

By the Committee on Health Care Services and
Representative Peadar

1 A bill to be entitled
2 An act relating to the Department of Health;
3 amending s. 20.43, F.S.; providing the
4 department with authority for certain
5 divisions; revising certain division names;
6 revising language with respect to the use of
7 certain funds; amending s. 39.303, F.S.;
8 conforming titles relating to Children's
9 Medical Services; amending s. 63.162, F.S.;
10 clarifying terms; amending s. 110.205, F.S.;
11 conforming language relating to exempt
12 positions with respect to the career service;
13 amending s. 120.80, F.S.; providing the
14 department with contract authority for certain
15 administrative hearings; amending s. 154.504,
16 F.S.; providing requirements for provider
17 contracts; amending s. 287.155, F.S.; providing
18 certain authority to purchase automotive
19 equipment; amending s. 372.6672, F.S.; removing
20 responsibility regarding alligator management
21 and trapping from the Department of Health and
22 Rehabilitative Services; amending s. 381.004,
23 F.S.; revising requirements relating to HIV
24 tests on deceased persons; amending s.
25 381.0051, F.S.; providing the department with
26 certain rulemaking authority; amending s.
27 381.006, F.S.; providing the department with
28 rulemaking authority relating to inspection of
29 certain group care facilities under the
30 environmental health program; amending s.
31 381.0061, F.S.; providing the department with

1 authority to impose certain fines; amending s.
2 381.0062, F.S.; revising definitions to clarify
3 differences in regulatory requirements for
4 drinking water systems; amending s. 381.90,
5 F.S.; revising membership and duties of the
6 Health Information Systems Council; requiring a
7 report; amending s. 382.003, F.S.; removing
8 unnecessary language; providing for certain
9 rules; amending s. 382.004, F.S.; revising
10 language with respect to reproduction and
11 destruction of certain records; amending s.
12 382.008, F.S.; removing language conflicting
13 with federal law; amending s. 382.013, F.S.;
14 providing certain requirements relating to
15 birth registration; amending s. 382.015, F.S.;
16 providing for technical changes with respect to
17 certificates of live birth; amending s.
18 382.016, F.S.; providing for administrative
19 procedures for acknowledging paternity;
20 amending s. 382.019, F.S.; establishing certain
21 requirements and rulemaking authority for
22 registration; amending s. 382.025, F.S.;
23 setting requirements for certain data; amending
24 s. 382.0255, F.S.; revising requirements for
25 fee transfer; amending s. 383.14, F.S.;
26 correcting the name of the WIC program to
27 conform to federal law; amending s. 385.202,
28 F.S.; removing certain department reimbursement
29 requirements; amending s. 385.203, F.S.;
30 revising requirements and membership for the
31 Diabetes Advisory Council; amending s. 391.021,

1 F.S.; conforming references to Children's
2 Medical Services; amending s. 391.028, F.S.;
3 providing the Director of Children's Medical
4 Services with certain appointment authority;
5 amending s. 391.0315, F.S.; providing
6 requirements for benefits to children with
7 special health care needs; amending ss.
8 391.221, 391.222, and 391.223, F.S.; conforming
9 references to Children's Medical Services;
10 amending s. 392.69, F.S.; authorizing the
11 department to use certain excess money for
12 improvements to facilities and establishing an
13 advisory board for the A.G. Holley State
14 Hospital; amending s. 409.9126, F.S.; revising
15 date requirements for certain capitation
16 payments to Children's Medical Services;
17 amending s. 465.019, F.S.; authorizing certain
18 nursing homes to purchase medical oxygen;
19 amending s. 499.005, F.S.; requiring and
20 clarifying certain prohibitions relating to
21 sales of prescription drugs and legend devices;
22 amending s. 499.007, F.S.; conforming
23 prescription statement requirements to federal
24 language; amending s. 499.028, F.S.;
25 authorizing certain federal, state, or local
26 government employees to possess drug samples;
27 amending s. 499.066, F.S.; authorizing
28 immediate effect of certain cease and desist
29 orders; amending ss. 499.069 and 742.10, F.S.;
30 conforming cross references; naming the Wilson
31 T. Sowder, M.D., Building, the William G. "Doc"

1 Myers, M.D., Building, and the E. Charlton
2 Prather, M.D., Building; repealing s.
3 381.731(3), F.S., relating to submission of the
4 Healthy Communities, Healthy People Plan;
5 repealing s. 383.307(5), F.S., relating to
6 consultations between birth centers and the
7 Department of Health; repealing s. 404.20(7),
8 F.S., relating to obsolete radioactive
9 monitoring systems; repealing s. 409.9125,
10 F.S., relating to Medicaid alternative service
11 networks; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

15 Section 1. Subsection (3) and paragraphs (a) and (b)
16 of subsection (7) of section 20.43, Florida Statutes, 1998
17 Supplement, are amended to read:

18 20.43 Department of Health.--There is created a
19 Department of Health.

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

22 (a) Division of Administration.

23 (b) Division of Environmental Health.

24 (c) Division of Disease Control.

25 (d) Division of Family Health Services.

26 (e) Division of Children's Medical Services Network.

27 (f) Division of Emergency Medical Services and
28 Community Health Resources ~~Local Health Planning, Education,~~
29 ~~and Workforce Development~~.

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- 1 (g) Division of Medical Quality Assurance, which is
2 responsible for the following boards and professions
3 established within the division:
- 4 1. Nursing assistants, as provided under s. 400.211.
 - 5 2. Health care services pools, as provided under s.
6 402.48.
 - 7 3. The Board of Acupuncture, created under chapter
8 457.
 - 9 4. The Board of Medicine, created under chapter 458.
 - 10 5. The Board of Osteopathic Medicine, created under
11 chapter 459.
 - 12 6. The Board of Chiropractic Medicine, created under
13 chapter 460.
 - 14 7. The Board of Podiatric Medicine, created under
15 chapter 461.
 - 16 8. Naturopathy, as provided under chapter 462.
 - 17 9. The Board of Optometry, created under chapter 463.
 - 18 10. The Board of Nursing, created under chapter 464.
 - 19 11. The Board of Pharmacy, created under chapter 465.
 - 20 12. The Board of Dentistry, created under chapter 466.
 - 21 13. Midwifery, as provided under chapter 467.
 - 22 14. The Board of Speech-Language Pathology and
23 Audiology, created under part I of chapter 468.
 - 24 15. The Board of Nursing Home Administrators, created
25 under part II of chapter 468.
 - 26 16. The Board of Occupational Therapy, created under
27 part III of chapter 468.
 - 28 17. Respiratory therapy, as provided under part V of
29 chapter 468.
 - 30 18. Dietetics and nutrition practice, as provided
31 under part X of chapter 468.

- 1 19. Athletic trainers, as provided under part XIII of
2 chapter 468.
- 3 20. The Board of Orthotists and Prosthetists, created
4 under part XIV of chapter 468.
- 5 21. Electrolysis, as provided under chapter 478.
- 6 22. The Board of Massage Therapy, created under
7 chapter 480.
- 8 23. The Board of Clinical Laboratory Personnel,
9 created under part III of chapter 483.
- 10 24. Medical physicists, as provided under part IV of
11 chapter 483.
- 12 25. The Board of Opticianry, created under part I of
13 chapter 484.
- 14 26. The Board of Hearing Aid Specialists, created
15 under part II of chapter 484.
- 16 27. The Board of Physical Therapy Practice, created
17 under chapter 486.
- 18 28. The Board of Psychology, created under chapter
19 490.
- 20 29. School psychologists, as provided under chapter
21 490.
- 22 30. The Board of Clinical Social Work, Marriage and
23 Family Therapy, and Mental Health Counseling, created under
24 chapter 491.
- 25 (h) Division of Children's Medical Services Prevention
26 and Intervention.
- 27 (i) Division of Information Resource Management.
- 28 (j) Division of Health Awareness and Tobacco.
- 29
- 30 The department may contract with the Agency for Health Care
31 Administration who shall provide consumer complaint,

1 | investigative, and prosecutorial services required by the
2 | Division of Medical Quality Assurance, councils, or boards, as
3 | appropriate.

4 | (7) To protect and improve the public health, the
5 | department may use state or federal funds to:

6 | (a) Provide incentives, including, but not limited to,
7 | the promotional items listed in paragraph (b) of this
8 | subsection, food and food coupons, and ~~or~~ payment for travel
9 | expenses, for encouraging healthy lifestyle and disease
10 | prevention behaviors and patient compliance with medical
11 | treatment, such as tuberculosis therapy and smoking cessation
12 | programs. Such incentives shall be intended to cause an
13 | individual to take action to improve his or her health. Any
14 | incentive for food, food coupons, or travel expenses shall not
15 | exceed the limitations in s. 112.061.

16 | (b) Plan and conduct health education campaigns for
17 | the purpose of protecting or improving public health. The
18 | department may purchase promotional items, such as, but not
19 | limited to, T-shirts, hats, sports items such as water bottles
20 | and sweat bands, calendars, nutritional charts, baby bibs,
21 | growth charts, and other items printed with health promotion
22 | messages, and advertising, such as space on billboards or in
23 | publications or radio or television time, for health
24 | information and promotional messages that recognize that the
25 | following behaviors, among others, are detrimental to public
26 | health: unprotected sexual intercourse, other than with one's
27 | spouse; cigarette and cigar smoking, use of smokeless tobacco
28 | products, and exposure to environmental tobacco smoke; alcohol
29 | consumption or other substance abuse during pregnancy; alcohol
30 | abuse or other substance abuse; lack of exercise and poor diet
31 | and nutrition habits; and failure to recognize and address a

1 genetic tendency to suffer from sickle-cell anemia, diabetes,
2 high blood pressure, cardiovascular disease, or cancer. For
3 purposes of activities under this paragraph, the Department of
4 Health may establish requirements for local matching funds or
5 in-kind contributions to create and distribute advertisements,
6 in either print or electronic format, which are concerned with
7 each of the targeted behaviors, establish an independent
8 evaluation and feedback system for the public health
9 communication campaign, and monitor and evaluate the efforts
10 to determine which of the techniques and methodologies are
11 most effective.

12 Section 2. Section 39.303, Florida Statutes, 1998
13 Supplement, is amended to read:

14 39.303 Child protection teams; services; eligible
15 cases.--~~The Division of Children's Medical Services of the~~
16 Department of Health shall develop, maintain, and coordinate
17 the services of one or more multidisciplinary child protection
18 teams in each of the service districts of the Department of
19 Children and Family Services. Such teams may be composed of
20 representatives of appropriate health, mental health, social
21 service, legal service, and law enforcement agencies. The
22 Legislature finds that optimal coordination of child
23 protection teams and sexual abuse treatment programs requires
24 collaboration between the Department of Health and the
25 Department of Children and Family Services. The two
26 departments shall maintain an interagency agreement that
27 establishes protocols for oversight and operations of child
28 protection teams and sexual abuse treatment programs. The
29 Secretary of Health and the Director of ~~Deputy Secretary for~~
30 Children's Medical Services, in consultation with the
31 Secretary of Children and Family Services, shall maintain the

1 responsibility for the screening, employment, and, if
2 necessary, the termination of child protection team medical
3 directors, at headquarters and in the 15 districts. Child
4 protection team medical directors shall be responsible for
5 oversight of the teams in the districts.

6 (1) The Department of Health shall utilize and convene
7 the teams to supplement the assessment and protective
8 supervision activities of the family safety and preservation
9 program of the Department of Children and Family Services.

10 Nothing in this section shall be construed to remove or reduce
11 the duty and responsibility of any person to report pursuant
12 to this chapter all suspected or actual cases of child abuse,
13 abandonment, or neglect or sexual abuse of a child. The role
14 of the teams shall be to support activities of the program and
15 to provide services deemed by the teams to be necessary and
16 appropriate to abused, abandoned, and neglected children upon
17 referral. The specialized diagnostic assessment, evaluation,
18 coordination, consultation, and other supportive services that
19 a child protection team shall be capable of providing include,
20 but are not limited to, the following:

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

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

27 (c) Medical evaluation related to abuse, abandonment,
28 or neglect, as defined by policy or rule of the Department of
29 Health.

30 (d) Such psychological and psychiatric diagnosis and
31 evaluation services for the child or the child's parent or

1 parents, legal custodian or custodians, or other caregivers,
2 or any other individual involved in a child abuse,
3 abandonment, or neglect case, as the team may determine to be
4 needed.

5 (e) Expert medical, psychological, and related
6 professional testimony in court cases.

7 (f) Case staffings to develop treatment plans for
8 children whose cases have been referred to the team. A child
9 protection team may provide consultation with respect to a
10 child who is alleged or is shown to be abused, abandoned, or
11 neglected, which consultation shall be provided at the request
12 of a representative of the family safety and preservation
13 program or at the request of any other professional involved
14 with a child or the child's parent or parents, legal custodian
15 or custodians, or other caregivers. In every such child
16 protection team case staffing, consultation, or staff activity
17 involving a child, a family safety and preservation program
18 representative shall attend and participate.

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

22 (h) Such training services for program and other
23 employees of the Department of Children and Family Services,
24 employees of the Department of Health, and other medical
25 professionals as is deemed appropriate to enable them to
26 develop and maintain their professional skills and abilities
27 in handling child abuse, abandonment, and neglect cases.

28 (i) Educational and community awareness campaigns on
29 child abuse, abandonment, and neglect in an effort to enable
30 citizens more successfully to prevent, identify, and treat
31 child abuse, abandonment, and neglect in the community.

1 (2) The child abuse, abandonment, and neglect cases
2 that are appropriate for referral by the family safety and
3 preservation program to child protection teams of the
4 Department of Health for support services as set forth in
5 subsection (1) include, but are not limited to, cases
6 involving:

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

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

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

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

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

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

20 (g) Any family in which one or more children have been
21 pronounced dead on arrival at a hospital or other health care
22 facility, or have been injured and later died, as a result of
23 suspected abuse, abandonment, or neglect, when any sibling or
24 other child remains in the home.

25 (h) Symptoms of serious emotional problems in a child
26 when emotional or other abuse, abandonment, or neglect is
27 suspected.

28 (3) In all instances in which a child protection team
29 is providing certain services to abused, abandoned, or
30 neglected children, other offices and units of the Department
31 of Health, and offices and units of the Department of Children

1 and Family Services, shall avoid duplicating the provision of
2 those services.

3 Section 3. Paragraph (d) of subsection (4) of section
4 63.162, Florida Statutes, is amended to read:

5 63.162 Hearings and records in adoption proceedings;
6 confidential nature.--

7 (4) A person may not disclose from the records the
8 name and identity of a birth parent, an adoptive parent, or an
9 adoptee unless:

10 (d) Upon order of the court for good cause shown and
11 pursuant to a petition filed in accordance with subsection
12 (7). In determining whether good cause exists, the court
13 shall give primary consideration to the best interests of the
14 adoptee, but must also give due consideration to the interests
15 of the adoptive and birth parents. Factors to be considered
16 in determining whether good cause exists include, but are not
17 limited to:

18 1. The reason the information is sought;
19 2. The existence of means available to obtain the
20 desired information without disclosing the identity of the
21 birth parents, such as by having the court, an intermediary a
22 ~~person appointed by the court~~, the department, or the licensed
23 child-placing agency contact the birth parents and request
24 specific information;

25 3. The desires, to the extent known, of the adoptee,
26 the adoptive parents, and the birth parents;

27 4. The age, maturity, judgment, and expressed needs of
28 the adoptee; and

29 5. The recommendation of the department, licensed
30 child-placing agency, or professional which prepared the
31 preliminary study and home investigation, or the department if

1 no such study was prepared, concerning the advisability of
2 disclosure.

3 Section 4. Paragraphs (l), (p), and (s) of subsection
4 (2) of section 110.205, Florida Statutes, are amended to read:

5 110.205 Career service; exemptions.--

6 (2) EXEMPT POSITIONS.--The exempt positions which are
7 not covered by this part include the following, provided that
8 no position, except for positions established for a limited
9 period of time pursuant to paragraph (h), shall be exempted if
10 the position reports to a position in the career service:

11 (1) All assistant division director, deputy division
12 director, and bureau chief positions in any department, and
13 those positions determined by the department to have
14 managerial responsibilities comparable to such positions,
15 which positions include, but are not limited to, positions in
16 the Department of Health, the Department of Children and
17 Family Services,~~and Rehabilitative Services~~ and the
18 Department of Corrections that are assigned primary duties of
19 serving as the superintendent of an institution: positions in
20 the Department of Transportation that are assigned primary
21 duties of serving as regional toll managers and managers of
22 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions
23 in the Department of Environmental Protection that are
24 assigned the duty of an Environmental Administrator or program
25 administrator; and positions in the Department of Health ~~and~~
26 ~~Rehabilitative Services~~ that are assigned the duties ~~duty~~ of
27 an Environmental Administrator, Assistant County Health
28 Department Director, and County Health Department Financial
29 Administrator. Unless otherwise fixed by law, the department
30 shall set the salary and benefits of these positions in
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1 accordance with the rules established for the Selected Exempt
2 Service.

3 (p) The staff directors, assistant staff directors,
4 district program managers, district program coordinators,
5 district subdistrict administrators, district administrative
6 services directors, district attorneys, ~~county health~~
7 ~~department directors, county health department administrators,~~
8 and the Deputy Director of Central Operations Services of the
9 Department of Children and Family Services and the county
10 health department directors and county health department
11 administrators of the Department of Health and Rehabilitative
12 Services. Unless otherwise fixed by law, the departments
13 ~~department~~ shall establish the salary range and benefits for
14 these positions in accordance with the rules of the Selected
15 Exempt Service.

16 (s) The executive director of each board or commission
17 established within the Department of Business and Professional
18 Regulation and the Department of Health. Unless otherwise
19 fixed by law, the department shall establish the salary and
20 benefits for these positions in accordance with the rules
21 established for the Selected Exempt Service.

22 Section 5. Subsection (15) of section 120.80, Florida
23 Statutes, 1998 Supplement, is amended to read:

24 120.80 Exceptions and special requirements;
25 agencies.--

26 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.
27 120.57(1)(a), formal hearings may not be conducted by the
28 Secretary of Health, the director of the Agency for Health
29 Care Administration, or a board or member of a board within
30 the Department of Health or the Agency for Health Care
31 Administration for matters relating to the regulation of

1 professions, as defined by part II of chapter 455.
2 Notwithstanding s. 120.57(1)(a), hearings conducted within the
3 Department of Health in the execution of the Special
4 Supplemental Nutrition Program for Women, Infants, and
5 Children; Child Care Food Program; Children's Medical Services
6 program; and the exemption from disqualification reviews for
7 the certified nursing assistants program need not be conducted
8 by an administrative law judge assigned by the division. The
9 Department of Health may contract with the Department of
10 Children and Family Services for a hearing officer in these
11 matters.

12 Section 6. Subsection (1) of section 154.504, Florida
13 Statutes, 1998 Supplement, is amended to read:

14 154.504 Eligibility and benefits.--

15 (1) Any county or counties may apply for a primary
16 care for children and families challenge grant to provide
17 primary health care services to children and families with
18 incomes of up to 150 percent of the federal poverty level.
19 Participants shall pay no monthly premium for participation,
20 but shall be required to pay a copayment at the time a service
21 is provided. Copayments may be paid from sources other than
22 the participant, including, but not limited to, the child's or
23 parent's employer, or other private sources. Providers may
24 enter into contracts pursuant to ~~As used in s. 766.1115,~~
25 provided that copayments ~~the term "copayment"~~ may not be
26 considered and may not be used as compensation for services to
27 health care providers, ~~and~~ all funds generated from copayments
28 shall be used by the governmental contractor, and all other
29 provisions in s. 766.1115 are met.

30 Section 7. Subsection (3) is added to section 287.155,
31 Florida Statutes, to read:

1 287.155 Motor vehicles; purchase by Division of
2 Universities, Department of Health and Rehabilitative
3 Services, Department of Juvenile Justice, and Department of
4 Corrections.--

5 (3) The Department of Health is authorized, subject to
6 the approval of the Department of Management Services, to
7 purchase automobiles, trucks, and other automotive equipment
8 for use by county health departments.

9 Section 8. Subsection (3) of section 372.6672, Florida
10 Statutes, 1998 Supplement, is amended to read:

11 372.6672 Alligator management and trapping program
12 implementation; commission authority.--

13 (3) The powers and duties of the commission hereunder
14 shall not be construed so as to supersede the regulatory
15 authority or lawful responsibility of ~~the Department of Health~~
16 ~~and Rehabilitative Services~~, the Department of Agriculture and
17 Consumer Services, or any local governmental entity regarding
18 the processing or handling of food products, but shall be
19 deemed supplemental thereto.

20 Section 9. Paragraphs (d) and (h) of subsection (3) of
21 section 381.004, Florida Statutes, 1998 Supplement, are
22 amended to read:

23 381.004 Testing for human immunodeficiency virus.--

24 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
25 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

26 (d) No test result shall be determined as positive,
27 and no positive test result shall be revealed to any person,
28 without corroborating or confirmatory tests being conducted
29 except in the following situations:

30 1. Preliminary test results may be released to
31 licensed physicians or the medical or nonmedical personnel

1 subject to the significant exposure for purposes of
2 subparagraphs (h)10., 11., and 12.

3 2. Preliminary test results may be released to health
4 care providers and to the person tested when decisions about
5 medical care or treatment ~~of the person tested~~ cannot await
6 the results of confirmatory testing. Positive preliminary HIV
7 test results shall not be characterized to the patient as a
8 diagnosis of HIV infection. Justification for the use of
9 preliminary test results must be documented in the medical
10 record by the health care provider who ordered the test. This
11 subparagraph does not authorize the release of preliminary
12 test results for the purpose of routine identification of
13 HIV-infected individuals or when HIV testing is incidental to
14 the preliminary diagnosis or care of a patient. Corroborating
15 or confirmatory testing must be conducted as followup to a
16 positive preliminary test. Results shall be communicated to
17 the patient according to statute regardless of the outcome.
18 Except as provided in this section, test results are
19 confidential and exempt from the provisions of s. 119.07(1).

20 (h) Notwithstanding the provisions of paragraph (a),
21 informed consent is not required:

22 1. When testing for sexually transmissible diseases is
23 required by state or federal law, or by rule including the
24 following situations:

25 a. HIV testing pursuant to s. 796.08 of persons
26 convicted of prostitution or of procuring another to commit
27 prostitution.

28 b. Testing for HIV by a medical examiner in accordance
29 with s. 406.11.

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1 2. Those exceptions provided for blood, plasma,
2 organs, skin, semen, or other human tissue pursuant to s.
3 381.0041.

4 3. For the performance of an HIV-related test by
5 licensed medical personnel in bona fide medical emergencies
6 when the test results are necessary for medical diagnostic
7 purposes to provide appropriate emergency care or treatment to
8 the person being tested and the patient is unable to consent,
9 as supported by documentation in the medical record.

10 Notification of test results in accordance with paragraph (c)
11 is required.

12 4. For the performance of an HIV-related test by
13 licensed medical personnel for medical diagnosis of acute
14 illness where, in the opinion of the attending physician,
15 obtaining informed consent would be detrimental to the
16 patient, as supported by documentation in the medical record,
17 and the test results are necessary for medical diagnostic
18 purposes to provide appropriate care or treatment to the
19 person being tested. Notification of test results in
20 accordance with paragraph (c) is required if it would not be
21 detrimental to the patient. This subparagraph does not
22 authorize the routine testing of patients for HIV infection
23 without informed consent.

24 5. When HIV testing is performed as part of an autopsy
25 for which consent was obtained pursuant to s. 872.04.

26 6. For the performance of an HIV test upon a defendant
27 pursuant to the victim's request in a prosecution for any type
28 of sexual battery where a blood sample is taken from the
29 defendant voluntarily, pursuant to court order for any
30 purpose, or pursuant to the provisions of s. 775.0877, s.
31 951.27, or s. 960.003; however, the results of any HIV test

1 performed shall be disclosed solely to the victim and the
2 defendant, except as provided in ss. 775.0877, 951.27, and
3 960.003.

4 7. When an HIV test is mandated by court order.

5 8. For epidemiological research pursuant to s.
6 381.0032, for research consistent with institutional review
7 boards created by 45 C.F.R. part 46, or for the performance of
8 an HIV-related test for the purpose of research, if the
9 testing is performed in a manner by which the identity of the
10 test subject is not known and may not be retrieved by the
11 researcher.

12 9. When human tissue is collected lawfully without the
13 consent of the donor for corneal removal as authorized by s.
14 732.9185 or enucleation of the eyes as authorized by s.
15 732.919.

16 10. For the performance of an HIV test upon an
17 individual who comes into contact with medical personnel in
18 such a way that a significant exposure has occurred during the
19 course of employment or within the scope of practice and where
20 a blood sample is available that was taken from that
21 individual voluntarily by medical personnel for other
22 purposes. "Medical personnel" includes a licensed or
23 certified health care professional; an employee of a health
24 care professional, health care facility, or blood bank; and a
25 paramedic or emergency medical technician as defined in s.
26 401.23.

27 a. Prior to performance of an HIV test on a
28 voluntarily obtained blood sample, the individual from whom
29 the blood was obtained shall be requested to consent to the
30 performance of the test and to the release of the results.
31 The individual's refusal to consent and all information

1 concerning the performance of an HIV test and any HIV test
2 result shall be documented only in the medical personnel's
3 record unless the individual gives written consent to entering
4 this information on the individual's medical record.

5 b. Reasonable attempts to locate the individual and to
6 obtain consent shall be made and all attempts must be
7 documented. If the individual cannot be found, an HIV test may
8 be conducted on the available blood sample. If the individual
9 does not voluntarily consent to the performance of an HIV
10 test, the individual shall be informed that an HIV test will
11 be performed, and counseling shall be furnished as provided in
12 this section. However, HIV testing shall be conducted only
13 after a licensed physician documents, in the medical record of
14 the medical personnel, that there has been a significant
15 exposure and that, in the physician's medical judgment, the
16 information is medically necessary to determine the course of
17 treatment for the medical personnel.

18 c. Costs of any HIV test of a blood sample performed
19 with or without the consent of the individual, as provided in
20 this subparagraph, shall be borne by the medical personnel or
21 the employer of the medical personnel. However, costs of
22 testing or treatment not directly related to the initial HIV
23 tests or costs of subsequent testing or treatment shall not be
24 borne by the medical personnel or the employer of the medical
25 personnel.

26 d. In order to utilize the provisions of this
27 subparagraph, the medical personnel must either be tested for
28 HIV pursuant to this section or provide the results of an HIV
29 test taken within 6 months prior to the significant exposure
30 if such test results are negative.

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1 e. A person who receives the results of an HIV test
2 pursuant to this subparagraph shall maintain the
3 confidentiality of the information received and of the persons
4 tested. Such confidential information is exempt from s.
5 119.07(1).

6 f. If the source of the exposure will not voluntarily
7 submit to HIV testing and a blood sample is not available, the
8 medical personnel or the employer of such person acting on
9 behalf of the employee may seek a court order directing the
10 source of the exposure to submit to HIV testing. A sworn
11 statement by a physician licensed under chapter 458 or chapter
12 459 that a significant exposure has occurred and that, in the
13 physician's medical judgment, testing is medically necessary
14 to determine the course of treatment constitutes probable
15 cause for the issuance of an order by the court. The results
16 of the test shall be released to the source of the exposure
17 and to the person who experienced the exposure.

18 11. For the performance of an HIV test upon an
19 individual who comes into contact with medical personnel in
20 such a way that a significant exposure has occurred during the
21 course of employment or within the scope of practice of the
22 medical personnel while the medical personnel provides
23 emergency medical treatment to the individual; or who comes
24 into contact with nonmedical personnel in such a way that a
25 significant exposure has occurred while the nonmedical
26 personnel provides emergency medical assistance during a
27 medical emergency. For the purposes of this subparagraph, a
28 medical emergency means an emergency medical condition outside
29 of a hospital or health care facility that provides physician
30 care. The test may be performed only during the course of
31 treatment for the medical emergency.

1 a. An individual who is capable of providing consent
2 shall be requested to consent to an HIV test prior to the
3 testing. The individual's refusal to consent, and all
4 information concerning the performance of an HIV test and its
5 result, shall be documented only in the medical personnel's
6 record unless the individual gives written consent to entering
7 this information on the individual's medical record.

8 b. HIV testing shall be conducted only after a
9 licensed physician documents, in the medical record of the
10 medical personnel or nonmedical personnel, that there has been
11 a significant exposure and that, in the physician's medical
12 judgment, the information is medically necessary to determine
13 the course of treatment for the medical personnel or
14 nonmedical personnel.

15 c. Costs of any HIV test performed with or without the
16 consent of the individual, as provided in this subparagraph,
17 shall be borne by the medical personnel or the employer of the
18 medical personnel or nonmedical personnel. However, costs of
19 testing or treatment not directly related to the initial HIV
20 tests or costs of subsequent testing or treatment shall not be
21 borne by the medical personnel or the employer of the medical
22 personnel or nonmedical personnel.

23 d. In order to utilize the provisions of this
24 subparagraph, the medical personnel or nonmedical personnel
25 shall be tested for HIV pursuant to this section or shall
26 provide the results of an HIV test taken within 6 months prior
27 to the significant exposure if such test results are negative.

28 e. A person who receives the results of an HIV test
29 pursuant to this subparagraph shall maintain the
30 confidentiality of the information received and of the persons
31

1 tested. Such confidential information is exempt from s.
2 119.07(1).

3 f. If the source of the exposure will not voluntarily
4 submit to HIV testing and a blood sample was not obtained
5 during treatment for the medical emergency, the medical
6 personnel, the employer of the medical personnel acting on
7 behalf of the employee, or the nonmedical personnel may seek a
8 court order directing the source of the exposure to submit to
9 HIV testing. A sworn statement by a physician licensed under
10 chapter 458 or chapter 459 that a significant exposure has
11 occurred and that, in the physician's medical judgment,
12 testing is medically necessary to determine the course of
13 treatment constitutes probable cause for the issuance of an
14 order by the court. The results of the test shall be released
15 to the source of the exposure and to the person who
16 experienced the exposure.

17 12. For the performance of an HIV test by the medical
18 examiner or attending physician upon an ~~a deceased~~ individual
19 ~~who is the source of a significant exposure to medical~~
20 ~~personnel or nonmedical personnel who provided emergency~~
21 ~~medical assistance and who expired or could not be~~
22 ~~resuscitated while receiving during treatment for the medical~~
23 emergency medical assistance or care and who was the source of
24 a significant exposure to medical or nonmedical personnel
25 providing such assistance or care.

26 a. HIV testing shall be conducted only after a
27 licensed physician documents in the medical record of the
28 medical personnel or nonmedical personnel that there has been
29 a significant exposure and that, in the physician's medical
30 judgment, the information is medically necessary to determine
31

1 the course of treatment for the medical or nonmedical
2 personnel.

3 b. Costs of any HIV test performed pursuant to this
4 subparagraph shall not be charged to the deceased or to the
5 deceased person's family.

6 c. For the provisions of this subparagraph to be
7 applicable, the medical personnel or nonmedical personnel
8 shall be tested for HIV pursuant to this section or shall
9 provide the results of an HIV test taken within 6 months prior
10 to the significant exposure if such test results are negative.

11 d. A person who receives the results of an HIV test
12 pursuant to this subparagraph shall comply with paragraph (e).

13 13. For the performance of an HIV-related test
14 medically indicated by licensed medical personnel for medical
15 diagnosis of a hospitalized infant as necessary to provide
16 appropriate care and treatment of the infant when, after a
17 reasonable attempt, a parent cannot be contacted to provide
18 consent. The medical records of the infant shall reflect the
19 reason consent of the parent was not initially obtained. Test
20 results shall be provided to the parent when the parent is
21 located.

22 14. For the performance of HIV testing conducted to
23 monitor the clinical progress of a patient previously
24 diagnosed to be HIV positive.

25 15. For the performance of repeated HIV testing
26 conducted to monitor possible conversion from a significant
27 exposure.

28 Section 10. Subsection (7) is added to section
29 381.0051, Florida Statutes, to read:

30 381.0051 Family planning.--
31

1 (7) The department may adopt rules pursuant to ss.
2 120.54 and 120.536(1) to implement this section.

3 Section 11. Subsection (16) is added to section
4 381.006, Florida Statutes, 1998 Supplement, to read:

5 381.006 Environmental health.--The department shall
6 conduct an environmental health program as part of fulfilling
7 the state's public health mission. The purpose of this program
8 is to detect and prevent disease caused by natural and manmade
9 factors in the environment. The environmental health program
10 shall include, but not be limited to:

11 (16) A group care facilities function, where "group
12 care facility" is defined as any public or private school,
13 housing, building or buildings, section of a building, or
14 distinct part of a building, or other place, whether operated
15 for profit or not, which undertakes, through its ownership or
16 management, to provide one or more personal services, care,
17 protection, and supervision to persons who require such
18 services and who are not related to the owner or
19 administrator. The department may adopt rules necessary to
20 protect the health and safety of residents, staff, and patrons
21 of group care facilities, such as child care facilities,
22 family day care homes, nursing homes, assisted living
23 facilities, adult day care centers, adult family-care homes,
24 hospice, residential treatment facilities, crisis
25 stabilization units, pediatric extended care centers,
26 intermediate care facilities for the developmentally disabled,
27 group care homes, and, jointly with the Department of
28 Education, private and public schools. These rules may include
29 provisions relating to operation and maintenance of
30 facilities, buildings, grounds, equipment, and furnishings;
31 occupant space requirements; lighting; heating, cooling, and

1 ventilation; water supply; plumbing; sewage; sanitary
2 facilities; insect and rodent control; garbage; safety;
3 personnel health, hygiene, and work practices; and such other
4 matters as the department finds to be appropriate or necessary
5 to protect the safety and health of the residents, staff, or
6 patrons. The department may not adopt rules which conflict
7 with rules adopted by the licensing or certifying agency. The
8 department may enter and inspect at reasonable hours to
9 determine compliance with applicable statutes or rules. In
10 addition to any sanctions which the department may impose for
11 violations of rules adopted under this section, the department
12 shall also report such violations to any agency responsible
13 for licensing or certifying the group care facility. The
14 licensing or certifying agency is also authorized to impose
15 any sanction based solely on the findings of the department.

16

17 The department may adopt rules to carry out the provisions of
18 this section.

19 Section 12. Subsection (1) of section 381.0061,
20 Florida Statutes, is amended to read:

21 381.0061 Administrative fines.--

22 (1) In addition to any administrative action
23 authorized by chapter 120 or by other law, the department may
24 impose a fine, which shall not exceed \$500 for each violation,
25 for a violation of s. 381.006(16), s. 381.0065, s. 381.0066,
26 s. 381.0072, or part III of chapter 489, for a violation of
27 any rule adopted under this chapter, or for a violation of any
28 of the provisions of chapter 386. Notice of intent to impose
29 such fine shall be given by the department to the alleged
30 violator. Each day that a violation continues may constitute
31 a separate violation.

1 Section 13. Subsections (2), (3), (4), and (5) of
2 section 381.0062, Florida Statutes, 1998 Supplement, are
3 amended to read:

4 381.0062 Supervision; private and certain public water
5 systems.--

6 (2) DEFINITIONS.--As used in this section:

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

9 (b) "Department" means the Department of Health,
10 including the county health departments.

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

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

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

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

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

29 (h) "Multifamily water system" means a water system
30 that provides piped water for three to four residences, one of
31 which may be a rental residence.

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

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

8 (k)~~(j)~~ "Private water system" means a water system
9 that provides piped water for one or two residences, one of
10 which may be a rental residence, or for a church located more
11 than 200 feet from a water system covered under the Florida
12 Safe Drinking Water Act ~~no more than four nonrental~~
13 ~~residences.~~

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

27 (m)~~(l)~~ "Public water system" means a water system that
28 is not included or covered under the Florida Safe Drinking
29 Water Act, provides piped water to the public, and is not a
30 private or multifamily water system. For purposes of this
31

1 section, public water systems are classified as limited use
2 community or limited use commercial.

3 (n)~~(m)~~ "Supplier of water" means the person, company,
4 or corporation that owns or operates a limited use community
5 or limited use commercial public water system, a multifamily
6 water system, or a private water system.

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

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

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

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

28 (c) Review and act upon any application for the
29 construction, modification, operation, or change of ownership
30 of, and conduct surveillance, enforcement, and compliance
31 investigations of, limited use community and limited use

1 commercial public water systems, and multifamily ~~private~~ water
2 systems.

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

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

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

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

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

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

1 (j) Require suppliers of water to give public notice
2 of water problems and corrective measures under the conditions
3 specified by rule of the department.

4 (k) Require a fee to cover the cost of reinspection of
5 any system regulated under this section, which may not be less
6 than \$25 or more than \$40.

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

19 (5) ENFORCEMENT AND PENALTIES.--

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

28 (b) This section and rules adopted pursuant to this
29 section may be enforced by injunction or restraining order
30 granted by a circuit court as provided in s. 381.0012(2).
31

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

6 Section 14. Subsection (3) of section 381.90, Florida
7 Statutes, is amended, paragraph (c) of subsection (7) is
8 redesignated as paragraph (d), and a new paragraph (c) is
9 added to said subsection, to read:

10 381.90 Health Information Systems Council; legislative
11 intent; creation, appointment, duties.--

12 (3) The council shall be composed of the following
13 members or their senior executive-level designees:

14 (a) The secretary of the Department of Health;

15 (b) The secretary of the Department of Business and
16 Professional Regulation;

17 (c) The secretary of the Department of Children and
18 Family Services;

19 (d) The director of the Agency for Health Care
20 Administration;

21 (e) The secretary of the Department of Corrections;

22 (f) The Attorney General;

23 (g) The executive director of the Correctional Medical
24 Authority;

25 (h) Two members representing county health
26 departments, one from a small county and one from a large
27 county, appointed by the Governor; ~~and~~

28 (i) A representative from the Florida Association of
29 Counties; ~~-~~

30 (j) The State Treasurer/Insurance Commissioner;

31

1 (k) A representative from the Florida Healthy Kids
2 Corporation;

3 (l) A representative from a school of public health
4 chosen by the Board of Regents;

5 (m) The Commissioner of Education;

6 (n) The secretary of the Department of Elderly
7 Affairs; and

8 (o) The secretary of the Department of Juvenile
9 Justice.

10

11 Representatives of the Federal Government may serve without
12 voting rights.

13 (7) The council's duties and responsibilities include,
14 but are not limited to, the following:

15 (c) To develop a review process to ensure cooperative
16 planning among agencies that collect or maintain
17 health-related data. The council shall submit a report on the
18 implementation of this requirement to the Executive Office of
19 the Governor, the Speaker of the House of Representatives, and
20 the President of the Senate by January 1, 2000.

21 Section 15. Subsection (10) of section 382.003,
22 Florida Statutes, is amended, and subsection (11) is added to
23 said section, to read:

24 382.003 Powers and duties of the department.--The
25 department may:

26 (10) Adopt, promulgate, and enforce rules necessary
27 for the creation, issuance, recording, ~~rescinding,~~
28 maintenance, and processing of vital records and for carrying
29 out the provisions of ss. 382.004-382.014 and ss.
30 382.016-382.019.

31

1 (11) By rule, require that forms, documents, and
2 information submitted to the department in anticipation of the
3 creation or amendment of a vital record be under oath.

4 Section 16. Subsection (3) of section 382.004, Florida
5 Statutes, is amended to read:

6 382.004 Reproduction and destruction of records.--

7 (3) Photographs, microphotographs, or reproductions of
8 any record in the form of film, prints, or electronically
9 produced certifications made in compliance with the provisions
10 of this chapter and certified by the department shall have the
11 same force and effect as the originals thereof, shall be
12 treated as originals for the purpose of their admissibility ~~in~~
13 ~~any court or case~~, and shall be prima facie evidence ~~in all~~
14 ~~courts and cases~~ of the facts stated therein.

15 Section 17. Subsection (1) of section 382.008, Florida
16 Statutes, 1998 Supplement, is amended to read:

17 382.008 Death and fetal death registration.--

18 (1) A certificate for each death and fetal death which
19 occurs in this state shall be filed on a form prescribed by
20 the department with the local registrar of the district in
21 which the death occurred within 5 days after such death and
22 prior to final disposition, and shall be registered by such
23 registrar if it has been completed and filed in accordance
24 with this chapter or adopted rules. The certificate shall
25 include the decedent's social security number, if available.
26 ~~Disclosure of social security numbers obtained through this~~
27 ~~requirement shall be limited to the purpose of administration~~
28 ~~of the Title IV-D program for child support enforcement and as~~
29 ~~otherwise provided by law.~~In addition, each certificate of
30 death or fetal death:

31

1 (a) If requested by the informant, shall include
2 aliases or "also known as" (AKA) names of a decedent in
3 addition to the decedent's name of record. Aliases shall be
4 entered on the face of the death certificate in the space
5 provided for name if there is sufficient space. If there is
6 not sufficient space, aliases may be recorded on the back of
7 the certificate and shall be considered part of the official
8 record of death;

9 (b) If the place of death is unknown, shall be
10 registered in the registration district in which the dead body
11 or fetus is found within 5 days after such occurrence; and

12 (c) If death occurs in a moving conveyance, shall be
13 registered in the registration district in which the dead body
14 was first removed from such conveyance.

15 Section 18. Section 382.013, Florida Statutes, 1998
16 Supplement, is amended to read:

17 382.013 Birth registration.--A certificate for each
18 live birth that occurs in this state shall be filed within 5
19 days after such birth with the local registrar of the district
20 in which the birth occurred and with the mother's health
21 insurer or HMO. The birth shall be registered by the local
22 registrar if the certificate has been completed and filed in
23 accordance with this chapter and adopted rules. The
24 information regarding registered births shall be used for
25 comparison with information in the state case registry, as
26 defined in chapter 61.

27 (1) FILING.--

28 (a) If a birth occurs in a hospital, birth center, or
29 other health care facility, or en route thereto, the person in
30 charge of the facility shall be responsible for preparing the
31 certificate, certifying the facts of the birth, and filing the

1 certificate with the local registrar. Within 48 hours after
2 the birth, the physician, midwife, or person in attendance
3 during or immediately after the delivery shall provide the
4 facility with the medical information required by the birth
5 certificate.

6 (b) If a birth occurs outside a facility and a Florida
7 licensed physician, certified nurse midwife, Florida licensed
8 midwife, or a public health nurse employed by the department
9 was in attendance during or immediately after the delivery,
10 then such individual shall prepare and file the certificate.

11 ~~and the child is not taken to the facility within 3 days after~~
12 ~~delivery, the certificate shall be prepared and filed by one~~
13 ~~of the following persons in the indicated order of priority:~~

14 1. ~~The physician or midwife in attendance during or~~
15 ~~immediately after the birth.~~

16 2. ~~In the absence of persons described in subparagraph~~
17 ~~1., any other person in attendance during or immediately after~~
18 ~~the birth.~~

19 3. ~~In the absence of persons described in subparagraph~~
20 ~~2., the father or mother.~~

21 4. ~~In the absence of the father and the inability of~~
22 ~~the mother, the person in charge of the premises where the~~
23 ~~birth occurred.~~

24 (c) If a birth occurs outside a facility and the
25 delivery is not attended by one of the individuals described
26 in paragraph (b), then the person in attendance or the mother
27 or the father shall report the birth to the registrar and
28 provide proof of the facts of birth. The department may
29 require that such documents be presented and such proof be
30 filed as it deems necessary and sufficient to establish the

31

1 truth of the facts to be recorded by the certificate and may
2 withhold registering the birth until its requirements are met.

3 (d)~~(c)~~ If a birth occurs in a moving conveyance and
4 the child is first removed from the conveyance in this state,
5 the birth shall be filed and registered in this state and the
6 place to which the child is first removed shall be considered
7 the place of birth.

8 (e)~~(d)~~ The mother or the father ~~At least one of the~~
9 ~~parents~~ of the child shall attest to the accuracy of the
10 personal data entered on the certificate in time to permit the
11 timely registration of the certificate.

12 (f)~~(e)~~ If a certificate of live birth is incomplete,
13 the local registrar shall immediately notify the health care
14 facility or person filing the certificate and shall require
15 the completion of the missing items of information if they can
16 be obtained prior to issuing certified copies of the birth
17 certificate.

18 (g)~~(f)~~ Regardless of any plan to place a child for
19 adoption after birth, the information on the birth certificate
20 as required by this section must be as to the child's birth
21 parents unless and until an application for a new birth record
22 is made under s. 63.152.

23 (2) PATERNITY.--

24 (a) If the mother is married at the time of birth, the
25 name of the husband shall be entered on the birth certificate
26 as the father of the child, unless paternity has been
27 determined otherwise by a court of competent jurisdiction.

28 (b) Notwithstanding paragraph (a), if the husband of
29 the mother dies while the mother is pregnant but before the
30 birth of the child, the name of the deceased husband shall be
31 entered on the birth certificate as the father of the child,

1 unless paternity has been determined otherwise by a court of
2 competent jurisdiction.

3 (c) If the mother is not married at the time of birth,
4 the name of the father may not be entered on the birth
5 certificate without the execution of a consenting affidavit
6 signed by both the mother and the person to be named as the
7 father. After giving notice orally or through the use of
8 video or audio equipment, and in writing, of the alternatives
9 to, the legal consequences of, and the rights, including, if
10 one parent is a minor, any rights afforded due to minority
11 status, and responsibilities that arise from signing an
12 acknowledgment of paternity, the facility shall provide the
13 mother and the person to be named as the father with the
14 affidavit, as well as information provided by the Title IV-D
15 agency established pursuant to s. 409.2557, regarding the
16 benefits of voluntary establishment of paternity. Upon request
17 of the mother and the person to be named as the father, the
18 facility shall assist in the execution of the affidavit.

19 (d) If the paternity of the child is determined by a
20 court of competent jurisdiction as provided under s. 382.015,
21 the name of the father and the surname of the child shall be
22 entered on the certificate in accordance with the finding and
23 order of the court. If the court fails to specify a surname
24 for the child, the surname shall be entered in accordance with
25 subsection (3).

26 (e) If the father is not named on the certificate, no
27 other information about the father shall be entered on the
28 certificate.

29 (3) NAME OF CHILD.--

30 (a) If the mother is married at the time of birth, the
31 mother and father whose names are entered on the birth

1 certificate shall select the given names and surname of the
2 child if both parents have custody of the child, otherwise the
3 parent who has custody shall select the child's name.

4 (b) If the mother and father whose names are entered
5 on the birth certificate disagree on the surname of the child
6 and both parents have custody of the child, the surname
7 selected by the father and the surname selected by the mother
8 shall both be entered on the birth certificate, separated by a
9 hyphen, with the selected names entered in alphabetical order.
10 If the parents disagree on the selection of a given name, the
11 given name may not be entered on the certificate until a joint
12 agreement that lists the agreed upon given name and is
13 notarized by both parents is submitted to the department, or
14 until a given name is selected by a court.

15 (c) If the mother is not married at the time of birth,
16 the parent who will have custody of the child shall select the
17 child's given name and surname.

18 (d) If multiple names of the child exceed the space
19 provided on the face of the birth certificate they shall be
20 listed on the back of the certificate. Names listed on the
21 back of the certificate shall be part of the official record.

22 (4) UNDETERMINED PARENTAGE.--The person having custody
23 of a child of undetermined parentage shall register a birth
24 certificate shall be registered for every child of
25 undetermined parentage showing all known or approximate facts
26 relating to the birth. To assist in later determination,
27 information concerning the place and circumstances under which
28 the child was found shall be included on the portion of the
29 birth certificate relating to marital status and medical
30 details. In the event the child is later identified to ~~the~~
31 ~~satisfaction~~ of the department, a new birth certificate shall

1 be prepared which shall bear the same number as the original
2 birth certificate, and the original certificate shall be
3 sealed and filed, shall be confidential and exempt from the
4 provisions of s. 119.07(1), and shall not be opened to
5 inspection by, nor shall certified copies of the same be
6 issued except by court order to, any person other than the
7 registrant if of legal age.

8 (5) DISCLOSURE.--The original certificate of live
9 birth shall contain all the information required by the
10 department for legal, social, and health research purposes.
11 However, all information concerning parentage, marital status,
12 and medical details shall be confidential and exempt from the
13 provisions of s. 119.07(1), except for health research
14 purposes as approved by the department, nor shall copies of
15 the same be issued except as provided in s. 382.025.

16 Section 19. Section 382.015, Florida Statutes, is
17 amended to read:

18 382.015 New certificates of live birth; duty of clerks
19 of court and department.--The clerk of the court in which any
20 proceeding for adoption, annulment of an adoption, affirmation
21 of parental status, or determination of paternity is to be
22 registered, shall within 30 days after the final disposition,
23 forward to the department a certified ~~court-certified~~ copy of
24 the court order ~~decree~~, or a report of the proceedings upon a
25 form to be furnished by the department, together with
26 sufficient information to identify the original birth
27 certificate and to enable the preparation of a new birth
28 certificate.

29 (1) ADOPTION AND ANNULMENT OF ADOPTION.--

30 (a) Upon receipt of the report or certified copy of an
31 adoption decree, together with the information necessary to

1 identify the original certificate of live birth, and establish
2 a new certificate, the department shall prepare and file a new
3 birth certificate, absent objection by the court decreeing the
4 adoption, the adoptive parents, or the adoptee if of legal
5 age. The certificate shall bear the same file number as the
6 original birth certificate. All names and identifying
7 information relating to the adoptive parents entered on the
8 new certificate shall refer to the adoptive parents, but
9 nothing in the certificate shall refer to or designate the
10 parents as being adoptive. All other items not affected by
11 adoption shall be copied as on the original certificate,
12 including the date of registration and filing.

13 (b) Upon receipt of the report or certified copy of an
14 annulment-of-adoption decree, together with the sufficient
15 information to identify the original certificate of live
16 birth, the department shall, if a new certificate of birth was
17 filed following an adoption report or decree, remove the new
18 certificate and restore the original certificate to its
19 original place in the files, and the certificate so removed
20 shall be sealed by the department.

21 (c) Upon receipt of a report or certified copy of an
22 adoption decree or annulment-of-adoption decree for a person
23 born in another state, the department shall forward the report
24 or decree to the state of the registrant's birth. If the
25 adoptee was born in Canada, the department shall send a copy
26 of the report or decree to the appropriate birth registration
27 authority in Canada.

28 (2) DETERMINATION OF PATERNITY.--

29 ~~(a)~~ Upon receipt of the report or a certified copy of
30 a final decree of determination of paternity, ~~or upon written~~
31 ~~request and receipt of a consenting affidavit signed by both~~

1 ~~parents acknowledging the paternity of the registrant,~~
2 together with sufficient information to identify the original
3 certificate of live birth, the department shall prepare and
4 file a new birth certificate which shall bear the same file
5 number as the original birth certificate. ~~If paternity has~~
6 ~~been established pursuant to court order,~~The registrant's
7 name shall be entered as decreed by the court. ~~Otherwise, the~~
8 ~~surname of the registrant may be changed from that shown on~~
9 ~~the original birth certificate at the request of the parents~~
10 ~~or the registrant if of legal age.~~The names and identifying
11 information of the parents shall be entered as of the date of
12 the registrant's birth.

13 ~~(b) If the parents marry each other at any time after~~
14 ~~the registrant's birth, the department shall, upon request of~~
15 ~~the parents or registrant if of legal age and proof of the~~
16 ~~marriage, amend the certificate with regard to the parent's~~
17 ~~marital status as though the parents were married at the time~~
18 ~~of birth.~~

19 ~~(c) If a father's name is already listed on the birth~~
20 ~~certificate, the birth certificate may only be amended to add~~
21 ~~a different father's name upon court order. If a change in~~
22 ~~the registrant's surname is also desired, such change must be~~
23 ~~included in the court order determining paternity or the name~~
24 ~~must be changed pursuant to s. 68.07.~~

25 (3) AFFIRMATION OF PARENTAL STATUS.--Upon receipt of
26 an order of affirmation of parental status issued pursuant to
27 s. 742.16, together with sufficient information to identify
28 the original certificate of live birth, the department shall
29 prepare and file a new birth certificate which shall bear the
30 same file number as the original birth certificate. The names
31 and identifying information of the registrant's parents

1 entered on the new certificate shall be the commissioning
2 couple, but the new certificate may not make reference to or
3 designate the parents as the commissioning couple.

4 (4) SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR
5 ORIGINAL.--When a new certificate of birth is prepared, the
6 department shall substitute the new certificate of birth for
7 the original certificate on file. All copies of the original
8 certificate of live birth in the custody of a local registrar
9 or other state custodian of vital records shall be forwarded
10 to the State Registrar. Thereafter, when a certified copy of
11 the certificate of birth of such person or portion thereof is
12 issued, it shall be a copy of the new certificate of birth or
13 portion thereof, except when a court order requires issuance
14 of a certified copy of the original certificate of birth. In
15 an adoption, change in paternity, affirmation of parental
16 status, undetermined parentage, or court-ordered substitution,
17 the department shall place the original certificate of birth
18 and all papers pertaining thereto under seal, not to be broken
19 except by order of a court of competent jurisdiction or as
20 otherwise provided by law.

21 (5) FORM.--Except for certificates of foreign birth
22 which are registered as provided in s. 382.017, and delayed
23 certificates of birth which are registered as provided in ss.
24 382.019 and 382.0195, all original, new, or amended
25 certificates of live birth shall be identical in form,
26 regardless of the marital status of the parents or the fact
27 that the registrant is adopted or of undetermined parentage.

28 (6) RULES.--The department shall adopt and enforce all
29 rules necessary for carrying out the provisions of this
30 section.

31

1 Section 20. Subsections (3), (4), and (5) are added to
2 section 382.016, Florida Statutes, to read:

3 382.016 Amendment of records.--

4 (3) Upon written request and receipt of an affidavit
5 signed by the mother and father acknowledging the paternity of
6 a registrant born out of wedlock, together with sufficient
7 information to identify the original certificate of live
8 birth, the department shall prepare a new birth certificate
9 which shall bear the same file number as the original birth
10 certificate. The names and identifying information of the
11 parents shall be entered as of the date of the registrant's
12 birth. The surname of the registrant may be changed from that
13 shown on the original birth certificate at the request of the
14 mother and father of the registrant or the registrant if of
15 legal age. If the mother and father marry each other at any
16 time after the registrant's birth, the department shall, upon
17 request of the mother and father or registrant if of legal age
18 and proof of the marriage, amend the certificate with regard
19 to the parents' marital status as though the parents were
20 married at the time of birth.

21 (4) When a new certificate of birth is prepared
22 pursuant to subsection (3), the department shall substitute
23 the new certificate of birth for the original certificate on
24 file. All copies of the original certificate of live birth in
25 the custody of a local registrar or other state custodian of
26 vital records shall be forwarded to the State Registrar.
27 Thereafter, when a certified copy of the certificate of birth
28 or portion thereof is issued, it shall be a copy of the new
29 certificate of birth or portion thereof, except when a court
30 order requires issuance of a certified copy of the original
31 certificate of birth. The department shall place the original

1 certificate of birth and all papers pertaining thereto under
2 seal, not to be broken except by order of a court of competent
3 jurisdiction or as otherwise provided by law.

4 (5) If a father's name is listed on the birth
5 certificate, the birth certificate may only be amended to
6 remove the father's name or to add a different father's name
7 upon court order. If a change in the registrant's surname is
8 also desired, such change must be included in the court order
9 or the name must be changed pursuant to s. 68.07.

10 Section 21. Subsection (1) of section 382.019, Florida
11 Statutes, is amended, and subsection (8) is added to said
12 section, to read:

13 382.019 Delayed registration; administrative
14 procedures.--

15 (1) Registration after 1 year is a delayed
16 registration, and the department may, upon receipt of an
17 application and the fee required under s. 382.0255, and proof
18 of the birth, death, or fetal death as prescribed by this
19 section or rule, register a delayed certificate if the
20 department does not already have a certificate of the birth,
21 death, or fetal death on file.

22 (8) In addition to the rulemaking authority found in
23 s. 382.003(10), the department may, by rule, provide for the
24 dismissal of an application which is not pursued within 1
25 year.

26 Section 22. Subsections (1) and (2) of section
27 382.025, Florida Statutes, are amended to read:

28 382.025 Certified copies of vital records;
29 confidentiality; research.--

30 (1) BIRTH RECORDS.--Except for birth records over 100
31 years old and not under seal pursuant to court order,all

1 birth records of this state shall be confidential and are
2 exempt from the provisions of s. 119.07(1).

3 (a) Certified copies of the original birth certificate
4 or a new or amended certificate, or affidavits thereof, are
5 confidential and exempt from the provisions of s. 119.07(1)
6 and, upon receipt of a request and payment of the fee
7 prescribed in s. 382.0255, shall be issued only as authorized
8 by the department and in the form prescribed by the
9 department, and only:

10 1. To the registrant, if of legal age;

11 2. To the registrant's parent or guardian or other
12 legal representative;

13 3. Upon receipt of the registrant's death certificate,
14 to the registrant's spouse or to the registrant's child,
15 grandchild, or sibling, if of legal age, or to the legal
16 representative of any of such persons;

17 4. To any person if the birth record is over 100 years
18 old and not under seal pursuant to court order;

19 5. To a law enforcement agency for official purposes;

20 6. To any agency of the state or the United States for
21 official purposes upon approval of the department; or

22 7. Upon order of any court of competent jurisdiction.

23 (b) To protect the integrity of vital records and
24 prevent the fraudulent use of the birth certificates of
25 deceased persons, the department shall match birth and death
26 certificates and post the fact of death to the appropriate
27 birth certificate. Except for a commemorative birth
28 certificate, any ~~A~~ certification of a birth certificate of a
29 deceased registrant shall be marked "deceased." In the case of
30 a commemorative birth certificate, such indication of death
31 shall be made on the back of the certificate.

1 (c) The department shall issue, upon request and upon
2 payment of an additional fee as prescribed under s. 382.0255,
3 a commemorative birth certificate representing that the birth
4 of the person named thereon is recorded in the office of the
5 registrar. The certificate issued under this paragraph shall
6 be in a form consistent with the need to protect the integrity
7 of vital records but shall be suitable for display. It may
8 bear the seal of the state printed thereon and may be signed
9 by the Governor.

10 (2) OTHER RECORDS.--

11 (a) The department shall authorize the issuance of a
12 certified copy of all or part of any marriage, dissolution of
13 marriage, or death or fetal death certificate, excluding that
14 portion which is confidential and exempt from the provisions
15 of s. 119.07(1) as provided under s. 382.008, to any person
16 requesting it upon receipt of a request and payment of the fee
17 prescribed by this section. A certification of the death or
18 fetal death certificate which includes the confidential
19 portions shall be issued only:

20 1. To the registrant's spouse or parent, or to the
21 registrant's child, grandchild, or sibling, if of legal age,
22 or to any person ~~family member~~ who provides a will which has
23 been executed pursuant to s. 732.502, insurance policy, or
24 other document that demonstrates his or her ~~the family~~
25 ~~member's~~ interest in the estate of the registrant, or to any
26 person who provides documentation that he or she is acting on
27 behalf of any of them;

28 2. To any agency of the state or local government or
29 the United States for official purposes upon approval of the
30 department; or

31 3. Upon order of any court of competent jurisdiction.

1 (b) All portions of a certificate of death shall cease
2 to be exempt from the provisions of s. 119.07(1) 50 years
3 after the date of death.

4 (c) The department shall issue, upon request and upon
5 payment of an additional fee prescribed by this section, a
6 commemorative marriage license representing that the marriage
7 of the persons named thereon is recorded in the office of the
8 registrar. The certificate issued under this paragraph shall
9 be in a form consistent with the need to protect the integrity
10 of vital records but shall be suitable for display. It may
11 bear the seal of the state printed thereon and may be signed
12 by the Governor.

13 Section 23. Subsection (2) of section 382.0255,
14 Florida Statutes, is amended to read:

15 382.0255 Fees.--

16 (2) The fee charged for each request for a
17 certification of a birth record issued by the department or by
18 the local registrar shall be subject to an additional fee of
19 \$4 which shall be deposited in the appropriate departmental
20 trust fund. On a quarterly basis, the department shall
21 ~~transfer \$2 of this additional fee to the General Revenue Fund~~
22 ~~and \$1.50 to the Child Welfare Training Trust Fund created in~~
23 ~~s. 402.40. Fifty cents of the fee shall be available for~~
24 ~~appropriation to the department for administration of this~~
25 ~~chapter.~~

26 Section 24. Paragraph (e) of subsection (3) of section
27 383.14, Florida Statutes, is amended to read:

28 383.14 Screening for metabolic disorders, other
29 hereditary and congenital disorders, and environmental risk
30 factors.--

31

1 (3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.--The
2 department shall administer and provide certain services to
3 implement the provisions of this section and shall:

4 (e) Supply the necessary dietary treatment products
5 where practicable for diagnosed cases of phenylketonuria and
6 other metabolic diseases for as long as medically indicated
7 when the products are not otherwise available. Provide
8 nutrition education and supplemental foods to those families
9 eligible for the Special Supplemental Nutrition ~~Food~~ Program
10 for Women, Infants, and Children as provided in s. 383.011.

11
12 All provisions of this subsection must be coordinated with the
13 provisions and plans established under this chapter, chapter
14 411, and Pub. L. No. 99-457.

15 Section 25. Subsection (4) of section 385.202, Florida
16 Statutes, is amended to read:

17 385.202 Statewide cancer registry.--

18 (4) Funds appropriated for this section shall be used
19 for establishing, administering, compiling, processing, and
20 providing biometric and statistical analyses to the reporting
21 facilities. Funds may also be used to ensure the quality and
22 accuracy of the information reported and to provide management
23 information to the reporting facilities. ~~Such reporting~~
24 ~~hospitals shall be reimbursed for reasonable costs.~~

25 Section 26. Section 385.203, Florida Statutes, is
26 amended to read:

27 385.203 Diabetes Advisory Council; creation; function;
28 membership.--

29 (1) To guide a statewide comprehensive approach to
30 diabetes prevention, diagnosis, education, care, treatment,
31 impact, and costs thereof, there is created a Diabetes

1 Advisory Council that serves as the advisory unit to the
2 ~~diabetes centers, the Board of Regents, and the Department of~~
3 Health, other governmental agencies, professional and other
4 organizations, and the general public. The council shall:

5 (a) Provide statewide leadership to continuously
6 improve the lives of all Floridians with diabetes and reduce
7 the burden of diabetes.

8 (b) Serve as a forum for the discussion and study of
9 issues related to the public health approach for the delivery
10 of health care services to persons with diabetes.

11 ~~(b) Provide advice and consultation to the deans of~~
12 ~~the medical schools in which are located diabetes centers, and~~
13 ~~by June 30 of each year, the council shall submit written~~
14 ~~recommendations to the deans regarding the need for diabetes~~
15 ~~education, treatment, and research activities to promote the~~
16 ~~prevention and control of diabetes.~~

17 (c) By June 30 of each year, meet with the secretary
18 of the Department of Health or a his or her designee to make
19 specific recommendations regarding the public health aspects
20 of the prevention and control of diabetes.

21 (2) The members of the council shall be appointed by
22 the Governor with advice from nominations by the Board of
23 Regents, the Board of Trustees of the University of Miami, and
24 the secretary of the Department of Health. Members shall serve
25 4-year terms or until their successors are appointed or
26 qualified.

27 (3) The council shall be composed of 25 18 citizens of
28 the state who have knowledge of or work in the area of
29 diabetes mellitus as follows: four practicing physicians; one
30 representative from each medical school; seven interested
31 citizens, at least three of whom shall be persons who have or

1 ~~have had diabetes mellitus or who have a child with diabetes~~
2 ~~mellitus; the Secretary of Health or his or her designee; one~~
3 ~~representative from the Division of Children's Medical~~
4 ~~Services of the Department of Health; and one professor of~~
5 ~~nutrition.~~

6 (a) Five interested citizens, three of whom are
7 affected by diabetes.

8 (b) Twenty members representing nursing with diabetes
9 educator certification; dietetics with diabetes educator
10 certification; podiatry; ophthalmology/optometry; psychology;
11 pharmacy; adult endocrinology; pediatric endocrinology; the
12 American Diabetes Association; the Juvenile Diabetes
13 Foundation; community health centers; county health
14 departments; American Diabetes Association-recognized
15 community education programs; each Florida medical school; the
16 insurance industry; Children's Medical Services diabetes
17 regional programs; and employers.

18 (c) One or more representatives from the Department of
19 Health shall serve on the council as ex officio members.

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

24 (b) In conducting its meetings, the council shall use
25 accepted rules of procedure. A majority of the members of the
26 council constitutes a quorum, and action by a majority of a
27 quorum is necessary for the council to take any official
28 action. The Department of Health ~~secretary~~ shall keep a
29 complete record of the proceedings of each meeting. The
30 record shall show the names of the members present and the
31 actions taken. The records shall be kept on file with the

1 department, and these and other documents about matters within
2 the jurisdiction of the council may be inspected by members of
3 the council.

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

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

15 Section 27. Subsection (8) of section 391.021, Florida
16 Statutes, 1998 Supplement, is amended to read:

17 391.021 Definitions.--When used in this act, unless
18 the context clearly indicates otherwise:

19 (8) "Program" means the Children's Medical Services
20 program established in the ~~Division of Children's Medical~~
21 ~~Services of the~~ department.

22 Section 28. Section 391.028, Florida Statutes, 1998
23 Supplement, is amended to read:

24 391.028 Administration.--The Children's Medical
25 Services program shall have a central office and area offices.

26 (1) The Director of ~~the Division of~~ Children's Medical
27 Services must be a physician licensed under chapter 458 or
28 chapter 459 who has specialized training and experience in the
29 provision of health care to children and who has recognized
30 skills in leadership and the promotion of children's health
31 programs. The ~~division~~ director shall be the deputy secretary

1 and the Deputy State Health Officer for Children's Medical
2 Services and is appointed by and reports to the secretary. The
3 director may appoint division directors subject to the
4 approval of the secretary.

5 (2) The ~~division~~ director shall designate Children's
6 Medical Services area offices to perform operational
7 activities, including, but not limited to:

8 (a) Providing case management services for the
9 network.

10 (b) Providing local oversight of the program.

11 (c) Determining an individual's medical and financial
12 eligibility for the program.

13 (d) Participating in the determination of a level of
14 care and medical complexity for long-term care services.

15 (e) Authorizing services in the program and developing
16 spending plans.

17 (f) Participating in the development of treatment
18 plans.

19 (g) Taking part in the resolution of complaints and
20 grievances from participants and health care providers.

21 (3) Each Children's Medical Services area office shall
22 be directed by a physician licensed under chapter 458 or
23 chapter 459 who has specialized training and experience in the
24 provision of health care to children. The director of a
25 Children's Medical Services area office shall be appointed by
26 the ~~division~~ director from the active panel of Children's
27 Medical Services physician consultants.

28 Section 29. Section 391.0315, Florida Statutes, 1998
29 Supplement, is amended to read:

30 391.0315 Benefits.--Benefits provided under the
31 program for children with special health care needs shall be

1 the same benefits provided to children as specified in ss.
2 409.905 and 409.906. The department may offer additional
3 benefits for early intervention services, respite services,
4 genetic testing, genetic and nutritional counseling, and
5 parent support services, if such services are determined to be
6 medically necessary. No child or person determined eligible
7 for the program who is eligible under Title XIX or Title XXI
8 of the Social Security Act shall receive any service other
9 than an initial health care screening or treatment of an
10 emergency medical condition as defined in s. 395.002, until
11 such child or person is enrolled in Medicaid or a Title XXI
12 program.

13 Section 30. Paragraph (b) of subsection (1) of section
14 391.221, Florida Statutes, 1998 Supplement, is amended to
15 read:

16 391.221 Statewide Children's Medical Services Network
17 Advisory Council.--

18 (1) The secretary of the department may appoint a
19 Statewide Children's Medical Services Network Advisory Council
20 for the purpose of acting as an advisory body to the
21 department. Specifically, the duties of the council shall
22 include, but not be limited to:

23 (b) Making recommendations to the director of ~~the~~
24 ~~Division of~~ Children's Medical Services concerning the
25 selection of health care providers for the Children's Medical
26 Services network.

27 Section 31. Subsection (1) of section 391.222, Florida
28 Statutes, 1998 Supplement, is amended to read:

29 391.222 Cardiac Advisory Council.--

30 (1) The secretary of the department may appoint a
31 Cardiac Advisory Council for the purpose of acting as the

1 advisory body to the Department of Health ~~Division of~~
2 ~~Children's Medical Services~~ in the delivery of cardiac
3 services to children. Specifically, the duties of the council
4 shall include, but not be limited to:

5 (a) Recommending standards for personnel and
6 facilities rendering cardiac services ~~for the Division of~~
7 ~~Children's Medical Services~~;

8 (b) Receiving reports of the periodic review of
9 cardiac personnel and facilities to determine if established
10 standards for the ~~Division of Children's Medical Services~~
11 cardiac services are met;

12 (c) Making recommendations to the ~~division~~ director as
13 to the approval or disapproval of reviewed personnel and
14 facilities;

15 (d) Making recommendations as to the intervals for
16 reinspection of approved personnel and facilities; and

17 (e) Providing input ~~to the Division of Children's~~
18 ~~Medical Services~~ on all aspects of Children's Medical Services
19 cardiac programs, including the rulemaking process.

20 Section 32. Section 391.223, Florida Statutes, 1998
21 Supplement, is amended to read:

22 391.223 Technical advisory panels.--The secretary of
23 the department may establish technical advisory panels to
24 assist ~~the Division of Children's Medical Services~~ in
25 developing specific policies and procedures for the Children's
26 Medical Services program.

27 Section 33. Subsection (3) of section 392.69, Florida
28 Statutes, is amended, and subsection (4) is added to said
29 section, to read:

30 392.69 Appropriation, sinking, and maintenance trust
31 funds; additional powers of the department.--

1 (3) In the execution of its public health program
2 functions, notwithstanding chapter 216,the department is
3 hereby authorized to use any sums of money which it may
4 heretofore have saved or which it may hereafter save from its
5 regular operating appropriation, or use any sums of money
6 acquired by gift or grant, or any sums of money it may acquire
7 by the issuance of revenue certificates of the hospital to
8 match or supplement any state or federal funds, or any moneys
9 received by said department by gift or otherwise, for the
10 construction or maintenance of additional facilities or
11 improvement to existing facilities, as the department deems
12 necessary.

13 (4) The department shall appoint an advisory board,
14 which shall meet quarterly to review and make recommendations
15 relating to patient care at A.G. Holley State Hospital.
16 Members shall be appointed for a term of 3 years, with such
17 appointments being staggered so that the terms of no more than
18 two members expire in any one year. Members shall serve
19 without remuneration, but may be reimbursed for per diem and
20 travel expenses as provided in s. 112.061.

21 Section 34. Subsection (3) of section 409.9126,
22 Florida Statutes, 1998 Supplement, is amended to read:

23 409.9126 Children with special health care needs.--

24 (3) Services provided through the Children's Medical
25 Services network shall be reimbursed on a fee-for-service
26 basis and shall utilize a primary care case management
27 process. Starting July 1, 1999, the Florida Medicaid program
28 shall phase in by geographical area capitation payments to
29 Children's Medical Services for services provided to
30 Medicaid-eligible children with special health care needs. By
31 January 1, 2001, the Agency for Health Care Administration

1 shall make capitation payments for Children's Medical Services
2 enrollees statewide, to the extent permitted by federal law.
3 ~~However, effective July 1, 1999, reimbursement to the~~
4 ~~Children's Medical Services program for services provided to~~
5 ~~Medicaid-eligible children with special health care needs~~
6 ~~through the Children's Medical Services network shall be on a~~
7 ~~capitated basis.~~

8 Section 35. Paragraph (a) of subsection (2) of section
9 465.019, Florida Statutes, 1998 Supplement, is amended to
10 read:

11 465.019 Institutional pharmacies; permits.--

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

14 (a) "Class I institutional pharmacies" are those
15 institutional pharmacies in which all medicinal drugs are
16 administered from individual prescription containers to the
17 individual patient and in which medicinal drugs are not
18 dispensed on the premises, except that nursing homes licensed
19 under part II of chapter 400 may purchase medical oxygen for
20 administration to residents. No medicinal drugs may be
21 dispensed in a Class I institutional pharmacy.

22 Section 36. Subsections (14), (15), (16), (19), and
23 (22) of section 499.005, Florida Statutes, 1998 Supplement,
24 are amended, and subsection (24) is added to said section, to
25 read:

26 499.005 Prohibited acts.--It is unlawful to perform or
27 cause the performance of any of the following acts in this
28 state:

29 (14) The purchase or receipt of a legend drug from a
30 person that is not authorized under this chapter ~~the law of~~

31

1 ~~the state in which the person resides~~ to distribute legend
2 drugs.

3 (15) The sale or transfer of a legend drug to a person
4 that is not authorized under the law of the jurisdiction in
5 which the person receives the drug ~~resides~~ to purchase or
6 possess legend drugs.

7 (16) The purchase or receipt of a compressed medical
8 gas from a person that is not authorized under this chapter
9 ~~the law of the state in which the person resides~~ to distribute
10 compressed medical gases.

11 (19) Providing the department with false or fraudulent
12 records, or making false or fraudulent statements, regarding
13 any matter within the provisions of this chapter ~~a drug,~~
14 ~~device, or cosmetic.~~

15 (22) Failure to obtain a permit or registration, or
16 operating without a valid permit, when a permit or
17 registration is ~~as~~ required by ss. 499.001-499.081 for that
18 activity.

19 (24) The distribution of a legend device to the
20 patient or ultimate consumer without a prescription or order
21 from a practitioner licensed by law to use or prescribe the
22 device.

23 Section 37. Subsections (13) of section 499.007,
24 Florida Statutes, is amended to read:

25 499.007 Misbranded drug or device.--A drug or device
26 is misbranded:

27 (13) If it is a drug that is subject to paragraph
28 (12)(a), and if, at any time before it is dispensed, its label
29 fails to bear the statement:

30
31

1 (a) "Caution: Federal Law Prohibits Dispensing
2 Without Prescription"; "Rx Only" or the prescription symbol
3 followed by the word "Only";or
4 (b) "Caution: State Law Prohibits Dispensing Without
5 Prescription."
6
7 A drug dispensed by filling or refilling a written or oral
8 prescription of a practitioner licensed by law to prescribe
9 such drug is exempt from the requirements of this section,
10 except subsections (1), (8), (10), and (11) and the packaging
11 requirements of subsections (6) and (7), if the drug bears a
12 label that contains the name and address of the dispenser or
13 seller, the prescription number and the date the prescription
14 was written or filled, the name of the prescriber and the name
15 of the patient, and the directions for use and cautionary
16 statements. This exemption does not apply to any drug
17 dispensed in the course of the conduct of a business of
18 dispensing drugs pursuant to diagnosis by mail or to any drug
19 dispensed in violation of subsection (12). The department
20 may, by rule, exempt drugs subject to ss. 499.062-499.064 from
21 subsection (12) if compliance with that subsection is not
22 necessary to protect the public health, safety, and welfare.
23 Section 38. Subsection (15) of section 499.028,
24 Florida Statutes, is amended to read:
25 499.028 Drug samples or complimentary drugs; starter
26 packs; permits to distribute.--
27 (15) A person may not possess a prescription drug
28 sample unless:
29 (a) The drug sample was prescribed to her or him as
30 evidenced by the label required in s. 465.0276(5).
31

1 (b) She or he is the employee of a complimentary drug
2 distributor that holds a permit issued under ss.
3 499.001-499.081.

4 (c) She or he is a person to whom prescription drug
5 samples may be distributed pursuant to this section.

6 (d) She or he is an officer or employee of a federal,
7 state, or local government acting within the scope of
8 employment.

9 Section 39. Subsection (1) of section 499.066, Florida
10 Statutes, is amended to read:

11 499.066 Penalties; remedies.--In addition to other
12 penalties and other enforcement provisions:

13 (1) When the department believes that any person has
14 violated ss. 499.001-499.081 or any rules adopted pursuant to
15 those sections, it may issue and deliver an order to cease and
16 desist from such violation. A cease and desist order issued
17 pursuant to this subsection shall take effect immediately upon
18 issuance and shall remain in effect until the department takes
19 final agency action. A cease and desist order shall be
20 reviewable at the request of the person to whom it is directed
21 as follows:

22 (a) If formal proceedings have been requested and the
23 matter has been referred to the Division of Administrative
24 Hearings, a motion to abate or modify the cease and desist
25 order may be filed with the division. Any interlocutory order
26 of the presiding administrative law judge shall be binding on
27 the parties until final agency action is taken by the
28 department.

29 (b) If informal proceedings have been requested, the
30 department may consider and determine a request from the
31 affected person to abate or modify the cease and desist order.

1 (c) If a person is aggrieved by a cease and desist
2 order after seeking to have the order abated or modified
3 pursuant to paragraph (a) or paragraph (b), the person may
4 seek interlocutory judicial review by the appropriate district
5 court of appeal pursuant to the applicable rules of appellate
6 procedure.

7 Section 40. Subsection (1) of section 499.069, Florida
8 Statutes, is amended to read:

9 499.069 Punishment for violations of s. 499.005;
10 dissemination of false advertisement.--

11 (1) Any person who violates any of the provisions of
12 s. 499.005 is guilty of a misdemeanor of the second degree,
13 punishable as provided in s. 775.082 or s. 775.083; but, if
14 the violation is committed after a conviction of such person
15 under this section has become final, such person is guilty of
16 a misdemeanor of the first degree, punishable as provided in
17 s. 775.082 or s. 775.083 or as otherwise provided in ss.
18 499.001-499.081, except that any person who violates
19 subsection (8), subsection (10), subsection (14), subsection
20 (15), ~~subsection (16)~~, or subsection (17) of s. 499.005 is
21 guilty of a felony of the third degree, punishable as provided
22 in s. 775.082, s. 775.083, or s. 775.084, or as otherwise
23 provided in ss. 499.001-499.081.

24 Section 41. Subsection (1) of section 742.10, Florida
25 Statutes, is amended to read:

26 742.10 Establishment of paternity for children born
27 out of wedlock.--

28 (1) This chapter provides the primary jurisdiction and
29 procedures for the determination of paternity for children
30 born out of wedlock. When the establishment of paternity has
31 been raised and determined within an adjudicatory hearing

1 brought under the statutes governing inheritance, or
2 dependency under workers' compensation or similar compensation
3 programs, or when an affidavit acknowledging paternity or a
4 stipulation of paternity is executed by both parties and filed
5 with the clerk of the court, or when a consenting affidavit as
6 provided for in s. 382.013 or s. 382.016 ~~s. 382.015~~ is
7 executed by both parties, it shall constitute the
8 establishment of paternity for purposes of this chapter. If no
9 adjudicatory proceeding was held, a voluntary acknowledgment
10 of paternity shall create a rebuttable presumption, as defined
11 by s. 90.304, of paternity and is subject to the right of any
12 signatory to rescind the acknowledgment within 60 days of the
13 date the acknowledgment was signed or the date of an
14 administrative or judicial proceeding relating to the child,
15 including a proceeding to establish a support order, in which
16 the signatory is a party, whichever is earlier. Both parents
17 are required to provide their social security numbers on any
18 acknowledgment of paternity, consent affidavit, or stipulation
19 of paternity. Except for consenting affidavits under seal
20 pursuant to ~~ss. 382.015~~ and 382.016, the Office of Vital
21 Statistics shall provide certified copies of affidavits to the
22 Title IV-D agency upon request.

23 Section 42. The building that is known as the 1911
24 State Board of Health Building, which is part of a
25 multibuilding complex with the address of 1217 Pearl Street,
26 Jacksonville, Florida, shall be known as the Wilson T. Sowder,
27 M.D., Building.

28 Section 43. The building authorized by chapter 98-307,
29 Laws of Florida, that will be located on Seagrape Drive on the
30 Tampa Campus of the University of South Florida, which will
31

1 house laboratory facilities for the Department of Health,
2 shall be known as the William G. "Doc" Myers, M.D., Building.
3 Section 44. The Department of Health headquarters
4 building that will comprise approximately 100,000 square feet
5 that is authorized by item 1986 in the 1998-1999
6 Appropriations Act shall be known as the E. Charlton Prather,
7 M.D., Building.
8 Section 45. Subsection (3) of section 381.731, Florida
9 Statutes, 1998 Supplement, as transferred from section
10 408.601, Florida Statutes, by chapter 98-224, Laws of Florida,
11 is repealed.
12 Section 46. Subsection (5) of section 383.307, Florida
13 Statutes, is repealed.
14 Section 47. Subsection (7) of section 404.20, Florida
15 Statutes, is repealed.
16 Section 48. Section 409.9125, Florida Statutes, is
17 repealed.
18 Section 49. This act shall take effect July 1, 1999.
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HOUSE SUMMARY

Revises provisions of law relating to the Department of Health to:

1. Provide for additional divisions within the department and to provide that the department may use state or federal funds for described purposes to protect and improve the public health.

2. Revise provisions throughout the affected provisions of the Florida Statutes to conform to federal law and to conform titles relating to the Children's Medical Services.

3. Clarify terms, delete obsolete language, and conform the statutes to terminology and titles in current usage.

4. Provide the department with contract authority for described administrative hearings.

5. Provide requirements for provider contracts and to provide authority to purchase described automotive equipment.

6. Revise language with respect to alligator management and trapping.

7. Revise requirements relating to HIV test on deceased persons.

8. Revise the rulemaking authority of the department and to provide for the inspection of certain group care facilities under the environmental health program.

9. Provide the department with authority to impose described fines.

10. Clarify differences in regulatory requirements for drinking water systems.

11. Revise membership and duties of the Health Information Systems Council.

12. Provide requirements relating to birth registrations.

13. Provide described administrative procedures for acknowledging paternity.

14. Provide requirements and membership for the Diabetes Advisory Council.

15. Provide the Director of Children's Medical Services with described appointment authority.

16. Provide requirements for benefits to children with special health care needs.

17. Authorize the department to use described excess money for improvements to facilities and to establish an advisory board for the A.G. Holley State Hospital.

18. Revise date requirements for described capitation payments to Children's Medical Services.

19. Authorize described nursing homes to purchase medical oxygen.

20. Clarify language with respect to prohibitions relating to sales of prescription drugs and legend devices.

21. Authorize described federal, state, or local government employees to possess drug samples.

22. Provide for the immediate effect of described cease and desist orders.

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See bill for details.