

Bill No. CS for SB 1028

Amendment No.

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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| 11 | Senator Diaz-Balart moved the following amendment: | | |
| 12 | | | |
| 13 | Senate Amendment (with title amendment) | | |
| 14 | On page 30, between lines 18 and 19, | | |
| 15 | | | |
| 16 | insert: | | |
| 17 | Section 10. <u>Florida Commission on Excellence in Health</u> | | |
| 18 | <u>Care.--</u> | | |
| 19 | <u>(1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature</u> | | |
| 20 | <u>finds that the health care delivery industry is one of the</u> | | |
| 21 | <u>largest and most complex industries in Florida. The</u> | | |
| 22 | <u>Legislature finds that additional focus on strengthening</u> | | |
| 23 | <u>health care delivery systems by eliminating avoidable mistakes</u> | | |
| 24 | <u>in the diagnosis and treatment of Floridians holds tremendous</u> | | |
| 25 | <u>promise to increase the quality of health care services</u> | | |
| 26 | <u>available to Floridians. To achieve this enhanced focus, it is</u> | | |
| 27 | <u>the intent of the Legislature to create the Florida Commission</u> | | |
| 28 | <u>on Excellence in Health Care to facilitate the development of</u> | | |
| 29 | <u>a comprehensive statewide strategy for improving health care</u> | | |
| 30 | <u>delivery systems through meaningful reporting standards, data</u> | | |
| 31 | <u>collection and review, and quality measurement.</u> | | |

Bill No. CS for SB 1028

Amendment No. ____

1 (2) DEFINITIONS.--As used in this act, the term:

2 (a) "Agency" means the Agency for Health Care
3 Administration.

4 (b) "Commission" means the Florida Commission on
5 Excellence in Health Care.

6 (c) "Department" means the Department of Health.

7 (d) "Error," with respect to health care, means an
8 unintended act, by omission or commission.

9 (e) "Health care practitioner" means any person
10 licensed under chapter 457; chapter 458; chapter 459; chapter
11 460; chapter 461; chapter 462; chapter 463; chapter 464;
12 chapter 465; chapter 466; chapter 467; part I, part II, part
13 III, part V, part X, part XIII, or part XIV of chapter 468;
14 chapter 478; chapter 480; part III or part IV of chapter 483;
15 chapter 484; chapter 486; chapter 490; or chapter 491, Florida
16 Statutes.

17 (f) "Health care provider" means any health care
18 facility or other health care organization licensed or
19 certified to provide approved medical and allied health
20 services in this state.

21 (3) COMMISSION; DUTIES AND RESPONSIBILITIES.--There is
22 created the Florida Commission on Excellence in Health Care.
23 The commission shall:

24 (a) Identify existing data sources that evaluate
25 quality of care in Florida and collect, analyze, and evaluate
26 this data.

27 (b) Establish guidelines for data sharing and
28 coordination.

29 (c) Identify core sets of quality measures for
30 standardized reporting by appropriate components of the health
31 care continuum.

Bill No. CS for SB 1028

Amendment No. ____

1 (d) Recommend a framework for quality measurement and
2 outcome reporting.

3 (e) Develop quality measures that enhance and improve
4 the ability to evaluate and improve care.

5 (f) Make recommendations regarding research and
6 development needed to advance quality measurement and
7 reporting.

8 (g) Evaluate regulatory issues relating to the
9 pharmacy profession and recommend changes necessary to
10 optimize patient safety.

11 (h) Facilitate open discussion of a process to ensure
12 that comparative information on health care quality is valid,
13 reliable, comprehensive, understandable, and widely available
14 in the public domain.

15 (i) Sponsor public hearings to share information and
16 expertise, identify "best practices," and recommend methods to
17 promote their acceptance.

18 (j) Evaluate current regulatory programs to determine
19 what changes, if any, need to be made to facilitate patient
20 safety.

21 (k) Review public and private health care purchasing
22 systems to determine if there are sufficient mandates and
23 incentives to facilitate continuous improvement in patient
24 safety.

25 (l) Analyze how effective existing regulatory systems
26 are in ensuring continuous competence and knowledge of
27 effective safety practices.

28 (m) Develop a framework for organizations that
29 license, accredit, or credential health care practitioners and
30 health care providers to more quickly and effectively identify
31 unsafe providers and practitioners and to take action

Bill No. CS for SB 1028

Amendment No. ____

1 necessary to remove the unsafe provider or practitioner from
2 practice or operation until such time as the practitioner or
3 provider has proven safe to practice or operate.

4 (n) Recommend procedures for development of a
5 curriculum on patient safety and methods of incorporating such
6 curriculum into training, licensure, and certification
7 requirements.

8 (o) Develop a framework for regulatory bodies to
9 disseminate information on patient safety to health care
10 practitioners, health care providers, and consumers through
11 conferences, journal articles and editorials, newsletters,
12 publications, and Internet websites.

13 (p) Recommend procedures to incorporate recognized
14 patient safety considerations into practice guidelines and
15 into standards related to the introduction and diffusion of
16 new technologies, therapies, and drugs.

17 (q) Recommend a framework for development of
18 community-based collaborative initiatives for error reporting
19 and analysis and implementation of patient safety
20 improvements.

21 (r) Evaluate the role of advertising in promoting or
22 adversely affecting patient safety.

23 (4) MEMBERSHIP, ORGANIZATION, MEETINGS, PROCEDURES,
24 STAFF.--

25 (a) The commission shall consist of:

26 1. The Secretary of Health and the Director of Health
27 Care Administration;

28 2. One representative each from the following agencies
29 or organizations: the Board of Medicine, the Board of
30 Osteopathic Medicine, the Board of Pharmacy, the Board of
31 Dentistry, the Board of Nursing, the Florida Dental

Bill No. CS for SB 1028

Amendment No. ____

1 Association, the Florida Medical Association, the Florida
 2 Osteopathic Medical Association, the Florida Chiropractic
 3 Association, the Florida Chiropractic Society, the Florida
 4 Podiatric Medical Association, the Florida Nurses Association,
 5 the Florida Organization of Nursing Executives, the Florida
 6 Pharmacy Association, the Florida Society of Health System
 7 Pharmacists, Inc., the Florida Hospital Association, the
 8 Association of Community Hospitals and Health Systems of
 9 Florida, Inc., the Florida League of Health Systems, the
 10 Florida Health Care Risk Management Advisory Council, the
 11 Florida Health Care Association, the Florida Statutory
 12 Teaching Hospital Council, Inc., the Florida Statutory Rural
 13 Hospital Council, the Florida Association of Homes for the
 14 Aging, and the Florida Society for Respiratory Care;

15 3. Two health lawyers, appointed by the Secretary of
 16 Health, one of whom must be a member of the Health Law Section
 17 of The Florida Bar who defends physicians and one of whom must
 18 be a member of the Academy of Florida Trial Lawyers;

19 4. Two representatives of the health insurance
 20 industry, appointed by the Director of Health Care
 21 Administration, one of whom shall represent indemnity plans
 22 and one of whom shall represent managed care;

23 5. Five consumer advocates, consisting of one from the
 24 Association for Responsible Medicine, two appointed by the
 25 Governor, one appointed by the President of the Senate, and
 26 one appointed by the Speaker of the House of Representatives;

27 6. Two legislators, one appointed by the President of
 28 the Senate and one appointed by the Speaker of the House of
 29 Representatives; and

30 7. One representative of a Florida medical school
 31 appointed by the Secretary of Health.

Bill No. CS for SB 1028

Amendment No. ____

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2 Commission membership shall reflect the geographic and
3 demographic diversity of the state.

4 (b) The Secretary of Health and the Director of Health
5 Care Administration shall jointly chair the commission.
6 Subcommittees shall be formed by the joint chairs, as needed,
7 to make recommendations to the full commission on the subjects
8 assigned. However, all votes on work products of the
9 commission shall be at the full commission level, and all
10 recommendations to the Governor, the President of the Senate,
11 and the Speaker of the House of Representatives must pass by a
12 two-thirds vote of the full commission. Sponsoring agencies
13 and organizations may designate an alternative member who may
14 attend and vote on behalf of the sponsoring agency or
15 organization in the event the appointed member is unable to
16 attend a meeting of the commission or any subcommittee. The
17 commission shall be staffed by employees of the Department of
18 Health and the Agency for Health Care Administration.
19 Sponsoring agencies or organizations must fund the travel and
20 related expenses of their appointed members on the commission.
21 Travel and related expenses for the consumer members of the
22 commission shall be reimbursed by the state pursuant to
23 section 112.061, Florida Statutes. The commission shall hold
24 its first meeting no later than July 15, 2000.

25 (5) EVIDENTIARY PROHIBITIONS.--

26 (a) The findings, recommendations, evaluations,
27 opinions, investigations, proceedings, records, reports,
28 minutes, testimony, correspondence, work product, and actions
29 of the commission shall be available to the public, but may
30 not be introduced into evidence at any civil, criminal,
31 special, or administrative proceeding against a health care

Bill No. CS for SB 1028

Amendment No. ____

1 practitioner or health care provider arising out of the
2 matters which are the subject of the findings of the
3 commission. Moreover, no member of the commission shall be
4 examined in any civil, criminal, special, or administrative
5 proceeding against a health care practitioner or health care
6 provider as to any evidence or other matters produced or
7 presented during the proceedings of this commission or as to
8 any findings, recommendations, evaluations, opinions,
9 investigations, proceedings, records, reports, minutes,
10 testimony, correspondence, work product, or other actions of
11 the commission or any members thereof. However, nothing in
12 this section shall be construed to mean that information,
13 documents, or records otherwise available and obtained from
14 original sources are immune from discovery or use in any
15 civil, criminal, special, or administrative proceeding merely
16 because they were presented during proceedings of the
17 commission. Nor shall any person who testifies before the
18 commission or who is a member of the commission be prevented
19 from testifying as to matters within his or her knowledge in a
20 subsequent civil, criminal, special, or administrative
21 proceeding merely because such person testified in front of
22 the commission.

23 (b) The findings, recommendations, evaluations,
24 opinions, investigations, proceedings, records, reports,
25 minutes, testimony, correspondence, work product, and actions
26 of the commission shall be used as a guide and resource and
27 shall not be construed as establishing or advocating the
28 standard of care for health care practitioners or health care
29 providers unless subsequently enacted into law or adopted in
30 rule. Nor shall any findings, recommendations, evaluations,
31 opinions, investigations, proceedings, records, reports,

Bill No. CS for SB 1028

Amendment No. ____

1 minutes, testimony, correspondence, work product, or actions
2 of the commission be admissible as evidence in any way,
3 directly or indirectly, by introduction of documents or as a
4 basis of an expert opinion as to the standard of care
5 applicable to health care practitioners or health care
6 providers in any civil, criminal, special, or administrative
7 proceeding unless subsequently enacted into law or adopted in
8 rule.

9 (c) No person who testifies before the commission or
10 who is a member of the commission may specifically identify
11 any patient, health care practitioner, or health care provider
12 by name. Moreover, the findings, recommendations, evaluations,
13 opinions, investigations, proceedings, records, reports,
14 minutes, testimony, correspondence, work product, and actions
15 of the commission may not specifically identify any patient,
16 health care practitioner, or health care provider by name.

17 (6) REPORT; TERMINATION.--The commission shall provide
18 a report of its findings and recommendations to the Governor,
19 the President of the Senate, and the Speaker of the House of
20 Representatives no later than February 1, 2001. After
21 submission of the report, the commission shall continue to
22 exist for the purpose of assisting the Department of Health,
23 the Agency for Health Care Administration, and the regulatory
24 boards in their drafting of proposed legislation and rules to
25 implement its recommendations and for the purpose of providing
26 information to the health care industry on its
27 recommendations. The commission shall be terminated June 1,
28 2001.

29 Section 11. The sum of \$91,000 in nonrecurring general
30 revenue is hereby appropriated from the General Revenue Fund
31 to the Department of Health to cover costs of the Florida

Bill No. CS for SB 1028

Amendment No. ____

1 Commission on Excellence in Health Care relating to the travel
2 and related expenses of staff and consumer members and the
3 reproduction and dissemination of documents.
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5 (Redesignate subsequent sections.)
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7

8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 1, line 29, after the semicolon,

11

12 insert:

13 creating the Florida Commission on Excellence
14 in Health Care; providing legislative findings
15 and intent; providing definitions; providing
16 duties and responsibilities; providing for
17 membership, organization, meetings, procedures,
18 and staff; providing for reimbursement of
19 travel and related expenses of certain members;
20 providing certain evidentiary prohibitions;
21 requiring a report to the Governor, the
22 President of the Senate, and the Speaker of the
23 House of Representatives; providing for
24 termination of the commission; providing an
25 appropriation;
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