

By the Committee on Health Care Services and
Representatives Albright, Casey, Bloom, Gottlieb, Tamargo,
Goode, Arnall, Peaden and Flanagan

1 A bill to be entitled
2 An act relating to health care; providing an
3 important state interest; amending ss. 154.301,
4 154.302, 154.304, 154.306, 154.308, 154.309,
5 154.31, 154.3105, 154.312, 154.314, and
6 154.316, F.S., relating to health care
7 responsibility for indigents; revising short
8 title; revising definitions; limiting the
9 maximum amount a county may be required to pay
10 an out-of-county hospital; providing hospitals
11 additional time to notify counties of admission
12 or treatment of out-of-county patients;
13 revising language and conforming references;
14 providing penalties; amending s. 154.504, F.S.;
15 limiting applicability of copayments under the
16 Primary Care for Children and Families
17 Challenge Grant Program; amending s. 198.30,
18 F.S.; requiring certain reports of estates of
19 decedents to be provided to the Agency for
20 Health Care Administration; amending ss.
21 240.4075 and 240.4076, F.S., relating the
22 Nursing Student Loan Forgiveness Program, the
23 Nursing Student Loan Forgiveness Trust Fund,
24 and the nursing scholarship program;
25 transferring powers, duties, and functions with
26 respect thereto from the Department of Health
27 to the Department of Education; creating ss.
28 381.0022 and 402.115, F.S.; authorizing the
29 Department of Health and the Department of
30 Children and Family Services to share
31 confidential and exempt information; amending

1 s. 381.004, F.S., relating to HIV testing;
2 providing a penalty and increasing existing
3 penalties; amending s. 383.011, F.S.; directing
4 the Agency for Health Care Administration to
5 seek a federal waiver for the Healthy Start
6 program; amending s. 383.04, F.S.; requiring an
7 effective and recommended prophylactic to be
8 instilled in the eyes of newborns; amending s.
9 384.34, F.S., relating to sexually
10 transmissible diseases; providing a penalty and
11 increasing existing penalties; amending s.
12 409.903, F.S.; providing Medicaid eligibility
13 standards for certain persons; conforming
14 references; amending s. 409.910, F.S.; revising
15 Medicaid third-party liability payment
16 requirements; revising requirements for payment
17 of attorney's fees; amending s. 409.912, F.S.,
18 relating to purchase of Medicaid services;
19 deleting duplicate language relating to
20 demonstration projects; authorizing competitive
21 negotiations for home health services;
22 authorizing establishment of parenteral/enteral
23 pharmacy services providers; requiring
24 establishment of an outpatient specialty
25 services pilot project; providing definitions;
26 providing criteria for participation; requiring
27 evaluation and a report to the Governor and
28 Legislature; eliminating a prohibition on
29 certain contracts with federally qualified
30 health centers; amending s. 414.028, F.S.;
31 revising membership of local WAGES coalitions;

1 amending s. 414.28, F.S.; reclassifying the
2 priority of certain claims filed against the
3 estate of a public assistance recipient;
4 creating the "Equity in Prescription Insurance
5 and Contraceptive Coverage Act of 1998";
6 providing legislative findings, intent, and an
7 important state interest; creating ss.
8 627.64061 and 627.65741, F.S., and amending s.
9 641.31, F.S.; requiring certain health
10 insurance policies and health maintenance
11 contracts to provide coverage for prescription
12 oral contraceptives; amending s. 627.6515,
13 F.S.; applying certain requirements for group
14 coverage to out-of-state groups; amending s.
15 627.6699, F.S.; applying certain requirements
16 for group coverage to coverage for small
17 employers; amending s. 641.386, F.S.;
18 correcting a cross reference; amending s.
19 766.101, F.S.; including a committee of the
20 Department of Health in the definition of
21 "medical review committee" for purposes of
22 certain immunity from liability; naming the
23 Carl S. Lytle, M.D., Memorial Health Facility
24 in Marion County; repealing s. 383.05, F.S.,
25 relating to a requirement that the Department
26 of Health offer a prophylactic for the eyes of
27 newborns free to certain persons; providing
28 effective dates.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. The Legislature finds that the provisions
2 of this act which amend ss. 154.301 through 154.316, Florida
3 Statutes, fulfill the important state interest of promoting
4 the legislative intent of the Florida Health Care
5 Responsibility Act, as that intent is expressed in s. 154.302,
6 Florida Statutes.

7 Section 2. Section 154.301, Florida Statutes, is
8 amended to read:

9 154.301 Short title.--Sections 154.301-154.316 may be
10 cited as "The Florida Health Care Responsibility Act ~~of 1988.~~"

11 Section 3. Section 154.302, Florida Statutes, is
12 amended to read:

13 154.302 Legislative intent.--The Legislature finds
14 that certain hospitals provide a disproportionate share of
15 charity care for persons who are indigent, and not able to pay
16 their medical bills, and ~~who are~~ not eligible for
17 government-funded programs. The burden of absorbing the cost
18 of this uncompensated charity care is borne by the hospital,
19 the private pay patients, and, many times, by the taxpayers in
20 the county when the hospital is subsidized by tax revenues.
21 The Legislature further finds that it is inequitable for
22 hospitals and taxpayers of one county to be expected to
23 subsidize the care of out-of-county indigent persons. Finally,
24 the Legislature declares that the state and the counties must
25 share the responsibility of assuring that adequate and
26 affordable health care is available to all Floridians.
27 Therefore, it is the intent of the Legislature to place the
28 ultimate financial obligation for the out-of-county hospital
29 care of qualified indigent patients on the county in which the
30 indigent patient resides.

31

1 Section 4. Section 154.304, Florida Statutes, is
2 amended to read:

3 154.304 Definitions.--As used in this part, the term
4 ~~For the purpose of this act:~~

5 (1) "Agency" means the Agency for Health Care
6 Administration.

7 ~~(1) "Board" means the Health Care Board as established~~
8 ~~in chapter 408.~~

9 (2) "Certification determination procedures" means the
10 process used by the county of residence or the agency
11 ~~department~~ to determine a person's county of residence.

12 (3) "Certified resident" means a United States citizen
13 or lawfully admitted alien who has been certified as a
14 resident of the county by a person designated by the county
15 governing body to provide certification determination
16 procedures for the county in which the patient resides; by the
17 agency department if such county does not make a determination
18 of residency within 60 days after ~~of~~ receiving a certified
19 letter from the treating hospital; or by the agency department
20 if the hospital appeals the decision of the county making such
21 determination.

22 (4) "Charity care obligation" means the minimum amount
23 of uncompensated charity care as reported to the agency ~~for~~
24 ~~Health Care Administration~~, based on the hospital's most
25 recent audited actual experience, which must be provided by a
26 participating hospital or a regional referral hospital before
27 the hospital is eligible to be reimbursed by a county under
28 ~~the provisions of this part act.~~ That amount shall be the
29 ratio of uncompensated charity care days compared to total
30 acute care inpatient days, which shall be equal to or greater
31 than 2 percent.

- 1 (5) "Department" means the Department of Health.
- 2 (6) "Eligibility determination procedures" means the
3 process used by a county or the agency department to evaluate
4 a person's financial eligibility, eligibility for state-funded
5 or federally funded programs, and the availability of
6 insurance, in order to document a person as a qualified
7 indigent for the purpose of this part act.
- 8 (7) "Hospital," ~~for the purposes of this act,~~ means an
9 establishment as defined in s. 395.002 and licensed by the
10 agency department which qualifies as either a participating
11 hospital or as a regional referral hospital pursuant to this
12 section; except that, hospitals operated by the department
13 shall not be considered participating hospitals for purposes
14 of this part act.
- 15 (8) "Participating hospital" means a hospital which is
16 eligible to receive reimbursement under the provisions of this
17 part act because it has been certified by the agency board as
18 having met its charity care obligation and has either:
- 19 (a) A formal signed agreement with a county or
20 counties to treat such county's indigent patients; or
- 21 (b) Demonstrated to the agency board that at least 2.5
22 percent of its uncompensated charity care, as reported to the
23 agency board, is generated by out-of-county residents.
- 24 (9) "Qualified indigent person" or "qualified indigent
25 patient" means a person who has been determined pursuant to s.
26 154.308 to have an average family income, for the 12 months
27 preceding the determination, which is below 100 percent of the
28 federal nonfarm poverty level; who is not eligible to
29 participate in any other government program that ~~which~~
30 provides hospital care; who has no private insurance or has
31 inadequate private insurance; and who does not reside in a

1 public institution as defined under the medical assistance
2 program for the needy under Title XIX of the Social Security
3 Act, as amended.

4 (10) "Regional referral hospital" means any hospital
5 that ~~which~~ is eligible to receive reimbursement under the
6 provision of this part ~~act~~ because it has met its charity care
7 obligation and it meets the definition of teaching hospital as
8 defined in s. 408.07.

9 Section 5. Section 154.306, Florida Statutes, is
10 amended to read:

11 154.306 Financial responsibility for certified
12 residents who are qualified indigent patients treated at an
13 out-of-county participating hospital or regional referral
14 hospital.--Ultimate financial responsibility for treatment
15 received at a participating hospital or a regional referral
16 hospital by a qualified indigent patient who is a certified
17 resident of a county in the State of Florida, but is not a
18 resident of the county in which the participating hospital or
19 regional referral hospital is located, is ~~shall be~~ the
20 obligation of the county of which the qualified indigent
21 patient is a resident. Each county shall ~~is directed to~~
22 reimburse participating hospitals or regional referral
23 hospitals as provided for in this part ~~act~~, and shall provide
24 or arrange for indigent eligibility determination procedures
25 and resident certification determination procedures as
26 provided for in rules developed to implement this part ~~act~~.
27 The agency ~~department~~, or any county determining eligibility
28 of a qualified indigent, shall provide to the county of
29 residence, upon request, a copy of any documents, forms, or
30 other information, as determined by rule, which may be used in
31 making an eligibility determination.

1 (1) A county's financial obligation for each certified
2 resident who qualifies as an indigent patient under this part
3 ~~act~~, and who has received treatment at an out-of-county
4 hospital, shall not exceed 45 days per county fiscal year at a
5 rate of payment equivalent to 100 percent of the per diem
6 reimbursement rate currently in effect for the out-of-county
7 hospital under the medical assistance program for the needy
8 under Title XIX of the Social Security Act, as amended, except
9 that those counties that are at their 10-mill cap on October
10 1, 1991, shall reimburse hospitals for such services at not
11 less than 80 percent of the hospital Medicaid per diem.
12 However, nothing in this section shall preclude a hospital
13 that ~~which~~ has a formal signed agreement with a county to
14 treat such county's indigents from negotiating a higher or
15 lower per diem rate with the county. ~~In addition,~~No county
16 shall be required ~~by this act~~ to pay more than the equivalent
17 of \$4 per capita in the county's fiscal year. The agency
18 ~~department~~ shall calculate and certify to each county by March
19 1 of each year, the maximum amount the county may be required
20 to pay ~~under this act~~ by multiplying the most recent official
21 state population estimate for the total population of the
22 county by \$4 per capita. Each county shall certify to the
23 agency department within 60 days after ~~of~~ the end of the
24 county's fiscal year, or upon reaching the \$4 per capita
25 threshold, should that occur before the end of the fiscal
26 year, the amount of reimbursement it paid to all out-
27 of-county hospitals under this part act. The maximum amount a
28 county may be required to pay to out-of-county hospitals for
29 care provided to qualified indigent residents may be reduced
30 by up to one-half, provided that the amount not paid has or is
31

1 being spent for in-county hospital care provided to qualified
2 indigent residents.

3 (2) No county shall be required to pay for any
4 elective or nonemergency admissions or services at an
5 out-of-county hospital for a qualified indigent who is a
6 certified resident of the county if ~~when~~ the county provides
7 funding for such services and the services are available at a
8 local hospital in the county where the indigent resides; or
9 the out-of-county hospital has not obtained prior written
10 authorization and approval for such hospital admission or
11 service, provided that the resident county has established a
12 procedure to authorize and approve such admissions.

13 (3) The county where the indigent resides shall, in
14 all instances, be liable for the cost of treatment provided to
15 a qualified indigent patient at an out-of-county hospital for
16 any emergency medical condition which will deteriorate from
17 failure to provide such treatment if ~~and when~~ such condition
18 is determined and documented by the attending physician to be
19 of an emergency nature; provided that the patient has been
20 certified to be a resident of such county pursuant to s.
21 154.309.

22 (4) No county shall be liable for payment for
23 treatment of a qualified indigent who is a certified resident
24 and has received services at an out-of-county participating
25 hospital or regional referral hospital, until such time as
26 that hospital has documented to the agency board ~~and the~~
27 agency board ~~has~~ determined that it has met its charity care
28 obligation based on the most recent audited actual experience.

29 Section 6. Section 154.308, Florida Statutes, is
30 amended to read:

31

1 154.308 Determination of patient's eligibility;
2 spend-down program.--

3 (1) The agency department, pursuant to s. 154.3105,
4 shall adopt rules which provide statewide eligibility
5 determination procedures, forms, and criteria which shall be
6 used by all counties for determining whether a person
7 financially qualifies as indigent for the purposes of this
8 part act.

9 (a) The criteria used to determine eligibility must
10 ~~shall~~ be uniform statewide and ~~shall~~ include, at a minimum,
11 which assets, if any, may be included in the determination,
12 which verification of income shall be required, which
13 categories of persons shall be eligible, and any other
14 criteria which may be determined as necessary.

15 (b) The methodology for determining ~~by which to~~
16 ~~determine~~ financial eligibility must ~~shall also~~ be uniform
17 statewide such that any county or the state could determine
18 whether a person is ~~would be~~ a qualified indigent ~~under this~~
19 act.

20 (2) Determination of financial eligibility as a
21 qualified indigent may occur either prior to a person's
22 admission to a participating ~~hospital~~ or a regional referral
23 hospital or subsequent to such admission.

24 (3) Determination of whether a hospital patient not
25 already determined eligible meets or does not meet eligibility
26 standards to financially qualify as indigent ~~for the purpose~~
27 ~~of this act~~ shall be made within 60 days following
28 notification by the hospital requesting a determination of
29 indigency, by certified letter, to the county known or
30 believed to be the county of residence or to the agency
31 ~~department~~. If, for any reason, the county or agency

1 ~~department~~ is unable to determine a patient's eligibility
2 within the allotted timeframe, the hospital shall be notified
3 in writing of the reason or reasons.

4 (4) A patient determined eligible as a qualified
5 indigent ~~for the purpose of this act~~ subsequent to his or her
6 admission to a participating hospital or a regional referral
7 hospital shall be considered to have been qualified upon
8 admission. Such determination shall be made by a person
9 designated by the governing board of the county to make such a
10 determination or by the agency department.

11 (5) Notwithstanding any other provision of this part
12 ~~within this act~~, any county may establish thresholds of
13 financial eligibility ~~to qualify indigents under this act~~
14 which are less restrictive than 100 percent of the federal
15 poverty line. However, a ~~no~~ county may not establish
16 eligibility thresholds which are more restrictive than 100
17 percent of the federal poverty line.

18 (6) Notwithstanding any other provision of this part
19 ~~act~~, there is hereby established a spend-down program for
20 persons who would otherwise qualify as qualified indigent
21 persons, but whose average family income, for the 12 months
22 preceding the determination, is between 100 percent and 150
23 percent of the federal poverty level. The agency department
24 shall adopt, by rule, procedures for the spend-down program.
25 The rule shall require that in order to qualify ~~for the~~
26 ~~spend-down program~~, a person must have incurred bills for
27 hospital care which would otherwise have qualified for payment
28 under this part. This subsection does not apply to persons
29 who are residents of counties that are at their 10-mill cap on
30 October 1, 1991.
31

1 Section 7. Section 154.309, Florida Statutes, is
2 amended to read:

3 154.309 Certification of county of residence.--

4 (1) The agency ~~department~~, pursuant to s. 154.3105,
5 shall adopt rules for certification determination procedures
6 which provide criteria to be used for determining a qualified
7 indigent's county of residence. Such criteria must ~~shall~~
8 include, at a minimum, how and to what extent residency shall
9 be verified and how a hospital shall be notified of a
10 patient's certification or the inability to certify a patient.

11 (2) In all instances, the county known or thought to
12 be the county of residence shall be given first opportunity to
13 certify a resident. If the county known or thought to be the
14 county of residence fails to, or is unable to, make such
15 determination within 60 days following written notification by
16 a hospital, the agency ~~department~~ shall determine residency
17 utilizing the same criteria required by rule as the county,
18 and the agency's ~~department's~~ determination of residency shall
19 be binding on the county of residence. The county determined
20 as the residence of any qualified indigent ~~under this act~~
21 shall be liable to reimburse the treating hospital pursuant to
22 s. 154.306. If, for any reason, a county or the agency
23 ~~department~~ is unable to determine an indigent's residency, the
24 hospital shall be notified in writing of such reason or
25 reasons.

26 Section 8. Section 154.31, Florida Statutes, is
27 amended to read:

28 154.31 Obligation of participating hospital or
29 regional referral hospital.--As a condition of participation
30 ~~accepting the procedures of this act~~, each participating
31 hospital or regional referral hospital in Florida shall be

1 obligated to admit for emergency treatment all Florida
2 residents, without regard to county of residence, who meet the
3 eligibility standards established pursuant to s. 154.308 and
4 who meet the medical standards for admission to such
5 institutions. If the agency department determines that a
6 participating hospital or a regional referral hospital has
7 failed to meet the requirements of this section, the agency
8 ~~department~~ may impose an administrative fine, not to exceed
9 \$5,000 per incident, and suspend the hospital from eligibility
10 for reimbursement under ~~the provisions of this part act~~.

11 Section 9. Section 154.3105, Florida Statutes, is
12 amended to read:

13 154.3105 Rules.--Rules governing the Health Care
14 Responsibility Act ~~of 1988~~ shall be developed by the agency
15 ~~department~~ based on recommendations of a work group consisting
16 of equal representation by the agency department, the hospital
17 industry, and the counties. County representatives to this
18 work group shall be appointed by the Florida Association of
19 Counties. Hospital representatives to this work group shall
20 be appointed by the associations representing those hospitals
21 which best represent the positions of the hospitals most
22 likely to be eligible for reimbursement. Rules governing ~~the~~
23 ~~various aspects of this part act~~ shall be adopted by the
24 agency department. ~~Such rules shall address, at a minimum:~~

- 25 (1) ~~Eligibility determination procedures and criteria.~~
26 (2) ~~Certification determination procedures and methods~~
27 ~~of notification to hospitals.~~

28 Section 10. Section 154.312, Florida Statutes, is
29 amended to read:

30 154.312 Procedure for settlement of disputes.--All
31 disputes among counties, ~~the board,~~ the agency department, a

1 participating hospital, or a regional referral hospital shall
2 be resolved ~~by order as provided in chapter 120. Hearings held~~
3 ~~under this provision shall be conducted in the same manner~~ as
4 provided in ss. 120.569 and 120.57, except that the presiding
5 officer's order shall be final agency action. Cases filed
6 under chapter 120 may combine all disputes between parties.
7 Notwithstanding any other provisions of this part, if ~~when~~ a
8 county alleges that a residency determination or eligibility
9 determination made by the agency ~~department~~ is incorrect, the
10 burden of proof shall be on the county to demonstrate that
11 such determination is, in light of the total record, not
12 supported by the evidence.

13 Section 11. Section 154.314, Florida Statutes, is
14 amended to read:

15 154.314 Certification of the State of Florida.--

16 (1) In the event payment for the costs of services
17 rendered by a participating hospital or a regional referral
18 hospital is not received from the responsible county within 90
19 days of receipt of a statement for services rendered to a
20 qualified indigent who is a certified resident of the county,
21 or if the payment is disputed and said payment is not received
22 from the county determined to be responsible within 60 days of
23 the date of exhaustion of all administrative and legal
24 remedies ~~as provided in chapter 120~~, the hospital shall
25 certify to the Comptroller the amount owed by the county.

26 (2) The Comptroller shall have no ~~not~~ longer than 45
27 days from the date of receiving the hospital's certified
28 notice to forward the amount delinquent to the appropriate
29 hospital from any funds due to the county under any
30 revenue-sharing or tax-sharing fund established by the state,
31 except as otherwise provided by the State Constitution. The

1 Comptroller shall provide the Governor and the fiscal
2 ~~appropriations and finance and tax~~ committees in the House of
3 Representatives and the Senate with a quarterly accounting of
4 the amounts certified by hospitals as owed by counties and the
5 amount paid to hospitals out of any revenue or tax sharing
6 funds due to the county.

7 Section 12. Section 154.316, Florida Statutes, is
8 amended to read:

9 154.316 Hospital's responsibility to notify of
10 admission of indigent patients.--

11 (1) Any hospital admitting or treating any
12 out-of-county patient who may qualify as indigent under this
13 part act shall, within 30 ~~10~~ days after admitting or treating
14 such patient, notify the county known~~7~~ or thought to be~~7~~ the
15 county of residency of such admission, or such hospital
16 forfeits its right to reimbursement.

17 (2) It shall be the responsibility of any
18 participating hospital or regional referral hospital to
19 initiate any eligibility or certification determination
20 procedures with any appropriate state or county agency which
21 can determine financial eligibility or certify an indigent as
22 a resident under this part act.

23 Section 13. Subsection (1) of section 154.504, Florida
24 Statutes, is amended to read:

25 154.504 Eligibility and benefits.--

26 (1) Any county or counties may apply for a primary
27 care for children and families challenge grant to provide
28 primary health care services to children and families with
29 incomes of up to 150 percent of the federal poverty level.
30 Participants shall pay no monthly premium for participation,
31 but shall be required to pay a copayment at the time a service

1 is provided. Copayments may be paid from sources other than
2 the participant, including, but not limited to, the child's or
3 parent's employer, or other private sources. Copayments shall
4 not be applicable for patients receiving services from health
5 care providers practicing under the provisions of s. 766.1115.

6 Section 14. Section 198.30, Florida Statutes, is
7 amended to read:

8 198.30 Circuit judge to furnish department with names
9 of decedents, etc.--Each circuit judge of this state shall, on
10 or before the 10th day of every month, notify the department
11 of the names of all decedents; the names and addresses of the
12 respective personal representatives, administrators, or
13 curators appointed; the amount of the bonds, if any, required
14 by the court; and the probable value of the estates, in all
15 estates of decedents whose wills have been probated or
16 propounded for probate before the circuit judge or upon which
17 letters testamentary or upon whose estates letters of
18 administration or curatorship have been sought or granted,
19 during the preceding month; and such report shall contain any
20 other information which the circuit judge may have concerning
21 the estates of such decedents. In addition, a copy of this
22 report shall be provided to the Agency for Health Care
23 Administration.A circuit judge shall also furnish forthwith
24 such further information, from the records and files of the
25 circuit court in regard to such estates, as the department may
26 from time to time require.

27 Section 15. Section 240.4075, Florida Statutes, is
28 amended to read:

29 240.4075 Nursing Student Loan Forgiveness Program.--

30 (1) To encourage qualified personnel to seek
31 employment in areas of this state in which critical nursing

1 shortages exist, there is established the Nursing Student Loan
2 Forgiveness Program. The primary function of the program is
3 to increase employment and retention of registered nurses and
4 licensed practical nurses in nursing homes and hospitals in
5 the state and in state-operated medical and health care
6 facilities, birth centers, federally sponsored community
7 health centers and teaching hospitals by making repayments
8 toward loans received by students from federal or state
9 programs or commercial lending institutions for the support of
10 postsecondary study in accredited or approved nursing
11 programs.

12 (2) To be eligible, a candidate must have graduated
13 from an accredited or approved nursing program and have
14 received a Florida license as a licensed practical nurse or a
15 registered nurse or a Florida certificate as an advanced
16 registered nurse practitioner.

17 (3) Only loans to pay the costs of tuition, books, and
18 living expenses shall be covered, at an amount not to exceed
19 \$4,000 for each year of education towards the degree obtained.

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

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

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

31

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

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

6
7 In no case may payment for any nurse exceed \$4,000 in any
8 12-month period.

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

21 (6) In addition to licensing fees imposed under
22 chapter 464, there is hereby levied and imposed an additional
23 fee of \$5, which fee shall be paid upon licensure or renewal
24 of nursing licensure. Revenues collected from the fee imposed
25 in this subsection shall be deposited in the Nursing Student
26 Loan Forgiveness Trust Fund of the Department of Education
27 ~~Health~~ and will be used solely for the purpose of carrying out
28 the provisions of this section and s. 240.4076. Up to 50
29 percent of the revenues appropriated to implement this
30 subsection may be used for the nursing scholarship program
31 established pursuant to s. 240.4076.

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

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

17 (8) The Department of Education ~~Health~~ may solicit
18 technical assistance relating to the conduct of this program
19 from the Department of Health ~~Education~~.

20 (9) The Department of Education ~~Health~~ is authorized
21 to recover from the Nursing Student Loan Forgiveness Trust
22 Fund its costs for administering the Nursing Student Loan
23 Forgiveness Program.

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

26 (11) This section shall be implemented only as
27 specifically funded.

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

30 240.4076 Nursing scholarship program.--

31

1 (1) There is established within the Department of
2 Education ~~Health~~ a scholarship program for the purpose of
3 attracting capable and promising students to the nursing
4 profession.

5 (2) A scholarship applicant shall be enrolled as a
6 full-time or part-time student in the upper division of an
7 approved nursing program leading to the award of a
8 baccalaureate or any advanced registered nurse practitioner
9 degree or be enrolled as a full-time or part-time student in
10 an approved program leading to the award of an associate
11 degree in nursing or a diploma in nursing.

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

20 (4) Credit for repayment of a scholarship shall be as
21 follows:

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

29 (b) Eligible health care facilities include
30 state-operated medical or health care facilities, county
31 health departments, federally sponsored community health

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

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

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

31

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

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

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

18 Section 17. All statutory powers, duties and
19 functions, records, rules, personnel, property, and unexpended
20 balances of appropriations, allocations, or other funds, of
21 the Department of Health relating to the Nursing Student Loan
22 Forgiveness Program and the Nursing Student Loan Forgiveness
23 Trust Fund, as created in s. 240.4075, Florida Statutes, and
24 the Nursing scholarship program, as created in s. 240.4076,
25 Florida Statutes, are transferred by a type two transfer, as
26 provided for in s. 20.06(2), Florida Statutes, from the
27 Department of Health to the Department of Education. Such
28 transfer shall take effect July 1, 1998. Any rules adopted by
29 or for the Department of Health for the administration and
30 operation of the Nursing Student Loan Forgiveness Program, the
31

1 Nursing Student Loan Forgiveness Trust Fund, and the nursing
2 scholarship program are included in such transfer.

3 Section 18. Section 381.0022, Florida Statutes, is
4 created to read:

5 381.0022 Sharing confidential or exempt
6 information.--Notwithstanding any other provision of law to
7 the contrary, the Department of Health and the Department of
8 Children and Family Services may share confidential or exempt
9 information on clients served by both agencies. Information
10 so exchanged remains confidential or exempt as provided by
11 law.

12 Section 19. Subsection (6) of section 381.004, Florida
13 Statutes, is amended to read:

14 381.004 Testing for human immunodeficiency virus.--

15 (6) PENALTIES.--

16 (a) Any violation of this section by a facility or
17 licensed health care provider shall be a ground for
18 disciplinary action contained in the facility's or
19 professional's respective licensing chapter.

20 (b) Any person who violates the confidentiality
21 provisions of this section and s. 951.27 commits a felony of
22 the third ~~misdemeanor of the first~~ degree, punishable as
23 provided in ~~ss. s.775.082, or s.775.083, 775.084, and~~
24 775.0877(7).

25 (c) Any person who obtains information that identifies
26 an individual who has a sexually transmissible disease
27 including human immunodeficiency virus or acquired
28 immunodeficiency syndrome, who knew or should have known the
29 nature of the information and maliciously, or for monetary
30 gain, disseminates this information or otherwise makes this
31 information known to any other person, except by providing it

1 either to a physician or nurse employed by the department or
2 to a law enforcement agency, commits a felony of the third
3 degree, punishable as provided in ss. 775.082, 775.083,
4 775.084, and 775.0877(7).

5 Section 20. Subsection (3) is added to section
6 383.011, Florida Statutes, to read:

7 383.011 Administration of maternal and child health
8 programs.--

9 (3) The Agency for Health Care Administration, working
10 jointly with the Department of Health and the Florida
11 Association of Healthy Start Coalitions, is directed to seek a
12 federal waiver to secure Title XIX matching funds for the
13 Healthy Start program. The federal waiver application shall
14 seek Medicaid matching funds utilizing only existing
15 appropriated general revenue and any local contributions.
16 Healthy Start program services are not to be considered an
17 entitlement under this waiver.

18 Section 21. Section 383.04, Florida Statutes, is
19 amended to read:

20 383.04 Prophylactic required for eyes of
21 infants.--Every physician, midwife, or other person in
22 attendance at the birth of a child in the state is required to
23 instill or have instilled into the eyes of the baby within 1
24 hour after birth an effective prophylactic recommended by the
25 Committee on Infectious Diseases of the American Academy of
26 Pediatrics ~~a 1-percent fresh solution of silver nitrate (with~~
27 ~~date of manufacture marked on container), two drops of the~~
28 ~~solution to be dropped into each eye after the eyelids have~~
29 ~~been opened, or some equally effective prophylactic approved~~
30 ~~by the Department of Health, for the prevention of neonatal~~
31 ~~blindness from ophthalmia neonatorum. This section shall not~~

1 apply to cases where the parents shall file with the
2 physician, midwife, or other person in attendance at the birth
3 of a child written objections on account of religious beliefs
4 contrary to the use of drugs. In such case the physician,
5 midwife, or other person in attendance shall maintain a record
6 that such measures were or were not employed and attach
7 thereto any written objection.

8 Section 22. Section 384.34, Florida Statutes, is
9 amended to read:

10 384.34 Penalties.--

11 (1) Any person who violates the provisions of s.
12 384.24(1) commits a misdemeanor of the first degree,
13 punishable as provided in s. 775.082 or s. 775.083.

14 (2) Any person who violates the provisions of s.
15 384.26 or s. 384.29 commits a felony of the third ~~misdemeanor~~
16 ~~of the first~~ degree, punishable as provided in ss.s-775.082,
17 or s.775.083, 775.084, and 775.0877(7).

18 (3) Any person who maliciously disseminates any false
19 information or report concerning the existence of any sexually
20 transmissible disease commits a felony of the third ~~is guilty~~
21 ~~of a misdemeanor of the second~~ degree, punishable as provided
22 in ss.s-775.082, or s.775.083, 775.084, and 775.0877(7).

23 (4) Any person who violates the provisions of the
24 department's rules pertaining to sexually transmissible
25 diseases may be punished by a fine not to exceed \$500 for each
26 violation. Any penalties enforced under this subsection shall
27 be in addition to other penalties provided by this act.

28 (5) Any person who violates the provisions of s.
29 384.24(2) commits a felony of the third degree, punishable as
30 provided in ss. 775.082, 775.083, 775.084, and 775.0877(7).

31

1 (6) Any person who obtains information that identifies
2 an individual who has a sexually transmissible disease, who
3 knew or should have known the nature of the information and
4 maliciously, or for monetary gain, disseminates this
5 information or otherwise makes this information known to any
6 other person, except by providing it either to a physician or
7 nurse employed by the Department of Health or to a law
8 enforcement agency, commits a felony of the third degree,
9 punishable as provided in ss. 775.082, 775.083, 775.084, and
10 775.0877(7).

11 Section 23. Section 402.115, Florida Statutes, is
12 created to read:

13 402.115 Sharing confidential or exempt
14 information.--Notwithstanding any other provision of law to
15 the contrary, the Department of Health and the Department of
16 Children and Family Services may share confidential or exempt
17 information on clients served by both agencies. Information
18 so exchanged remains confidential or exempt as provided by
19 law.

20 Section 24. The introductory paragraph and subsections
21 (1) and (8) of section 409.903, Florida Statutes, are amended
22 to read:

23 409.903 Mandatory payments for eligible persons.--The
24 agency ~~department~~ shall make payments for medical assistance
25 and related services on behalf of the following persons who
26 the agency ~~department~~ determines to be eligible, subject to
27 the income, assets, and categorical eligibility tests set
28 forth in federal and state law. Payment on behalf of these
29 Medicaid eligible persons is subject to the availability of
30 moneys and any limitations established by the General
31 Appropriations Act or chapter 216.

1 (1) Low-income families with children are eligible for
2 Medicaid provided they meet the following requirements:

3 ~~Persons who receive payments from or are determined eligible~~
4 ~~to participate in the WAGES Program, and certain persons who~~
5 ~~would be eligible but do not meet certain technical~~
6 ~~requirements. This group includes, but is not limited to:~~

7 (a) The family includes a dependent child who is
8 living with a caretaker relative.~~Low-income, single-parent~~
9 ~~families and their children.~~

10 (b) The family's income does not exceed the gross
11 income test limit.~~Low-income, two-parent families in which at~~
12 ~~least one parent is disabled or otherwise incapacitated.~~

13 (c) The family's countable income and resources do not
14 exceed the applicable aid-to-families-with-dependent-children
15 (AFDC) income and resource standards under the AFDC state plan
16 in effect in July 1996, except as amended in the Medicaid
17 state plan to conform as closely as possible to the
18 requirements of the WAGES Program as created in s. 414.015, to
19 the extent permitted by federal law.~~Certain unemployed~~
20 ~~two-parent families and their children.~~

21 (8) A person who is age 65 or over or is determined by
22 the agency department to be disabled, whose income is at or
23 below 100 percent of the most current federal poverty level
24 and whose assets do not exceed limitations established by the
25 agency department. However, the agency department may only
26 pay for premiums, coinsurance, and deductibles, as required by
27 federal law, unless additional coverage is provided for any or
28 all members of this group by s. 409.904(1).

29 Section 25. Paragraph (f) of subsection (12) and
30 subsection (18) of section 409.910, Florida Statutes, are
31 amended to read:

1 409.910 Responsibility for payments on behalf of
2 Medicaid-eligible persons when other parties are liable.--

3 (12) The department may, as a matter of right, in
4 order to enforce its rights under this section, institute,
5 intervene in, or join any legal or administrative proceeding
6 in its own name in one or more of the following capacities:
7 individually, as subrogee of the recipient, as assignee of the
8 recipient, or as lienholder of the collateral.

9 (f) Notwithstanding any provision in this section to
10 the contrary, in the event of an action in tort against a
11 third party in which the recipient or his or her legal
12 representative is a party which results in a ~~and in which the~~
13 ~~amount of any~~ judgment, award, or settlement from a third
14 ~~party, third-party benefits, excluding medical coverage as~~
15 ~~defined in subparagraph 4., after reasonable costs and~~
16 ~~expenses of litigation, is an amount equal to or less than 200~~
17 ~~percent of the amount of medical assistance provided by~~
18 ~~Medicaid less any medical coverage paid or payable to the~~
19 ~~department, then distribution of the amount recovered shall be~~
20 distributed as follows:

21 1. After attorney's fees and taxable costs as defined
22 by the Florida Rules of Civil Procedure, one-half of the
23 remaining recovery shall be paid to the department up to the
24 total amount of medical assistance provided by Medicaid.

25 2. The remaining amount of the recovery shall be paid
26 to the recipient.

27 3. For purposes of calculating the department's
28 recovery of medical assistance benefits paid, the fee for
29 services of an attorney retained by the recipient or his or
30 her legal representative shall be calculated at 25 percent of
31 the judgment, award, or settlement.

1 ~~1. Any fee for services of an attorney retained by the~~
2 ~~recipient or his or her legal representative shall not exceed~~
3 ~~an amount equal to 25 percent of the recovery, after~~
4 ~~reasonable costs and expenses of litigation, from the~~
5 ~~judgment, award, or settlement.~~

6 ~~2. After attorney's fees, two-thirds of the remaining~~
7 ~~recovery shall be designated for past medical care and paid to~~
8 ~~the department for medical assistance provided by Medicaid.~~

9 ~~3. The remaining amount from the recovery shall be~~
10 ~~paid to the recipient.~~

11 4. For purposes of this paragraph, "medical coverage"
12 means any benefits under health insurance, a health
13 maintenance organization, a preferred provider arrangement, or
14 a prepaid health clinic, and the portion of benefits
15 designated for medical payments under coverage for workers'
16 compensation, personal injury protection, and casualty.

17 (18) A recipient or his or her legal representative or
18 any person representing, or acting as agent for, a recipient
19 or the recipient's legal representative, who has notice,
20 excluding notice charged solely by reason of the recording of
21 the lien pursuant to paragraph (6)(d), or who has actual
22 knowledge of the department's rights to third-party benefits
23 under this section, who receives any third-party benefit or
24 proceeds therefrom for a covered illness or injury, is
25 required either to pay the department, within 60 days after
26 receipt of settlement proceeds, the full amount of the
27 third-party benefits, but not in excess of the total medical
28 assistance provided by Medicaid, or to place the full amount
29 of the third-party benefits in a trust account for the benefit
30 of the department pending judicial or administrative
31 determination of the department's right thereto. Proof that

1 any such person had notice or knowledge that the recipient had
2 received medical assistance from Medicaid, and that
3 third-party benefits or proceeds therefrom were in any way
4 related to a covered illness or injury for which Medicaid had
5 provided medical assistance, and that any such person
6 knowingly obtained possession or control of, or used,
7 third-party benefits or proceeds and failed either to pay the
8 department the full amount required by this section or to hold
9 the full amount of third-party benefits or proceeds in trust
10 pending judicial or administrative determination, unless
11 adequately explained, gives rise to an inference that such
12 person knowingly failed to credit the state or its agent for
13 payments received from social security, insurance, or other
14 sources, pursuant to s. 414.39(4)(b), and acted with the
15 intent set forth in s. 812.014(1).

16 (a) The department is authorized to investigate and to
17 request appropriate officers or agencies of the state to
18 investigate suspected criminal violations or fraudulent
19 activity related to third-party benefits, including, without
20 limitation, ss. 409.325 and 812.014. Such requests may be
21 directed, without limitation, to the Medicaid Fraud Control
22 Unit of the Office of the Attorney General, or to any state
23 attorney. Pursuant to s. 409.913, the Attorney General has
24 primary responsibility to investigate and control Medicaid
25 fraud.

26 (b) In carrying out duties and responsibilities
27 related to Medicaid fraud control, the department may subpoena
28 witnesses or materials within or outside the state and,
29 through any duly designated employee, administer oaths and
30 affirmations and collect evidence for possible use in either
31 civil or criminal judicial proceedings.

1 (c) All information obtained and documents prepared
2 pursuant to an investigation of a Medicaid recipient, the
3 recipient's legal representative, or any other person relating
4 to an allegation of recipient fraud or theft is confidential
5 and exempt from s. 119.07(1):

6 1. Until such time as the department takes final
7 agency action;

8 2. Until such time as the Attorney General refers the
9 case for criminal prosecution;

10 3. Until such time as an indictment or criminal
11 information is filed by a state attorney in a criminal case;
12 or

13 4. At all times if otherwise protected by law.

14 Section 26. Paragraph (c) of subsection (3), paragraph
15 (c) of subsection (4), paragraph (c) of present subsection
16 (18), and present subsection (26) of section 409.912, Florida
17 Statutes, are amended, subsections (8) through (13) and (14)
18 through (33) are renumbered as subsections (9) through (14)
19 and (16) through (35), respectively, and new subsections (8),
20 (15), and (36) are added to said section, to read:

21 409.912 Cost-effective purchasing of health care.--The
22 agency shall purchase goods and services for Medicaid
23 recipients in the most cost-effective manner consistent with
24 the delivery of quality medical care. The agency shall
25 maximize the use of prepaid per capita and prepaid aggregate
26 fixed-sum basis services when appropriate and other
27 alternative service delivery and reimbursement methodologies,
28 including competitive bidding pursuant to s. 287.057, designed
29 to facilitate the cost-effective purchase of a case-managed
30 continuum of care. The agency shall also require providers to
31 minimize the exposure of recipients to the need for acute

1 inpatient, custodial, and other institutional care and the
2 inappropriate or unnecessary use of high-cost services.

3 (3) The agency may contract with:

4 (c) A federally qualified health center or an entity
5 owned by one or more federally qualified health centers or an
6 entity owned by other migrant and community health centers
7 receiving non-Medicaid financial support from the Federal
8 Government to provide health care services on a prepaid or
9 fixed-sum basis to recipients. Such prepaid health care
10 services entity must be licensed under parts I and III of
11 chapter 641 by January 1, 1998, but shall be prohibited from
12 serving Medicaid recipients on a prepaid basis, until such
13 licensure has been obtained. However, such an entity is
14 exempt from s. 641.225 if the entity meets the requirements
15 specified in subsections (16)~~(14)~~ and (17)~~(15)~~.

16 (4) The agency may contract with any public or private
17 entity otherwise authorized by this section on a prepaid or
18 fixed-sum basis for the provision of health care services to
19 recipients.

20 ~~(c) The agency is authorized to establish no more than~~
21 ~~four demonstration projects with provider service networks to~~
22 ~~test Medicaid direct contracting. However, no such~~
23 ~~demonstration project shall be established with a federally~~
24 ~~qualified health center, nor shall any provider service~~
25 ~~network under contract with the agency pursuant to this~~
26 ~~paragraph include a federally qualified health center in its~~
27 ~~provider network. One demonstration project must be located~~
28 ~~in Orange County. The demonstration projects may be~~
29 ~~reimbursed on a fee-for-service or prepaid basis. A provider~~
30 ~~service network that is reimbursed by the agency on a prepaid~~
31 ~~basis shall be exempt from parts I and III of chapter 641, but~~

1 ~~must meet appropriate financial reserve, quality assurance,~~
2 ~~and patient rights requirements as established by the agency.~~
3 ~~The agency shall award contracts on a competitive-bid basis~~
4 ~~and shall select bidders based upon price and quality of care.~~
5 ~~Medicaid recipients assigned to a demonstration project shall~~
6 ~~be chosen equally from those who would otherwise have been~~
7 ~~assigned to prepaid plans and MediPass. The agency is~~
8 ~~authorized to seek federal Medicaid waivers as necessary to~~
9 ~~implement the provisions of this section. A demonstration~~
10 ~~project awarded pursuant to this paragraph shall be for 2~~
11 ~~years from the date of implementation.~~

12 (8) The agency may provide cost-effective purchasing
13 of home health services through competitive negotiation
14 pursuant to s. 287.057. The agency is authorized to request
15 appropriate waivers from the federal Health Care Financing
16 Administration in order to competitively bid home health
17 services.

18 (15) The agency may establish a separate pharmacy
19 provider type entitled parenteral/enteral pharmacy. The
20 agency is authorized to request appropriate waivers if
21 required from the federal Health Care Financing Administration
22 in order to establish the pharmacy provider type entitled
23 parenteral/enteral pharmacy. Reimbursement for
24 parenteral/enteral pharmacy services must include the
25 following components:

26 (a) A single, all inclusive fee to cover all costs
27 except the cost of the primary therapeutic agent.

28 (b) Reimbursement for the primary therapeutic agent
29 which shall be based upon the estimated acquisition cost.

30 (20)(18) Any entity contracting with the agency
31 pursuant to this section to provide health care services to

1 Medicaid recipients is prohibited from engaging in any of the
2 following practices or activities:
3 (c) Granting or offering of any monetary or other
4 valuable consideration for enrollment, except as authorized by
5 subsection (23)~~(21)~~.
6 (28)~~(26)~~ Beginning July 1, 1996, the agency shall
7 perform choice counseling, enrollments, and disenrollments for
8 Medicaid recipients who are eligible for MediPass or managed
9 care plans. Notwithstanding the prohibition contained in
10 paragraph (20)~~(18)~~(f), managed care plans may perform
11 preenrollments of Medicaid recipients under the supervision of
12 the agency or its agents. For the purposes of this section,
13 "preenrollment" means the provision of marketing and
14 educational materials to a Medicaid recipient and assistance
15 in completing the application forms, but shall not include
16 actual enrollment into a managed care plan. An application
17 for enrollment shall not be deemed complete until the agency
18 or its agent verifies that the recipient made an informed,
19 voluntary choice. The agency, in cooperation with the
20 Department of Children and Family ~~Health and Rehabilitative~~
21 Services, may test new marketing initiatives to inform
22 Medicaid recipients about their managed care options at
23 selected sites. The agency shall report to the Legislature on
24 the effectiveness of such initiatives. The agency may
25 contract with a third party to perform managed care plan and
26 MediPass choice-counseling, enrollment, and disenrollment
27 services for Medicaid recipients and is authorized to adopt
28 rules to implement such services. Until October 1, 1996, or
29 the receipt of necessary federal waivers, whichever is
30 earlier, the agency shall adjust the capitation rate to cover
31 any implementation, staff, or other costs associated with

1 enrollment, disenrollment, and choice-counseling activities.
2 Thereafter, the agency may adjust the capitation rate only to
3 cover the costs of a third-party choice-counseling,
4 enrollment, and disenrollment contract, and for agency
5 supervision and management of the managed care plan
6 choice-counseling, enrollment, and disenrollment contract.

7 (36) The agency shall issue a request for proposal or
8 intent to negotiate to implement, on a demonstration basis, a
9 Medicaid managed care outpatient specialty services pilot
10 project in one rural county and one urban county in the state.

11 As used in this subsection, the term "outpatient specialty
12 services" means clinical laboratory, diagnostic imaging, and
13 specified home medical services to include durable medical
14 equipment, prosthetics and orthotics, and infusion therapy.

15 (a) The entities awarded the contracts to provide
16 Medicaid managed care outpatient specialty services shall, at
17 a minimum, meet the following criteria:

18 1. Be licensed by the Department of Insurance under
19 part II of chapter 641.

20 2. Be experienced in providing outpatient specialty
21 services.

22 3. Demonstrate to the satisfaction of the agency that
23 they provide high-quality services to their patients.

24 4. Demonstrate that they have in place a complaints
25 and grievance process to assist Medicaid recipients enrolled
26 in the pilot project to resolve complaints and grievances.

27 (b) The pilot project shall operate for a period of 3
28 years. The objective of the pilot project shall be to
29 determine the cost-effectiveness and effects on utilization,
30 access, and quality of providing outpatient specialty services
31 to Medicaid recipients on a prepaid, capitated basis.

1 (c) The agency shall conduct a quality assurance
2 review of the entities awarded contracts to provide services
3 under the pilot project, each year the pilot project is in
4 effect. Such entities are responsible for all expenses
5 incurred by the agency in conducting a quality assurance
6 review.

7 (d) The entities awarded contracts to provide
8 outpatient specialty services to Medicaid recipients shall
9 report data required by the agency, in a format specified by
10 the agency, for the purpose of the evaluation required in
11 paragraph (e).

12 (e) The agency shall conduct an evaluation of the
13 pilot project and report its findings to the Governor and the
14 Legislature by no later than January 1, 2001.

15 (f) Nothing in this subsection is intended to conflict
16 with the provision of the 1997-1998 General Appropriations Act
17 which authorizes competitive bidding for Medicaid home health,
18 clinical laboratory, or X-ray services.

19 Section 27. Effective January 1, 1999, paragraph (d)
20 of subsection (3) of section 409.912, Florida Statutes, is
21 amended to read:

22 409.912 Cost-effective purchasing of health care.--The
23 agency shall purchase goods and services for Medicaid
24 recipients in the most cost-effective manner consistent with
25 the delivery of quality medical care. The agency shall
26 maximize the use of prepaid per capita and prepaid aggregate
27 fixed-sum basis services when appropriate and other
28 alternative service delivery and reimbursement methodologies,
29 including competitive bidding pursuant to s. 287.057, designed
30 to facilitate the cost-effective purchase of a case-managed
31 continuum of care. The agency shall also require providers to

1 minimize the exposure of recipients to the need for acute
2 inpatient, custodial, and other institutional care and the
3 inappropriate or unnecessary use of high-cost services.

4 (3) The agency may contract with:

5 (d) No more than four provider service networks for
6 demonstration projects to test Medicaid direct contracting.

7 ~~However, no such demonstration project shall be established~~
8 ~~with a federally qualified health center nor shall any~~
9 ~~provider service network under contract with the agency~~

10 ~~pursuant to this paragraph include a federally qualified~~
11 ~~health center in its provider network.~~ One demonstration
12 project must be located in Orange County. The demonstration
13 projects may be reimbursed on a fee-for-service or prepaid
14 basis. A provider service network which is reimbursed by the
15 agency on a prepaid basis shall be exempt from parts I and III
16 of chapter 641, but must meet appropriate financial reserve,
17 quality assurance, and patient rights requirements as
18 established by the agency. The agency shall award contracts
19 on a competitive bid basis and shall select bidders based upon
20 price and quality of care. Medicaid recipients assigned to a
21 demonstration project shall be chosen equally from those who
22 would otherwise have been assigned to prepaid plans and
23 MediPass. The agency is authorized to seek federal Medicaid
24 waivers as necessary to implement the provisions of this
25 section. A demonstration project awarded pursuant to this
26 paragraph shall be for 2 years from the date of
27 implementation.

28 Section 28. Paragraph (b) of subsection (1) of section
29 414.028, Florida Statutes, is amended, and paragraphs (e) and
30 (f) are added to said subsection, to read:

31

1 414.028 Local WAGES coalitions.--The WAGES Program
2 State Board of Directors shall create and charter local WAGES
3 coalitions to plan and coordinate the delivery of services
4 under the WAGES Program at the local level. The boundaries of
5 the service area for a local WAGES coalition shall conform to
6 the boundaries of the service area for the regional workforce
7 development board established under the Enterprise Florida
8 workforce development board. The local delivery of services
9 under the WAGES Program shall be coordinated, to the maximum
10 extent possible, with the local services and activities of the
11 local service providers designated by the regional workforce
12 development boards.

13 (1)

14 (b) A representative of an agency or entity that could
15 benefit financially from funds appropriated under the WAGES
16 Program may not be a member of a local WAGES coalition; except
17 that county health departments and Healthy Start coalitions
18 may be members, provided they abstain from voting on matters
19 that financially affect their respective organizations.

20 (e) A representative of a county health department or
21 a representative of a Healthy Start coalition shall serve as
22 an ex officio, nonvoting member of the coalition.

23 (f) Nothing in this subsection shall prevent a local
24 WAGES coalition from extending regular voting membership no
25 more than one representative of a county health department and
26 no more than one representative of a Healthy Start coalition.

27 Section 29. Subsection (1) of section 414.28, Florida
28 Statutes, is amended to read:

29 414.28 Public assistance payments to constitute debt
30 of recipient.--

31

1 (1) CLAIMS.--The acceptance of public assistance
2 creates a debt of the person accepting assistance, which debt
3 is enforceable only after the death of the recipient. The
4 debt thereby created is enforceable only by claim filed
5 against the estate of the recipient after his or her death or
6 by suit to set aside a fraudulent conveyance, as defined in
7 subsection (3). After the death of the recipient and within
8 the time prescribed by law, the department may file a claim
9 against the estate of the recipient for the total amount of
10 public assistance paid to or for the benefit of such
11 recipient, reimbursement for which has not been made. Claims
12 so filed shall take priority as class 3 7 claims as provided
13 by s. 733.707(1)(g).

14 Section 30. Sections 30 through 36 of this act may be
15 cited as the "Equity in Prescription Insurance and
16 Contraceptive Coverage Act of 1998."

17 Section 31. Legislative findings and intent.--The
18 Legislature finds that:

19 (1) Each year, more than half of all pregnancies in
20 this state are unintended.

21 (2) Contraceptive services are part of basic health
22 care, allowing families to both adequately space desired
23 pregnancies and avoid unintended pregnancy.

24 (3) Contraceptives are highly cost effective, yielding
25 from \$4 to \$14 dollars in savings for every dollar expended.

26 (4) By reducing rates of unintended pregnancy,
27 contraceptives help reduce the need for abortions.

28 (5) Unintended pregnancies lead to higher rates of
29 infant mortality, lower birth weights, and maternal morbidity,
30 and threaten the economic viability of families.

31

1 (6) Most women in this state of childbearing age rely
2 on private employment-related insurance to cover their medical
3 expenses.

4 (7) Most private insurers cover prescription drugs,
5 but many exclude coverage for prescription contraceptives.

6 (8) The lack of contraceptive coverage in health
7 insurance policies places many effective forms of
8 contraceptives beyond the financial reach of many women,
9 leading to unintended pregnancies.

10
11 Therefore, the Legislature determines that enactment of
12 sections 30 through 36 of this act constitutes an important
13 state interest.

14 Section 32. Section 627.64061, Florida Statutes, is
15 created to read:

16 627.64061 Coverage for prescription
17 contraceptives.--Any health insurance policy that provides
18 coverage for outpatient prescription drugs shall cover
19 prescription oral contraceptives approved by the federal Food
20 and Drug Administration and prescribed by a practitioner
21 authorized by state licensure to prescribe such medication.
22 Coverage must be provided to the same extent and subject to
23 the same contract terms, including copayments and deductibles,
24 as any other prescription drug. Nothing in this section
25 shall:

26 (1) Require an insurer regulated under this part to
27 provide coverage for any prescription oral contraceptive if
28 the insurer or policyholder objects on religious or moral
29 grounds. Failure to provide coverage for prescription oral
30 contraceptives based on religious or moral grounds shall not
31

1 be the basis for any claim for damages or any recriminatory or
2 discriminatory action against an insurer or policyholder.

3 (2) Apply to any prescription medications which are
4 abortifacient in nature.

5 Section 33. Subsection (2) of section 627.6515,
6 Florida Statutes, is amended to read:

7 627.6515 Out-of-state groups.--

8 (2) This part does not apply to a group health
9 insurance policy issued or delivered outside this state under
10 which a resident of this state is provided coverage if:

11 (a) The policy is issued to an employee group the
12 composition of which is substantially as described in s.
13 627.653; a labor union group or association group the
14 composition of which is substantially as described in s.
15 627.654; an additional group the composition of which is
16 substantially as described in s. 627.656; a group insured
17 under a blanket health policy when the composition of the
18 group is substantially in compliance with s. 627.659; a group
19 insured under a franchise health policy when the composition
20 of the group is substantially in compliance with s. 627.663;
21 an association group to cover persons associated in any other
22 common group, which common group is formed primarily for
23 purposes other than providing insurance; a group that is
24 established primarily for the purpose of providing group
25 insurance, provided the benefits are reasonable in relation to
26 the premiums charged thereunder and the issuance of the group
27 policy has resulted, or will result, in economies of
28 administration; or a group of insurance agents of an insurer,
29 which insurer is the policyholder;

30 (b) Certificates evidencing coverage under the policy
31 are issued to residents of this state and contain in

1 contrasting color and not less than 10-point type the
2 following statement: "The benefits of the policy providing
3 your coverage are governed primarily by the law of a state
4 other than Florida"; and

5 (c) The policy provides the benefits specified in ss.
6 627.419, 627.6574, 627.65741, 627.6575, 627.6579, 627.6612,
7 627.66121, 627.66122, 627.6613, 627.667, 627.6675, and
8 627.6691.

9 Section 34. Section 627.65741, Florida Statutes, is
10 created to read:

11 627.65741 Coverage for prescription
12 contraceptives.--Any group, blanket, or franchise accident or
13 health insurance policy that provides coverage for outpatient
14 prescription drugs shall cover prescription oral
15 contraceptives approved by the federal Food and Drug
16 Administration and prescribed by a practitioner authorized by
17 state licensure to prescribe such medication. Coverage must
18 be provided to the same extent and subject to the same
19 contract terms, including copayments and deductibles, as any
20 other prescription drug. Nothing in this section shall:

21 (1) Require an insurer regulated under this part to
22 provide coverage for any prescription oral contraceptive if
23 the insurer or policyholder objects on religious or moral
24 grounds. Failure to provide coverage for prescription oral
25 contraceptives based on religious or moral grounds shall not
26 be the basis for any claim for damages or any recriminatory or
27 discriminatory action against an insurer or policyholder.

28 (2) Apply to any prescription medications which are
29 abortifacient in nature.

30 Section 35. Paragraph (b) of subsection (12) of
31 section 627.6699, Florida Statutes, is amended to read:

1 627.6699 Employee Health Care Access Act.--
2 (12) STANDARD, BASIC, AND LIMITED HEALTH BENEFIT
3 PLANS.--
4 (b)1. Each small employer carrier issuing new health
5 benefit plans shall offer to any small employer, upon request,
6 a standard health benefit plan and a basic health benefit plan
7 that meets the criteria set forth in this section.
8 2. For purposes of this subsection, the terms
9 "standard health benefit plan" and "basic health benefit plan"
10 mean policies or contracts that a small employer carrier
11 offers to eligible small employers that contain:
12 a. An exclusion for services that are not medically
13 necessary or that are not covered preventive health services;
14 and
15 b. A procedure for preauthorization by the small
16 employer carrier, or its designees.
17 3. A small employer carrier may include the following
18 managed care provisions in the policy or contract to control
19 costs:
20 a. A preferred provider arrangement or exclusive
21 provider organization or any combination thereof, in which a
22 small employer carrier enters into a written agreement with
23 the provider to provide services at specified levels of
24 reimbursement or to provide reimbursement to specified
25 providers. Any such written agreement between a provider and a
26 small employer carrier must contain a provision under which
27 the parties agree that the insured individual or covered
28 member has no obligation to make payment for any medical
29 service rendered by the provider which is determined not to be
30 medically necessary. A carrier may use preferred provider
31 arrangements or exclusive provider arrangements to the same

1 extent as allowed in group products that are not issued to
2 small employers.

3 b. A procedure for utilization review by the small
4 employer carrier or its designees.

5
6 This subparagraph does not prohibit a small employer carrier
7 from including in its policy or contract additional managed
8 care and cost containment provisions, subject to the approval
9 of the department, which have potential for controlling costs
10 in a manner that does not result in inequitable treatment of
11 insureds or subscribers. The carrier may use such provisions
12 to the same extent as authorized for group products that are
13 not issued to small employers.

14 4. The standard health benefit plan shall include:

15 a. Coverage for inpatient hospitalization;

16 b. Coverage for outpatient services;

17 c. Coverage for newborn children pursuant to s.

18 627.6575;

19 d. Coverage for child care supervision services
20 pursuant to s. 627.6579;

21 e. Coverage for adopted children upon placement in the
22 residence pursuant to s. 627.6578;

23 f. Coverage for mammograms pursuant to s. 627.6613;

24 g. Coverage for handicapped children pursuant to s.

25 627.6615;

26 h. Emergency or urgent care out of the geographic
27 service area; and

28 i. Coverage for services provided by a hospice
29 licensed under s. 400.602 in cases where such coverage would
30 be the most appropriate and the most cost-effective method for
31 treating a covered illness.

1 5. The standard health benefit plan and the basic
2 health benefit plan may include a schedule of benefit
3 limitations for specified services and procedures. If the
4 committee develops such a schedule of benefits limitation for
5 the standard health benefit plan or the basic health benefit
6 plan, a small employer carrier offering the plan must offer
7 the employer an option for increasing the benefit schedule
8 amounts by 4 percent annually.

9 6. The basic health benefit plan shall include all of
10 the benefits specified in subparagraph 4.; however, the basic
11 health benefit plan shall place additional restrictions on the
12 benefits and utilization and may also impose additional cost
13 containment measures.

14 7. Sections 627.419(2), (3), and (4), 627.6574,
15 627.65741, 627.6612, 627.66121, 627.66122, 627.6616, 627.6618,
16 and 627.668 apply to the standard health benefit plan and to
17 the basic health benefit plan. However, notwithstanding said
18 provisions, the plans may specify limits on the number of
19 authorized treatments, if such limits are reasonable and do
20 not discriminate against any type of provider.

21 8. Each small employer carrier that provides for
22 inpatient and outpatient services by allopathic hospitals may
23 provide as an option of the insured similar inpatient and
24 outpatient services by hospitals accredited by the American
25 Osteopathic Association when such services are available and
26 the osteopathic hospital agrees to provide the service.

27 Section 36. Subsection (34) is added to section
28 641.31, Florida Statutes, to read:

29 641.31 Health maintenance contracts.--

30 (34) Health maintenance contracts that provide
31 coverage for outpatient prescription drugs shall cover

1 prescription oral contraceptives approved by the federal Food
2 and Drug Administration and prescribed by a practitioner
3 authorized by state licensure to prescribe such medication
4 when such practitioner is under the organization's direct
5 employ or under contract or other arrangement with the
6 organization to provide health care services to subscribers.
7 Coverage must be provided to the same extent and subject to
8 the same contract terms, including copayments, as any other
9 prescription medication. Nothing in this section shall:
10 (a) Require an insurer regulated under this part to
11 provide coverage for any prescription oral contraceptive if
12 the insurer or policyholder objects on religious or moral
13 grounds. Failure to provide coverage for prescription oral
14 contraceptives based on religious or moral grounds shall not
15 be the basis for any claim for damages or any recriminatory or
16 discriminatory action against an insurer or policyholder.
17 (b) Apply to any prescription medications which are
18 abortifacient in nature.
19 Section 37. Subsection (4) of section 641.386, Florida
20 Statutes, is amended to read:
21 641.386 Agent licensing and appointment required;
22 exceptions.--
23 (4) All agents and health maintenance organizations
24 shall comply with and be subject to the applicable provisions
25 of ss. 641.309 and 409.912~~(20)(18)~~, and all companies and
26 entities appointing agents shall comply with s. 626.451, when
27 marketing for any health maintenance organization licensed
28 pursuant to this part, including those organizations under
29 contract with the Agency for Health Care Administration to
30 provide health care services to Medicaid recipients or any
31 private entity providing health care services to Medicaid

1 recipients pursuant to a prepaid health plan contract with the
2 Agency for Health Care Administration.

3 Section 38. Paragraph (a) of subsection (1) of section
4 766.101, Florida Statutes, is amended to read:

5 766.101 Medical review committee, immunity from
6 liability.--

7 (1) As used in this section:

8 (a) The term "medical review committee" or "committee"
9 means:

10 1.a. A committee of a hospital or ambulatory surgical
11 center licensed under chapter 395 or a health maintenance
12 organization certificated under part I of chapter 641,

13 b. A committee of a state or local professional
14 society of health care providers,

15 c. A committee of a medical staff of a licensed
16 hospital or nursing home, provided the medical staff operates
17 pursuant to written bylaws that have been approved by the
18 governing board of the hospital or nursing home,

19 d. A committee of the Department of Corrections or the
20 Correctional Medical Authority as created under s. 945.602, or
21 employees, agents, or consultants of either the department or
22 the authority or both,

23 e. A committee of a professional service corporation
24 formed under chapter 621 or a corporation organized under
25 chapter 607 or chapter 617, which is formed and operated for
26 the practice of medicine as defined in s. 458.305(3), and
27 which has at least 25 health care providers who routinely
28 provide health care services directly to patients,

29 f. A committee of a mental health treatment facility
30 licensed under chapter 394 or a community mental health center
31 as defined in s. 394.907, provided the quality assurance

1 program operates pursuant to the guidelines which have been
2 approved by the governing board of the agency,

3 g. A committee of a substance abuse treatment and
4 education prevention program licensed under chapter 397
5 provided the quality assurance program operates pursuant to
6 the guidelines which have been approved by the governing board
7 of the agency,

8 h. A peer review or utilization review committee
9 organized under chapter 440, or

10 i. A committee of the Department of Health, a county
11 health department, a healthy start coalition, or a certified
12 rural health network, when reviewing quality of care, or
13 employees of these entities when reviewing mortality records,
14
15 which committee is formed to evaluate and improve the quality
16 of health care rendered by providers of health service or to
17 determine that health services rendered were professionally
18 indicated or were performed in compliance with the applicable
19 standard of care or that the cost of health care rendered was
20 considered reasonable by the providers of professional health
21 services in the area; or

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

25 Section 39. Upon completion, the Marion County Health
26 Department building to be constructed in Belleview, Florida,
27 shall be known as the "Carl S. Lytle, M.D., Memorial Health
28 Facility."

29 Section 40. Section 383.05, Florida Statutes, is
30 hereby repealed.

31

