. 324, ch. 81-206; ss. 2, 3, ch. 81-318.

Note.---Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

465.019 Institutional pharmacies; permits.

(1) Any person desiring a permit to operate an institutional pharmacy shall apply to the department. If the board certifies that the application complies with the laws of the state and the rules of the board governing pharmacies, the department shall issue the permit.

(2) The following classes of institutional pharmacies are established:

(a) “Class I institutional pharmacies” are those institutional pharmacies in which all medicinal drugs are administered from individual prescription containers to the individual patient and in which medicinal drugs are not dispensed on the premises. No medicinal drugs may be dispensed in a Class I institutional pharmacy.

(b) “Class II institutional pharmacies” are those institutional pharmacies which employ the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution, for use on the premises of that institution. However, a single dose of a medicinal drug may be obtained and administered to a patient on a valid physician’s drug order under the supervision of a physician or charge nurse, consistent with good institutional practice procedures. The obtaining and administering of such single dose of a medicinal drug shall be pursuant to drug-handling procedures established by a consultant pharmacist. Medicinal drugs may be dispensed in a Class II institutional pharmacy, but only in accordance with the provisions of this section.

(c) “Modified Class II institutional pharmacies” are those institutional pharmacies in short-term, primary care treatment centers that meet all the requirements for a Class II permit, except space and equipment requirements.

(3) Medicinal drugs shall be stocked, stored, compounded, dispensed, or administered in any health care institution only when that institution has secured an institutional pharmacy permit from the department.

(4) Medicinal drugs shall be dispensed in an institutional pharmacy to outpatients only when that institution has secured a community pharmacy permit from the department.

(5) All institutional pharmacies shall be under...
the professional supervision of a consultant pharmacist, and the compounding and dispensing of medicinal drugs shall be done only by a licensed pharmacist.

The board shall adopt such rules relating to pharmacies as are necessary to protect the public health, safety, and welfare. Such rules shall include, but not be limited to, rules relating to:

(a) General drug safety measures.
(b) Minimum standards for the physical facilities of pharmacies.
(c) Safe storage of floor-stock drugs.
(d) Functions of a pharmacist in an institutional pharmacy, consistent with the size and scope of the pharmacy.
(e) Procedures for the safe storage and handling of radioactive drugs.
(f) Procedures for the distribution and disposition of medicinal drugs distributed pursuant to s. 500.152.
(g) Procedures for transfer of prescription files and medicinal drugs upon the change of ownership or closing of a pharmacy.
(h) Minimum equipment which a pharmacy shall at all times possess to fill prescriptions properly.

The board shall set the fees for the following:

(a) Initial permit fee not to exceed $100.
(b) Biennial permit renewal not to exceed $100.
(c) Delinquent fee not to exceed $25.
(d) Change of ownership or location fee not to exceed $50.

History.—s. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

465.023 Revocation or suspension of pharmacy permits.—

(1) The department or the board may revoke or suspend the permit of any pharmacy permittee who:

(a) Obtained a permit by misrepresentation or fraud or through an error of the department or the board;
(b) Attempted to procure, or has procured, a permit for any other person by making, or causing to be made, any false representation;
(c) Violated any of the requirements of this chapter or any of the rules of the Board of Pharmacy, of chapter 500, known as the “Florida Food, Drug, and Cosmetic Law”; or of chapter 893; or
(d) Been convicted or found guilty, regardless of adjudication, of a felony or any other crime involving moral turpitude in any of the courts of this state, of any other state, or of the United States.

(2) If a pharmacy permit is revoked or suspended, the owner, manager, or proprietor shall cease to operate said establishment as a pharmacy as of the effective date of such suspension or revocation. In the event of such revocation or suspension, the owner, manager, or proprietor shall remove from the premises all signs and symbols identifying said premises as a pharmacy. The period of such suspension shall be prescribed by the Board of Pharmacy, but in no case shall it exceed 1 year. In the event that the permit is revoked, the person owning or operating said establishment shall not be entitled to make application for a permit to operate a pharmacy for a period of 1 year from the date of such revocation. Upon the effective date of such revocation, the permittee shall advise the Board of Pharmacy of the disposition of the medicinal drugs located on the premises. Such disposition shall be subject to continuing supervision and approval by the Board of Pharmacy.

History.—s. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

465.024 Promoting sale of certain drugs prohibited.—

(1) It is declared that the unrestricted use of certain controlled substances, causing abnormal reactions that may interfere with the user’s physical reflexes and judgments, may create hazardous circumstances which may cause accidents to the user and to others, thereby affecting the public health, safety, and welfare. It is further declared to be in the public interest to limit the means of promoting the sale and use of these drugs. All provisions of this section shall be liberally construed to carry out these objectives and purposes.

(2) No pharmacist, owner, or employee of a retail drug establishment shall use any communication media to promote or advertise the use or sale of any controlled substance appearing in any schedule in chapter 893.

(3) This section shall not prohibit the advertising of any medicinal drugs, other than those controlled substances specified in chapter 893, or any patent or proprietary preparation, provided the advertising is not false, misleading, or deceptive.

History.—s. 1, 7, ch. 79-226; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

465.025 Substitution of drugs.—

(1) As used in this section:

(a) “Brand name” means the registered trademark name given to a drug product by its manufacturer, labeler, or distributor.
(b) “Generically equivalent drug product” means a drug product with the same active ingredient, finished dosage form, and strength.
(c) “Prescriber” means any practitioner licensed to prescribe medicinal drugs.

(2) A pharmacist who receives a prescription for a brand name drug shall, unless requested otherwise by the purchaser, substitute a less expensive, generically equivalent drug product that is:

(a) Distributed by a business entity doing business, and subject to suit and service of legal process, in the United States; and
(b) Listed in the formulary of generic and brand name drug products as provided in subsection (5) for the brand name drug prescribed,

unless the prescriber writes the words “MEDICALLY NECESSARY,” in his own handwriting, on the face of a written prescription or unless, in the case of an
oral prescription, the prescriber expressly indicates to the pharmacist that the brand name drug prescribed is medically necessary.

(3)(a) Any pharmacist who substitutes any drug as provided in subsection (2) shall notify the person presenting the prescription of such substitution, together with the existence and amount of the retail price difference between the brand name drug and the drug substituted for it, and shall inform the person presenting the prescription that such person may refuse the substitution as provided in subsection (2).

(b) Any pharmacist substituting a less expensive drug product shall pass on to the consumer the full amount of the savings realized by such substitution.

(4) Each pharmacist shall maintain a record of any substitution of a generically equivalent drug product for a prescribed brand name drug as provided in this section.

(5) Each community pharmacy shall establish a formulary of generic and brand name drug products which, if selected as the drug product of choice, would not pose a threat to the health and safety of patients receiving prescription medication. In compiling the list of generic and brand name drug products for inclusion in the formulary, the pharmacist shall rely on drug product research, testing, information, and formularies compiled by other pharmacies, by states, by the United States Department of Health, Education, and Welfare, by the United States Department of Health and Human Services, or by any other source which the pharmacist deems reliable. Each community pharmacy shall make such formulary available to the public, the Board of Pharmacy, or any physician requesting same. This formulary shall be revised following each addition, deletion, or modification of said formulary.

(6) The Board of Pharmacy and the Board of Medical Examiners shall establish by rule a formulary of generic drug type and brand name drug products which are determined by the boards to demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted, would pose a threat to the health and safety of patients receiving prescription medication.

(a) The formulary may be added to or deleted from as the Board of Pharmacy and the Board of Medical Examiners deem appropriate. Any person who requests any inclusion, addition, or deletion of a generic drug type or brand name drug product to the formulary shall have the burden of proof to show cause why such inclusion, addition, or deletion should be made.

(b) Upon adoption of the formulary required by this subsection, and upon each addition, deletion, or modification to the formulary, the Board of Pharmacy shall mail a copy to each manager of the prescription department of each community pharmacy licensed by the state, and each board regulating practitioners licensed by the laws of the state to prescribe drugs shall incorporate such formulary into its rules. No pharmacist shall substitute a generically equivalent drug product for a prescribed brand name drug product if the brand name drug product or the generic drug type drug product is included in the said formulary.

(7) Every community pharmacy shall display in a prominent place that is in clear and unobstructed public view, at or near the place where prescriptions are dispensed, a sign in block letters not less than 1 inch in height which shall read: "CONSULT YOUR PHARMACIST CONCERNING THE AVAILABILITY OF A LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG AND THE REQUIREMENTS OF FLORIDA LAW."

(8) The standard of care to be applied to the acts of any pharmacist performing professional services in compliance with this section when a substitution is made by said pharmacist shall be that which would apply to the performance of professional services in the dispensing of a prescription order prescribing a drug by generic name. In no event when a pharmacist substitutes a drug shall the prescriber be liable in any action for loss, damage, injury, or death to any person occasioned by or arising from the use or nonuse of the substituted drug, unless the original drug was incorrectly prescribed.

History.—s. 1, ch. 79-226; s. 525, ch. 81-259; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.115, in advance of that date.

465.026 Filling of certain prescriptions.—Nothing contained in this chapter shall be construed to prohibit a pharmacist licensed in this state from filling or refilling a prescription which meets the requirements of s. 465.003(4) and which is valid and on file with another pharmacy licensed in this state, under the following conditions:

(1) Prior to dispensing pursuant to any such prescription, the dispensing pharmacist shall:

(a) Advise the patient that the prescription on file at such other pharmacy must be canceled before he will be able to fill or refill it.

(b) Determine that the prescription is valid and on file at such other pharmacy and that such prescription may be filled or refilled, as requested, in accordance with the prescriber's intent expressed on such prescription.

(c) Notify the pharmacy at which the prescription is on file that the prescription must be canceled.

(d) Record in writing the prescription order, the name of the pharmacy at which the prescription was written, and the authorized refills.

(e) Obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the professional judgment of the dispensing pharmacist, so requires. Any interference with the professional judgment of the dispensing pharmacist by any pharmacy permittee, its agents, or employees shall be grounds for revocation or suspension of the permit issued to the pharmacy.

(2) Upon receipt of a request for prescription information set forth in paragraph (1)(d), if the requested pharmacist is satisfied in his professional judgment that such request is valid, the requested pharmacist shall:

(a) Provide such information accurately and completely.
(b) Record on the face of the prescription the name of the requesting pharmacy and pharmacist and the date of request.

c) Cancel the prescription on file by writing the word "void" on its face. No further prescription information shall be given or medication dispensed pursuant to said original prescription.

3 In the event that, after the information set forth in paragraph (1)(d) has been provided, a prescription is not dispensed by the requesting pharmacist, then such pharmacist shall provide notice of this fact to the pharmacy from which said information was obtained; such notice shall serve to revalidate the voided prescription. The pharmacist who has served such notice shall then cancel the prescription in the same manner as set forth in paragraph (2)(c).

4 The provisions of this section shall not apply to prescription orders for any medicinal drugs listed in any schedule appearing in chapter 893.

History.—s. 1, 7, ch. 79-226; s. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

465.027 Exceptions.—

1 This chapter shall not be construed to prohibit the sale of home remedies or preparations commonly known as patents or proprietary preparations, when such are sold only in original or unbroken packages, nor shall this chapter be construed to prevent businesses from engaging in the sale of sundries or patents or proprietary preparations.

2 Nothing in this chapter shall be construed to prevent a practitioner authorized by law to prescribe medicinal drugs from compounding, dispensing, or giving such drugs to his patients in the regular course of his practice. Such compounding and dispensing may be done only by the practitioner himself and shall comply with all federal and state laws relating to the labeling and dispensing of medicinal drugs.

History.—s. 1, 7, ch. 79-226; s. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

465.028 Saving clauses.—

1 No judicial or administrative proceeding pending on July 1, 1979, shall be abated as a result of the repeal and reenactment of this chapter.

2 All licenses and permits valid on the effective date of this act shall remain in full force and effect. Henceforth, all such licenses and permits shall be renewed pursuant to this act.

History.—s. 5, 6, ch. 79-226; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

465.185 Rebates prohibited; penalties.—

1 It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any physician, surgeon, organization, agency, or person, either directly or indirectly, for patients referred to a pharmacy registered under this chapter.

2 The Department of Health and Rehabilitative Services shall adopt rules which assess administrative penalties for acts prohibited by subsection (1). In the case of an entity licensed by the Department of Health and Rehabilitative Services, such penalties may include any disciplinary action available to the Department of Health and Rehabilitative Services under the appropriate licensing laws. In the case of an entity not licensed by the Department of Health and Rehabilitative Services, such penalties may include:

(a) A fine not to exceed $1,000.

(b) If applicable, a recommendation by the Department of Health and Rehabilitative Services to the appropriate licensing board that disciplinary action be taken.

History.—s. 2, ch. 79-106; s. 326, ch. 81-259; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.
CHAPTER 466
DENTISTRY, DENTAL HYGIENE, AND DENTAL LABORATORIES

466.001 Purpose; legislative findings. — The Legislature finds that the practice by unskilled dentists or dental hygienists of their professions presents a danger to the public health and safety. The Legislature finds further that it is difficult for the public to make an informed choice about dentists or dental hygienists and that the consequences of a wrong choice could seriously endanger the public health and safety. The legislative purpose for enacting this chapter is to ensure that every dentist or dental hygienist practicing in this state meets minimum requirements for safe practice. It is the legislative intent that dentists and dental hygienists who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. All provisions of this chapter relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out this purpose and intent.

History.—ss 1, 3, ch. 79-330; ss 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s 2, ch. 81-318, and scheduled for review pursuant to s 11.61 in advance of that date.

466.002 Persons exempt from operation of chapter. — Nothing in this chapter shall apply to the following practices, acts, and operations:

(1) The practice of his profession including surgical procedures involving the oral cavity by a physician or surgeon licensed as such under the laws of this state.

(2) The giving by a qualified anesthetist of an anesthetic for a dental operation under the direct supervision of a licensed dentist.

(3) The practice of dentistry in the discharge of their official duties by practicing dentists or dental surgeons in the United States Army, Air Force, Marines, Navy, Public Health Service, Coast Guard, or Veterans' Administration.

(4) The practice of dentistry by licensed dentists of other states or countries at meetings of dental organizations approved by the board, while appearing as clinicians.

(5) Students in Florida schools of dentistry and dental hygiene or dental auxiliary educational programs, while performing regularly assigned work under the curriculum of such schools.

(6) Instructors in Florida schools of dentistry or dental hygiene or dental auxiliary educational programs, while performing regularly assigned duties under the curriculum of such schools. A full-time dental instructor at a dental school approved by the board may be allowed to practice dentistry at the teaching facilities of such school, upon receiving a teaching permit issued by the board, in strict compliance with such rules as are adopted by the board pertaining to the teaching permit and with the established rules and procedures of the dental school.

History.—s 1, 3, ch. 79-330; ss 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s 2, ch. 81-318, and scheduled for review pursuant to s 11.61 in advance of that date.

466.003 Definitions. — As used in this chapter:

(1) “Board” means the Board of Dentistry.

(2) “Dentist” means a person licensed to practice dentistry pursuant to this chapter.

(3) “Dentistry” means the healing art which is concerned with the examination, diagnosis, treatment planning, and care of conditions within the human oral cavity and its adjacent tissues and structures and includes the performance or attempted performance of any dental operation, or oral or oral-maxillofacial surgery, including physical evaluation directly related to such operation or surgery pursuant to hospital rules and regulations, or dental service of any kind gratuitously or for any remuneration paid, or to be paid, directly or indirectly, to himself or to any other person or agency; or the taking of an impression of the human tooth, teeth, or jaws directly or indirectly and by any means or method; or supplying artificial substitutes for the natural teeth or furnishing, supplying, constructing, reproducing, or repairing any prosthetic denture, bridge, appliance, or any other structure designed to be worn in the human mouth except on the written work order of a duly licensed dentist; or the placing of such appliance
or structure in the human mouth or adjusting or attempting to adjust the same; or delivering the same to any person other than the dentist upon whose work order the work was performed; or professing to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure designed to be worn in the human mouth; or diagnosing, prescribing, or treating or professing to diagnose, prescribe, or treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or oral-maxillofacial region; or extracting or attempting to extract human teeth; or correcting or attempting to correct malformations of teeth or of jaws; or repairing or attempting to repair cavities in the human teeth.

(4) "Dental hygiene" means the rendering of educational, preventive, and therapeutic dental services pursuant to ss. 466.023 and 466.024 and any related extra-oral procedure required in the performance of such services.

(5) "Dental hygienist" means a person licensed to practice dental hygiene pursuant to this chapter.

(6) "Dental auxiliary" means a person, other than a dental hygienist, who, under the supervision and authorization of a dentist, provides dental care services directly to a patient.

(7) "Department" means the Department of Professional Regulation.

(8) "Direct supervision" means supervision whereby a dentist diagnoses the condition to be treated, a dentist authorizes the procedure to be performed, a dentist remains on the premises while the procedures are performed, and a dentist approves the work performed before dismissal of the patient.

(9) "Indirect supervision" means supervision whereby a dentist authorizes the procedure and a dentist is on the premises while the procedures are performed.

(10) "General supervision" means supervision whereby a dentist authorizes the procedures which are being carried out but need not be present when the authorized procedures are being performed. The authorized procedures may also be performed at a place other than the dentist's usual place of practice. The issuance of a written work authorization to a commercial dental laboratory by a dentist does not constitute general supervision.

(11) "Irremediable tasks" are those intra-oral treatment tasks which, when performed, are irreversible and create unalterable changes within the oral cavity or the contiguous structures or which cause an increased risk to the patient. The administration of anesthetics other than topical anesthesia is considered to be an "irremediable task" for purposes of this chapter.

(12) "Remediable tasks" are those intra-oral treatment tasks which are reversible and do not create unalterable changes within the oral cavity or the contiguous structures and which do not cause an increased risk to the patient.

History.--ss. 1, 3, ch. 73-320; ss. 2, 3, ch. 81-318.

Note.--Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.01 in advance of that date.

466.004 Board of Dentistry.--

(1) To carry out the provisions of this chapter, there is created within the Department of Professional Regulation a Board of Dentistry consisting of nine members who shall be appointed by the Governor and subject to confirmation by the Senate. Six members of the board shall be licensed dentists actively engaged in the practice of dentistry in this state who are not connected in any way with any medical college, dental college, or community college; one member shall be a licensed dental hygienist actively engaged in the practice of dental hygiene in this state who is not connected in any way with any medical college, dental college, or community college; and two members shall be lay persons who are not and have never been dentists, dental hygienists, or members of any closely related profession or occupation. Each dental member of the board shall have been actively engaged in his respective profession for at least 5 years preceding the date of his appointment to the board.

(a) Initially, the Governor shall appoint two members for a term of 4 years, three members for a term of 3 years, two members for a term of 2 years, and two members for a term of 1 year. Thereafter, members shall be appointed for 4-year terms.

(b) The members of the Florida State Board of Dentistry who are serving as of June 30, 1979, shall serve as members of the Board of Dentistry until members are appointed pursuant to paragraph (a).

(2) The board shall maintain its headquarters in Tallahassee.

(3) The board is authorized to adopt all rules necessary to carry out the provisions of this chapter and chapter 455.

(4) The board is authorized to publish and distribute such pamphlets, newsletters, and other publications as are reasonably necessary.

(5) All provisions of chapter 455 relating to the board shall apply.

History.--ss. 1, 3, ch. 73-330; ss. 2, 3, ch. 81-318.

Note.--Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.01 in advance of that date.

466.006 Examination of dentists.--

(1) Any person desiring to be licensed as a dentist shall apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee, set by the board, not to exceed $100 which shall be nonrefundable. There shall also be an examination fee set by the board, which shall not exceed $150, which may be refundable if the applicant is found ineligible to take the examinations.

(2) An applicant shall be entitled to take the examinations required in this section to practice dentistry in this state if he:

(a) Is 18 years of age or older.

(b) Is a graduate of a dental school accredited by the Commission on Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency.

(c) Has successfully completed the National Board of Dental Examiners' dental examination within 10 years of the date of application.

(3) If an applicant is a graduate of a foreign den-
examinations relate to those procedures which are adhered to the standard of grading established at such exercise. It is the intent of the Legislature that the examinations relate to those procedures which are actually performed by the dentist in general practice.

Examining examiners, and the point of statistical invalidity of a grade for each procedure, the acceptable variation for cause of a failing grade on just one part or procedure, he shall be required to retake the entire examination.

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

(a) A written examination on the laws and rules of the state regulating the practice of dentistry; and
(b) A practical or clinical examination, which shall be administered and graded by dentists licensed in this state and employed by the department for just such purpose. The practical examination shall include:

1. Two amalgam restorations, and the board by rule shall determine the class of such restorations and whether they shall be performed on mannequins, live patients, or both;
2. A demonstration of periodontal skills on a live patient;
3. A final impression and articulation for a complete dental prosthetic;
4. A cast gold restoration of a class to be determined by board rule on a mannequin, with attendant cast gold laboratory; and
5. A demonstration of endodontic skills on a mannequin.

The board may, by rule, provide for additional procedures which are to be tested, provided such procedures shall be common to the practice of general dentistry. The board by rule shall determine the passing grade for each procedure, the acceptable variation for examiners, and the point of statistical invalidity of a procedure. No such rule shall apply retrospectively. The department shall require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists and dental hygienists who have substantially adhered to the standard of grading established at such exercise. It is the intent of the Legislature that the examinations relate to those procedures which are actually performed by a dental hygienist in general practice.

History.—s. 1, ch. 79-330; ss. 13, 15, 25, 26, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318.

466.009 Reexamination.—

(1) The department shall permit any person who fails an examination which is required under s. 466.006 or s. 466.007 to retake the examination. If the examination to be retaken is a practical or clinical examination, the applicant shall pay a reexamination fee set by rule of the board in an amount not to exceed the original examination fee.

(2) If an applicant for a license to practice dentistry fails the practical or clinical examination because of a failing grade on just one part or procedure tested, he shall be required to retake only that part or procedure. However, if any such applicant fails more than one part or procedure of any such examination, he shall be required to retake the entire examination.

(3) If an applicant for a license to practice dental hygiene fails one portion of the practical or clinical examination, such applicant shall be required to retake only that portion if he reapplies within 12 months. If, however, the applicant fails the prophylaxis, he shall be required to retake the entire examination.

History.—s. 1, ch. 79-330; ss. 2, 3, ch. 81-318.

466.007 Examination of dental hygienists.—

(1) Any person desiring to be licensed as a dental hygienist shall apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee set by the board not to exceed $100 and an examination fee set by the board which shall not be more than $150. The examination fee may be refunded if the applicant is found ineligible to take the examination.

(2) An applicant shall be entitled to take the examinations required in this section to practice dental hygiene in this state if he:

(a) Is 18 years of age or older.
(b) Is a graduate of a dental hygiene college or school approved by the board.
(c) Has successfully completed the National Board of Dental Hygiene examination within 10 years of the date of application.

(3) An applicant for a license to practice dental hygiene shall apply to the department to take the licensure examinations which score is at least equal to the minimum score required for certification by that board.

(4) An applicant for a license to practice dental hygiene shall verify the information required on the application by oath. The applicant must successfully complete the following:

(a) A written examination on the laws and rules of the state regulating the practice of dentistry;
(b) A practical or clinical examination, which shall be administered and graded by dentists licensed in this state and employed by the department for just such purpose. The practical examination shall include:

1. Two amalgam restorations, and the board by rule shall determine the class of such restorations and whether they shall be performed on mannequins, live patients, or both;
2. A demonstration of periodontal skills on a live patient;
3. A final impression and articulation for a complete dental prosthetic;
4. A cast gold restoration of a class to be determined by board rule on a mannequin, with attendant cast gold laboratory; and
5. A demonstration of endodontic skills on a mannequin.

The board may, by rule, provide for additional procedures which are to be tested, provided such procedures shall be common to the practice of general dentistry. The board by rule shall determine the passing grade for each procedure, the acceptable variation for examiners, and the point of statistical invalidity of a procedure. No such rule shall apply retrospectively. The department shall require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists and dental hygienists who have substantially adhered to the standard of grading established at such exercise. It is the intent of the Legislature that the examinations relate to those procedures which are actually performed by a dental hygienist in general practice.

History.—s. 1, ch. 79-330; ss. 13, 15, 25, 26, 30, 34, 62, ch. 80-406; s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.05 in advance of that date.
The renewed license shall expire 2 years after the date the license automatically reverted to inactive status.

(3) A license which has been inactive for more than 1 year may be reactivated upon application to the department. The board shall prescribe, by rule, continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license shall not exceed 12 classroom hours for each year the license was inactive and in no event shall exceed 120 classroom hours for all years in which the license was inactive. Any license which is inactive for more than 10 years shall automatically be suspended. One year prior to the suspension, the department shall give notice to the licensee. A suspended license may be reinstated as provided in s. 466.028.

History.—ss. 1, 3, ch. 79-330; s. 2, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.11 in advance of that date.

1466.016 License to be displayed.—Every practitioner of dentistry or dental hygiene within the meaning of this chapter shall post and keep conspicuously displayed his license in the office wherein he practices, in plain sight of his patients. Any dentist or dental hygienist who practices at more than one location shall be required to display a copy of his license in each office where he practices.

History.—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.11 in advance of that date.

1466.017 Prescription of drugs; anesthesia.

(1) A dentist shall have the right to prescribe drugs or medicine, subject to limitations imposed by law; perform surgical operations within the scope of his practice and training; administer general or local anesthesia or sedation, subject to limitations imposed by law; and use such appliances as may be necessary to the proper practice of dentistry.

(2) Druggists in this state may fill prescriptions of legally licensed dentists in this state for any drugs necessary for the practice of dentistry.

(3) The board shall adopt rules which:
   (a) Define general anesthesia.
   (b) Specify which general or local anesthesia or sedation, if any, are limited or prohibited for use by dentists.
   (c) Establish minimal training, education, experience, or certification for a dentist to use general anesthesia or sedation, which rules may exclude, in the board's discretion, those dentists using general anesthesia or sedation in a competent and effective manner as of the effective date of the rules.
   (d) Establish further requirements relating to the use of general anesthesia or sedation, including, but not limited to, office equipment and the training of dental auxiliaries or dental hygienists who work with dentists using general anesthesia or sedation.

(4) A licensed dentist may utilize an X-ray machine, expose dental X-ray films, and interpret or read such films. The provisions of part VII of chapter 468 to the contrary notwithstanding, a licensed dentist may authorize or direct a dental auxiliary to op-
erate such equipment and expose such films under his direction and supervision, pursuant to rules adopted by the board in accordance with s. 466.024 which ensure that said auxiliary is competent by reason of training and experience to operate said equipment in a safe and efficient manner.

History.--s. 6, ch. 79-330; ss. 13, 14, 15, 16, 17, 18, 19, 27, 28, 29, 30, 34, 42, ch. 80-406; s. 208, ch. 81-209; ss. 2, 3, ch. 81-318.

Note.--Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1466.018 Dentist of record.--Each patient shall have a dentist of record. The dentist of record shall remain primarily responsible for all dental treatment on such patient regardless of whether the treatment is rendered by the dentist himself or by another dentist, dental hygienist, or dental auxiliary rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The purposes of this section are to assign primary responsibility for each patient to one dentist in a multidentist practice of any nature and to assign primary responsibility to the dentist for treatment rendered by a dental hygienist or auxiliary under his supervision. This section shall not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist not in practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

History.--s. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318.

Note.--Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

1466.019 Advertising by dentists.--

(1) The purpose of this section is to authorize the advertising by dentists of information which is intended to provide the public with a sufficient basis upon which to make an informed selection of dentists while protecting the public from false or misleading advertisements which would detract from a fair and rational selection process. The board shall adopt rules to carry out the intent of this section, the purpose of which shall be to regulate the manner of such advertising in keeping with the provisions hereof.

(2) A dentist may advertise in accordance with the provisions of this chapter and with rules of the board adopted pursuant hereto. Advertising on radio and television shall be in accordance with rules adopted by the board which reflect the special characteristics of said media and which are in keeping with subsection (1). Each advertisement in any media shall contain the name, address, and telephone number of the dentist and of other dentists with whom the dentist is associated and may contain the names of the dental hygienists associated with said dentists. In addition, such advertising may contain the following information:

(a) Any specialty recognized by the board to which the dentist confines his practice if such dentist has the required academic specialty education or if he is a diplomate of one or more national specialty boards which are recognized by the Board of Dentistry.

(b) Office hours.

(c) Fees charged for routine dental services as delineated in subsection (3), in which case said advertisement shall also include a statement that the fee advertised is the minimum fee to be charged for such service and that the actual fee may vary depending upon the degree of complexity involved in a given case. Such statement shall be no less prominent than the general text of the advertisement.

(3) The advertisement of fees pursuant to paragraph (2)(c) shall be limited to the following routine dental services:

(a) Examinations.

(b) Diagnosis.

(c) Treatment planning.

(d) Prophylaxis.

(e) Radiographs.

(f) Simple extractions.

(g) Basic full upper or lower dentures, or both.

(h) Such other procedures which are determined by the board by rule to be routine dental services.

The board shall establish by rule a definition of what constitutes each of the services enumerated in this subsection, and said definitions shall be in keeping with the definition of "routine dental services" provided in subsection (4).

(4) For purposes of this section, a "routine dental service" is a procedure which:

(a) Is considered basic and common to the practice of the general dentist or to the respective dental specialty.

(b) May reasonably be expected to be performed on a regular or routine basis.

(c) Does not usually involve a significant degree of variation in terms of the procedure utilized and the level of difficulty encountered in carrying out such service.

(d) Is suitable for advertising in keeping with the purposes of this section as set forth in subsection (1) in terms of providing the public with a rational basis upon which to make an informed selection of dentists.

(5) No advertisement by a licensed dentist shall contain any false, fraudulent, misleading, deceptive, or unfair statement or claim or any statement or claim which:

(a) Contains misrepresentations of fact;

(b) Is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

(c) Contains laudatory statements about the dentist or group of dentists;

(d) Is intended or is likely to create false, unjustified expectations of favorable results;

(e) Relates to the quality of dental services provided;

(f) Is intended or is likely to appeal primarily to a layperson's fears; or

(g) Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or to be deceived.

History.--s. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318.

Note.--Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.
466.021 Employment of unlicensed persons by dentist; penalty.—Every duly licensed dentist who uses the services of any unlicensed person for the purpose of constructing, altering, repairing, or duplicating any denture, partial denture, bridge splint, or orthodontic or prosthetic appliance shall be required to furnish such unlicensed person with a written work order in such form as shall be approved by the department. This form shall be supplied to the dentist by the department at a cost not to exceed that of printing and handling. The work order blanks shall be assigned to individual dentists and are not transferable. This form shall be dated and signed by such dentist and shall include the patient’s name or number with sufficient descriptive information to clearly identify the case for each separate and individual piece of work; said work order shall be made in duplicate form, the duplicate copy to be retained in a permanent file in the dentist’s office for a period of 2 years, and the original to be retained in a permanent file for a period of 2 years by said unlicensed person in his place of business. Such permanent file of work orders to be kept by such dentist or by such unlicensed person shall be open to inspection at any reasonable time by the department or its duly constituted agent. Failure of the dentist to keep such permanent records of said work orders shall subject the dentist to suspension or revocation of his license to practice dentistry. Failure of such unlicensed person to have in his possession a work order as above defined shall be admissible evidence of a violation of this chapter and shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Nothing in this section shall preclude a registered dental laboratory from working for another registered dental laboratory, provided that such work is performed pursuant to written authorization, in a form to be prescribed by rule of the department, which evidences that the originating laboratory has obtained a valid work order and which sets forth the work to be performed. Furthermore, nothing in this section shall preclude a registered dental laboratory from providing its services to dentists licensed and practicing in another state, provided that such work is requested or otherwise authorized in written form which clearly identifies the name and address of the requesting dentist and which sets forth the work to be performed.

History.—s. 1, 3, ch. 79-330; s. 2, ch. 81-318. 
Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.01 in advance of that date.

466.023 Dental hygienists; scope and area of practice.—

(1) Dental hygienists may remove calculus deposits, accretions, and stains from exposed surfaces of the teeth and from the gingival sulcus; perform root planing and curettage; expose dental X-ray films; apply topical preventive or prophylactic agents; and perform all tasks delegable by the dentist in accordance with s. 466.024. The board by rule shall determine whether such functions shall be performed under the direct, indirect, or general supervision of the dentist.

(2) Dental hygienists may perform their duties:

(a) In the office of a licensed dentist;
(b) In public health programs and institutions of the Department of Health and Rehabilitative Services under the general supervision of a licensed dentist; or
(c) Upon a patient of record of a dentist who has issued prescription for the services of a dental hygienist, which prescription shall be valid for 2 years unless a shorter length of time is designated by the dentist, in:
   1. Licensed public and private health facilities;
   2. Other public institutions of the state and federal government;
   3. The home of a nonambulatory patient; and
   4. Other places in accordance with the rules of the board.

However, the dentist issuing such prescription shall remain responsible for the care of such patient. As used in this subsection, “patient of record” means a patient upon whom a dentist has taken a complete medical history, completed a clinical examination, recorded any pathology or disease, and prepared a treatment plan.

(3) Dental hygienists may, without supervision, provide educational programs, faculty or staff training programs, authorized fluoride rinse programs, and other services as approved by rule of the board, in:

(a) Public, private, and parochial schools licensed by the Department of Education; and
(b) Private, nonprofit, charitable, community, and professional institutions and programs.

(4) The board by rule may limit the number of dental hygienists and dental auxiliaries who work under the supervision of a dentist or who perform expanded duties pursuant to the provisions of this chapter. However, the Department of Health and Rehabilitative Services and public institutions approved by the board shall not be so limited as to the number of dental hygienists or dental auxiliaries working under the supervision of a licensed dentist.

(5) Dental hygienists are exempt from the provisions of part VII of chapter 468.

History.—s. 1, 3, ch. 79-330; s. 2, ch. 81-318. 
Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.01 in advance of that date.

466.024 Delegation of duties; expanded functions.—

(1) A dentist may not delegate irremediable tasks to a dental hygienist or dental auxiliary, except as provided by law. A dentist may delegate remediable tasks to a dental hygienist or dental auxiliary. The board by rule shall designate which tasks are remediable, except that the following are by law found to be remediable:

(a) Taking impressions for study casts but not for the purpose of fabricating any intra-oral restorations or orthodontic appliance.
(b) Placing periodontal dressings.
(c) Removing periodontal or surgical dressings.
(d) Removing sutures.
(e) Placing or removing rubber dams.
(f) Placing or removing matrices.

History.—s. 1, 3, ch. 79-330; s. 2, ch. 81-318. 
Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.01 in advance of that date.
(g) Placing or removing temporary restorations.
(h) Applying cavity liners, varnishes, or bases.
(i) Polishing amalgam restorations.
(j) Polishing clinical crowns of the teeth for the purpose of removing stains but not changing the existing contour of the tooth.
(k) Obtaining bacteriological cytological specimens not involving cutting of the tissue.

Nothing in this subsection shall be construed to limit remediable tasks to those specified therein.

(2) Notwithstanding subsection (1), a dentist may delegate the tasks of gingival curettage and root planing to a dental hygienist but not to a dental auxiliary.

(3) All other remediable tasks shall be performed under the direct, indirect, or general supervision of a dentist, as determined by rule of the board, and after such formal or on-the-job training by the dental hygienist or dental auxiliary as the board by rule may require. The board by rule may establish a certification process for expanded-duty dental auxiliaries, establishing such training or experience criteria or examinations as it deems necessary and specifying which tasks may be delegable only to such auxiliaries. If the board does establish such a certification process, the department shall implement the application process for such certification and administer any examinations required.

(4) Notwithstanding subsection (1), a dentist may not delegate to anyone other than another licensed dentist:

(a) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician.
(b) Any diagnosis for treatment or treatment planning.
(c) Polishing amalgam restorations.
(d) Applying cavity liners, varnishes, or bases.
(e) Polishing clinical crowns of the teeth for the purpose of removing stains but not changing the existing contour of the tooth.

(5) Notwithstanding any other provision of law, a dentist is primarily responsible for all procedures delegated by him.

(6) Effective July 1, 1980, no dental auxiliary shall perform an intra-oral procedure except after such formal or on-the-job training as the board by rule shall prescribe.

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing dentistry or dental hygiene unless the person has an appropriate, active license issued by the department pursuant to this chapter or the rules of the board.
(b) Using or attempting to use a license issued pursuant to this chapter which license has been suspended or revoked.
(c) Knowingly employing any person to perform duties outside the scope allowed such person under this chapter or the rules of the board.

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Using the name or title "dentist," the letters "D.D.S." or "D.M.D.," or any other words, letters, title, or descriptive matter which in any way represents a person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or oral-maxillofacial region, unless the person has an ac-

...
tive dentist’s license issued by the department pursuant to this chapter.

(b) Using the name “dental hygienist” or the initials “R.D.H.,” or otherwise holding himself out as an actively licensed dental hygienist or implying to any patient or consumer that he is an actively licensed dental hygienist unless that person has an active dental hygienist’s license issued by the department pursuant to this chapter.

(c) Presenting as his own the license of another.

(d) Giving false or forged evidence to the department or board for the purpose of obtaining a license.

(e) Selling or offering to sell a diploma conferring a degree from a dental college or dental hygiene school or college, or a license issued pursuant to this chapter, or procuring such diploma or license with intent that it shall be used as evidence of that which the document stands for, by a person other than the one upon whom it was conferred or to whom it was granted.

(f) Knowingly concealing information relative to violations of this chapter.

(g) Performing any services as a dental auxiliary, as defined herein, except in the office of a licensed dentist, unless authorized by rule of the board.

(h) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in the best interest of the patient and is not in the course of the practice of dentistry or dental hygiene contrary to this chapter or to a rule of the department or board.

(i) Being employed by any corporation, organization, group, or person other than a dentist or professional association composed of dentists; however, a dentist may be employed by a corporation or group for purposes of providing services to the employees and members of such corporation or group and to members of their immediate families.

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

(k) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

(l) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

(m) Failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state “This prescription may be filled at any pharmacy of your choice.”

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state “This prescription may be filled at any pharmacy of your choice.”

(p) Failing to make available to a patient or client, or to his legal representative, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(q) Performing professional services which have not been duly authorized by the patient or client, or his legal representative, except as provided in ss. 768.13 and 768.46.

(r) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of a dentist’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of a dentist.

1466.027 Sexual misconduct.—The dentist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of dentistry means violation of the dentist-patient relationship through which the dentist uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of dentistry is prohibited.

1466.028 Grounds for disciplinary action; action by the board.—

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

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, fraudulent misrepresentations, or through an error of the department or the board.

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

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of dentistry or dental hygiene. Any plea of nolo contendere shall be considered a finding of guilt for purposes of this chapter.

(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content or which is contrary to s. 466.019 or rules of the board adopted pursuant thereto.

(e) Advertising, practicing, or attempting to practice under a name other than one’s own.

(f) Failing to report to the department any person who the licensee knows, or has reason to believe, is in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene contrary to this chapter or to a rule of the department or the board.

(h) Being employed by any corporation, organization, group, or person other than a dentist or professional association composed of dentists; however, a dentist may be employed by a corporation or group for purposes of providing services to the employees and members of such corporation or group and to members of their immediate families.

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

(j) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

(k) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

(l) Making deceptive, untrue, or fraudulent representations in the practice of dentistry.

(m) Failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, and test results.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state “This prescription may be filled at any pharmacy of your choice.”

(o) Failing to make available to a patient or client, or to his legal representative, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(p) Performing professional services which have not been duly authorized by the patient or client, or his legal representative, except as provided in ss. 768.13 and 768.46.

(q) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of a dentist’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of a dentist.

1466.029 Grounds for disciplinary action; action by the board.—
dentist's professional practice, without regard to his intent.

(r) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to himself, except those prescribed, dispensed, or administered to the dentist by another practitioner authorized to prescribe them.

(s) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug or a compound designated as a Schedule II controlled substance, pursuant to chapter 893, to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(t) Being unable to practice his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of his profession with reasonable skill and safety to patients.

(u) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene.

(v) Failure to provide and maintain reasonable sanitary facilities and conditions.

(w) Failure to provide adequate radiation safeguards.

(x) Performing any procedure or prescribing any therapy which, by the prevailing standards of dental practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(y) Being guilty of incompetence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience.

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing work or services otherwise, directly or through an agent or employee, by any means or method, or who in any way supplies or manufactures artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth or who in any way holds itself out as a dental laboratory.

(1) Performs for a fee of any kind, gratuitously or otherwise, directly or through an agent or employee, by any means or method, or who in any way supplies or manufactures artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth or who in any way tends to coerce, intimidate, or preclude another licensee from lawfully advertising his services.

(dd) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.

(2) When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

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

(d) Issuance of a reprimand.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate his competency through a written or practical examination or to work under the supervision of another licensee.

(f) Restricting the authorized scope of practice.

(3) There shall be a minimum 6-month suspension of the license of a dentist who is convicted of a violation of paragraph (1)(aa).

(4) The department shall reissue the license of a disciplined licensee upon certification by the board that the disciplined licensee has complied with all of the terms and conditions set forth in the final order.

(5) In addition, if the department finds that an applicant has a complaint filed against him in another jurisdiction, the board may deny the application pending final disposition of said complaint.

History.—ss. 1, 2, ch. 79-330; ss. 1, 2, 3, 4, ch. 81-318.

*Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

466.029 Prosecution of criminal violations.

—The department shall report any criminal violation of this chapter to the proper prosecuting authority for prompt prosecution.

History.—ss. 1, 2, ch. 79-330; ss. 2, 3, ch. 81-318.

*Note.—Repealed effective October 1, 1986, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

466.031 “Dental laboratory” defined.—The term “dental laboratory” as used in this chapter shall be deemed to include any person, firm, or corporation who:

(1) Performs for a fee of any kind, gratuitously or otherwise, directly or through an agent or employee, by any means or method, or who in any way supplies or manufactures artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth or who in any way holds itself out as a dental laboratory;

(2) Shall be those individual dental laboratory technicians, excluded from the provisions of s. 466.032, who construct or repair dental prosthetic appliances in the office of a licensed dentist for such dentist only and under his supervision and work order.

History.—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318.
466.032 Registration.—
(1) Every person, firm, or corporation operating a dental laboratory in this state shall, by January 1 of each year, register with the department on forms to be provided by the department and, at the same time, pay to the department a registration fee of $10 for which the department shall issue a registration certificate entitling the holder to operate a dental laboratory for a period of 1 year.
(2) Upon the failure of any dental laboratory operator to comply with subsection (1), the department shall notify him by registered mail, February 1, return receipt requested, at his last known address, of such failure and inform him of the provisions of subsections (3) and (4).
(3) Any dental laboratory operator who has not complied with subsection (1) by March 1 of any year shall be required to pay a delinquency fee of $25 in addition to the regular annual registration fee.
(4) The department is authorized to commence and maintain proceedings to enjoin the operator of any dental laboratory who has not complied with subsection (1) by March 1 of any year from operating a dental laboratory in this state until he has obtained a registration certificate and paid the required fees.

466.033 Registration certificates.—The department shall not require an examination, but shall issue a registration certificate upon completion of the registration form and compliance with any rules promulgated by the department under s. 466.038.

466.034 Change of ownership or address.—When the ownership or address of any dental laboratory operating in this state is changed, the owner thereof shall notify the department within 30 days of such change of ownership or address.

466.035 Advertising.—Dental laboratories shall not solicit or advertise, directly or indirectly, by mail, card, newspaper, pamphlet, radio, television, or otherwise to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth or for the regulation of natural teeth.

466.036 Periodic inspections required.—The department may require from the applicant for a registration certificate to operate a dental laboratory any information necessary to carry out the purpose of this chapter and may require periodic inspection of all dental laboratories operating in this state. Such inspections shall include, but not be limited to, inspection of sanitary conditions and facilities on the premises.

466.037 Suspension and revocation.—The department may suspend or revoke the certificate of any dental laboratory registered under s. 466.032, for failing to comply with the provisions of this chapter.

466.038 Rules.—The department may promulgate all rules necessary to enforce the provisions of this chapter pertaining to and regulating dental laboratories.

466.039 Violations.—It shall be unlawful for any person, firm, or corporation to operate as a dental laboratory as defined in this chapter, except those registered as provided in s. 466.032. Violation shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

466.0395 Saving clauses.—
(1) No judicial or administrative proceeding pending on July 1, 1979, shall be abated as a result of the repeal and reenactment of this chapter.
(2) All licenses valid on the effective date of this act shall remain in full force and effect. Henceforth, all licenses shall be applied for and renewed in accordance with this act.
CHAPTER 468
MISCELLANEOUS PROFESSIONS AND OCCUPATIONS
PART I OPERATORS OF MOVING PICTURE MACHINES (ss. 468.01-468.08)
PART II FITTING AND SELLING OF HEARING AIDS (ss. 468.10-468.138)
PART III SPEECH PATHOLOGY AND AUDIOLOGY (ss. 468.139-468.149)
PART IV NURSING HOME ADMINISTRATION (ss. 468.1635-468.1775)
PART V OCCUPATIONAL THERAPISTS (ss. 468.201-468.225)
PART VI RADIOLOGIC TECHNOLOGISTS (ss. 468.30-468.312)
PART VII ACUPUNCTURE (ss. 468.321-468.329)

PART I

OPERATORS OF MOVING PICTURE MACHINES

468.01 Licenses required; application of part I.
468.02 Board of examiners; qualifications.
468.03 Examination of applicants; fee.
468.04 Issuance of license.
468.05 Qualifications of operator and assistant.
468.06 Inspection of machines.
468.07 Appropriation by city.
468.08 Violation of regulations as to operating moving picture machine.

468.01 Licenses required; application of part I.—
(1) Any person engaging or working at the business of operating or assisting in the operation of any cinematograph or similar apparatus commonly known as moving picture machines, in any city in this state shall be required to obtain a license.

(2) The provisions of this part shall not apply to cities and towns of less than 6,000 inhabitants.

468.02 Board of examiners; qualifications.—The mayor of each city in the state shall appoint a board of examiners or some person designated by said board to make an inspection of every moving picture machine in the city at least three times a year from date of issuance shall be issued to every operator who successfully passes the required examination. Any operator failing to pass said examination shall have the fee returned to him, and his employer shall be notified by the board of examiners.

468.03 Examination of applicants; fee.—All applications for license accompanied by a fee of $1 shall be made to the board of examiners and each applicant shall at any time and place that the board shall designate, be required to pass an examination as to his qualifications as said board may direct. The examination may be made in whole or in part, in writing, but shall be of a practical and elementary character and sufficiently strict to test the qualifications of the applicant as to his knowledge of electricity.

468.04 Issuance of license.—A license good for 1 year from date of issuance shall be issued to every operator who successfully passes the required examination. Any operator failing to pass said examination shall have the fee returned to him, and his employer shall be notified by the board of examiners.

468.05 Qualifications of operator and assistant.—It is unlawful for any proprietor, owner, or manager of any theater or moving picture show in any city, to employ or have in his employ, any operator or assistant operator, on a moving picture machine who is not over 18 years of age, and who has not successfully passed the examination and received a license as required by this part. No operator shall be granted a license as operator who has not had at least 1 year practical experience on moving picture machines and no person shall be granted an assistant license who has not served under an experienced operator for 1 year prior to making application for assistant license. All machines shall be under the care and supervision of one person holding an operator's license, who shall be responsible for the proper handling of the machine by said assistant. The provisions of this section shall apply to owners and managers who operate their own machines, who are required to be in possession of an operator's license.

468.06 Inspection of machines.—One member of the board of examiners or some person designated by said board shall make an inspection of every moving picture machine in the city at least three times a year from date of issuance shall be issued to every operator who successfully passes the required examination. Any operator failing to pass said examination shall have the fee returned to him, and his employer shall be notified by the board of examiners.

Note.—Repealed effective October 1, 1984, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

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times a year and report to the board on blanks provided, the condition of electrical connections, name of operator and each assistant, and make an examination of each license issued.

History.—s. 7, ch. 6955, 1915; RGS 5541; CGL 7718; s. 406, ch. 71-136; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1984, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

468.07 Appropriation by city.—A sufficient appropriation shall be made by the city council or commission whose duty is to appropriate such funds for the proper administration of the provisions of this part, for the purposes and use of the board of examiners.

History.—s. 8, ch. 6955, 1915; RGS 2250; CGL 3583; s. 4, ch. 71-223; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1984, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

468.08 Violation of regulations as to operating moving picture machines.—Any person violating any of the provisions of this part, either as operator or manager, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 6955, 1915; RGS 5541; CGL 7718; s. 406, ch. 71-136; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1984, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

PART II
FITTING AND SELLING OF HEARING AIDS

468.120 Short title of part II.—This part may be cited as the “Fitting and Selling of Hearing Aids Act.”

History.—s. 2, ch. 67-423; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1984, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

468.121 Purpose.—Part II of this chapter requires registration for protection of the public of any person engaged in the fitting or selling of hearing aids, to encourage better educational training programs for such persons to provide against unethical and improper conduct and for the enforcement of this part, and to provide penalties for its violation.

History.—s. 1, ch. 67-423; s. 1, ch. 71-223; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318.

Note.—Repealed effective October 1, 1984, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

468.122 Definitions; business entities not prohibited, conditions.—
(1) “Department” means the Department of Health and Rehabilitative Services.

(b) “Hearing aid” means any instrument or device worn on the human body represented as aiding or improving defective human hearing and any attachments or accessories of such instrument or device, except batteries and cords.

(c) “Registrant” means a person who is engaged in the fitting and selling of hearing aids. A registrant shall be responsible for the acts of all employees or trainees supervised by him in connection with fitting, selling and/or servicing hearing aids.

(d) “Trainee” means a person who has not, for the purpose of this part, been engaged as a registrant prior to the effective date of this part, but who desires to become a registrant. Said trainee shall be provided a temporary training certificate of registration upon payment of fee with application, as hereinafter prescribed.

(e) “Fitting” means not only the physical acts of adjusting the hearing aid to the individual, taking audiographs, and making of earmolds, but also counseling, advising, audiograph interpretation, and assisting the purchaser in the selection of a suitable hearing aid. The holder of a certificate of registration granted under part II of this chapter shall be entitled to make such measurements of the dimensions of human hearing, by means of an audiometer or by other means approved by the department, as are consistent with the practices, procedures, and instrumentation currently employed by the hearing aid industry.

2. “Selling” means all acts and agreements pertaining to the selling, renting, leasing, pricing, delivering, and guaranteeing of a hearing aid and other services not related to fitting, as outlined in this part.

(f) “Certificate of registration” shall be synonymous with “license”; “registrant” shall be synonymous with “licensee.”

(2) Nothing in this chapter shall prohibit a corporation, partnership, trust, association, or other like organization from engaging in the business of fitting and selling or offering for sale hearing aids at retail without a certificate of registration if it employs registrants in the direct fitting and selling of such products. Such corporations, partnerships, trusts, associations, or other like organizations shall also file with the department a statement, on a form approved by the department, that it submits itself to the rules and regulations of the department and the provisions of this part which the department shall deem applicable to it.

468.123 Powers and duties of the department.

468.124 Advisory council.

468.125 Qualification for applicants for certificates of registration.

468.130 Ethical conduct defined.

468.131 Application for certificates, etc.

468.132 Minimal procedures and equipment.

468.133 Receipt; packaging; disclaimer; guarantee.

468.134 Registration; administrative fines.

468.135 Enforcement.

468.136 Improper conduct.

468.137 Registration; administrative fines.

468.138 Penalties.

468.140 Registration; administrative fines.

468.141 Penalties.