

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Fasano offered the following:

Amendment (with title amendment)

On page 6, line 23, of the bill

insert:

Section 2. Florida Commission on Excellence in Health Care.--

(1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature finds that the health care delivery industry is one of the largest and most complex industries in Florida. The Legislature finds that the current system of regulating health care practitioners and health care providers is one of blame and punishment and does not encourage voluntary admission of errors and immediate corrective action on a large scale. The Legislature finds that previous attempts to identify and address areas which impact the quality of care provided by the health care industry have suffered from a lack of coordination among the industry's stakeholders and regulators. The Legislature finds that additional focus on strengthening health care delivery systems by eliminating avoidable mistakes

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1 in the diagnosis and treatment of Floridians holds tremendous
2 promise to increase the quality of health care services
3 available to Floridians, thereby reducing the costs associated
4 with medical mistakes and malpractice and in turn increasing
5 access to health care in the state. To achieve this enhanced
6 focus, it is the intent of the Legislature to create the
7 Florida Commission on Excellence in Health Care to facilitate
8 the development of a comprehensive statewide strategy for
9 improving health care delivery systems through meaningful
10 reporting standards, data collection and review, and quality
11 measurement.

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

13 (a) "Agency" means the Agency for Health Care
14 Administration.

15 (b) "Commission" means the Florida Commission on
16 Excellence in Health Care.

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

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

20 (e) "Health care practitioner" means any person
21 licensed under chapter 457; chapter 458; chapter 459; chapter
22 460; chapter 461; chapter 462; chapter 463; chapter 464;
23 chapter 465; chapter 466; chapter 467; part I, part II, part
24 III, part V, part X, part XIII, or part XIV of chapter 468;
25 chapter 478; chapter 480; part III or part IV of chapter 483;
26 chapter 484; chapter 486; chapter 490; or chapter 491, Florida
27 Statutes.

28 (f) "Health care provider" means any health care
29 facility or other health care organization licensed or
30 certified to provide approved medical and allied health
31 services in this state.

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- 1 (3) COMMISSION; DUTIES AND RESPONSIBILITIES.--There is
2 hereby created the Florida Commission on Excellence in Health
3 Care. The commission shall:
4 (a) Identify existing data sources that evaluate
5 quality of care in Florida and collect, analyze, and evaluate
6 this data.
7 (b) Establish guidelines for data sharing and
8 coordination.
9 (c) Identify core sets of quality measures for
10 standardized reporting by appropriate components of the health
11 care continuum.
12 (d) Recommend a framework for quality measurement and
13 outcome reporting.
14 (e) Develop quality measures that enhance and improve
15 the ability to evaluate and improve care.
16 (f) Make recommendations regarding research and
17 development needed to advance quality measurement and
18 reporting.
19 (g) Evaluate regulatory issues relating to the
20 pharmacy profession and recommend changes necessary to
21 optimize patient safety.
22 (h) Facilitate open discussion of a process to ensure
23 that comparative information on health care quality is valid,
24 reliable, comprehensive, understandable, and widely available
25 in the public domain.
26 (i) Sponsor public hearings to share information and
27 expertise, identify "best practices," and recommend methods to
28 promote their acceptance.
29 (j) Evaluate current regulatory programs to determine
30 what changes, if any, need to be made to facilitate patient
31 safety.

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1 (k) Review public and private health care purchasing
2 systems to determine if there are sufficient mandates and
3 incentives to facilitate continuous improvement in patient
4 safety.

5 (l) Analyze how effective existing regulatory systems
6 are in ensuring continuous competence and knowledge of
7 effective safety practices.

8 (m) Develop a framework for organizations that
9 license, accredit, or credential health care practitioners and
10 health care providers to more quickly and effectively identify
11 unsafe providers and practitioners and to take action
12 necessary to remove the unsafe provider or practitioner from
13 practice or operation until such time as the practitioner or
14 provider has proven safe to practice or operate.

15 (n) Recommend procedures for development of a
16 curriculum on patient safety and methods of incorporating such
17 curriculum into training, licensure, and certification
18 requirements.

19 (o) Develop a framework for regulatory bodies to
20 disseminate information on patient safety to health care
21 practitioners, health care providers, and consumers through
22 conferences, journal articles and editorials, newsletters,
23 publications, and Internet websites.

24 (p) Recommend procedures to incorporate recognized
25 patient safety considerations into practice guidelines and
26 into standards related to the introduction and diffusion of
27 new technologies, therapies, and drugs.

28 (q) Recommend a framework for development of
29 community-based collaborative initiatives for error reporting
30 and analysis and implementation of patient safety
31 improvements.

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

3 (s) Evaluate and make recommendations regarding the
4 need for licensure of additional persons who participate in
5 the delivery of health care to Floridians, including, but not
6 limited to, surgical technologists and pharmacy technicians.

7 (t) Evaluate the benefits and problems of the current
8 disciplinary systems and make recommendations regarding
9 alternatives and improvements.

10 (4) MEMBERSHIP, ORGANIZATION, MEETINGS, PROCEDURES,
11 STAFF.--

12 (a) The commission shall consist of:

13 1. The Secretary of Health and the Executive Director
14 of the Agency for Health Care Administration.

15 2. One representative each from the following agencies
16 or organizations: the Board of Medicine, the Board of
17 Osteopathic Medicine, the Board of Pharmacy, the Board of
18 Nursing, the Board of Dentistry, the Florida Dental
19 Association, the Florida Medical Association, the Florida
20 Osteopathic Medical Association, the Florida Academy of
21 Physician Assistants, the Florida Chiropractic Society, the
22 Florida Chiropractic Association, the Florida Podiatric
23 Medical Association, the Florida Society of Ambulatory
24 Surgical Centers, the Florida Statutory Teaching Hospital
25 Council, Inc., the Florida Statutory Rural Hospital Council,
26 the Florida Nurses Association, the Florida Organization of
27 Nursing Executives, the Florida Pharmacy Association, the
28 Florida Society of Health System Pharmacists, Inc., the
29 Florida Retail Federation, the Florida Hospital Association,
30 the Association of Community Hospitals and Health Systems of
31 Florida, Inc., the Florida League of Health Care Systems, the

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- 1 Florida Health Care Risk Management Advisory Council, the
2 Florida Health Care Association, and the Florida Association
3 of Homes for the Aging;
4 3. One licensed clinical laboratory director,
5 appointed by the Secretary of Health;
6 4. Two health lawyers, appointed by the Secretary of
7 Health, one of whom shall be a member of The Florida Bar
8 Health Law Section who defends physicians and one of whom
9 shall be a member of the Florida Academy of Trial Lawyers;
10 5. One representative of the medical malpractice
11 professional liability insurance industry, appointed by the
12 Secretary of Health;
13 6. One representative of a Florida medical school
14 appointed by the Secretary of Health;
15 7. Two representatives of the health insurance
16 industry, appointed by the Executive Director of the Agency
17 for Health Care Administration, one of whom shall represent
18 indemnity plans and one of whom shall represent managed care;
19 8. Four consumer advocates, consisting of one from the
20 Association for Responsible Medicine, one appointed by the
21 Governor, one appointed by the President of the Senate, and
22 one appointed by the Speaker of the House of Representatives;
23 and
24 9. Two legislators, one appointed by the President of
25 the Senate and one appointed by the Speaker of the House of
26 Representatives.
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28 Commission membership shall reflect the geographic and
29 demographic diversity of the state.
30 (b) The Secretary of Health and the Executive Director
31 of the Agency for Health Care Administration shall jointly

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

21 (5) EVIDENTIARY PROHIBITIONS.--

22 (a) The findings, recommendations, evaluations,
23 opinions, investigations, proceedings, records, reports,
24 minutes, testimony, correspondence, work product, and actions
25 of the commission shall be available to the public, but may
26 not be introduced into evidence at any civil, criminal,
27 special, or administrative proceeding against a health care
28 practitioner or health care provider arising out of the
29 matters which are the subject of the findings of the
30 commission. Moreover, no member of the commission shall be
31 examined in any civil, criminal, special, or administrative

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1 proceeding against a health care practitioner or health care
2 provider as to any evidence or other matters produced or
3 presented during the proceedings of this commission or as to
4 any findings, recommendations, evaluations, opinions,
5 investigations, proceedings, records, reports, minutes,
6 testimony, correspondence, work product, or other actions of
7 the commission or any members thereof. However, nothing in
8 this section shall be construed to mean that information,
9 documents, or records otherwise available and obtained from
10 original sources are immune from discovery or use in any
11 civil, criminal, special, or administrative proceeding merely
12 because they were presented during proceedings of the
13 commission. Nor shall any person who testifies before the
14 commission or who is a member of the commission be prevented
15 from testifying as to matters within his or her knowledge in a
16 subsequent civil, criminal, special, or administrative
17 proceeding merely because such person testified in front of
18 the commission.

19 (b) The findings, recommendations, evaluations,
20 opinions, investigations, proceedings, records, reports,
21 minutes, testimony, correspondence, work product, and actions
22 of the commission shall be used as a guide and resource and
23 shall not be construed as establishing or advocating the
24 standard of care for health care practitioners or health care
25 providers unless subsequently enacted into law or adopted in
26 rule. Nor shall any findings, recommendations, evaluations,
27 opinions, investigations, proceedings, records, reports,
28 minutes, testimony, correspondence, work product, or actions
29 of the commission be admissible as evidence in any way,
30 directly or indirectly, by introduction of documents or as a
31 basis of an expert opinion as to the standard of care

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1 applicable to health care practitioners or health care
2 providers in any civil, criminal, special, or administrative
3 proceeding unless subsequently enacted into law or adopted in
4 rule.

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

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

25 Section 3. The sum of \$91,000 in nonrecurring general
26 revenue is hereby appropriated from the General Revenue Fund
27 to the Department of Health to cover costs of the Florida
28 Commission on Excellence in Health Care relating to the travel
29 and related expenses of staff, consumer members, and members
30 appointed by the department or agency; the hiring of
31 consultants, if necessary; and the reproduction and

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1 dissemination of documents; however, no portion of this
2 appropriation shall be effective that duplicates a similar
3 appropriation for the same purpose contained in other
4 legislation from the 2000 legislative session that becomes
5 law.

6 Section 4. The sum of \$200,000 is appropriated from
7 the Insurance Commissioner's Regulatory Trust Fund to the
8 Office of Legislative Services for the purpose of implementing
9 the legislative intent expressed in s. 624.215(1), Florida
10 Statutes, for a systematic review of current mandated health
11 coverages. The review must be conducted by certified actuaries
12 and other appropriate professionals and shall consist of an
13 assessment of the impact, including, but not limited to, the
14 costs and benefits, of current mandated health coverages using
15 the guidelines provided in s. 624.215(2), Florida Statutes.
16 This assessment shall establish the aggregate cost of mandated
17 health coverages.

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

21 And the title is amended as follows:

22 On page 1, line 5, after the semicolon

23

24 insert:

25 creating the Florida Commission on Excellence
26 in Health Care; providing legislative findings
27 and intent; providing definitions; providing
28 duties and responsibilities; providing for
29 membership, organization, meetings, procedures,
30 and staff; providing for reimbursement of
31 travel and related expenses of certain members;

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1 providing certain evidentiary prohibitions;
2 requiring a report to the Governor, the
3 President of the Senate, and the Speaker of the
4 House of Representatives; providing for
5 termination of the commission; providing
6 appropriations;
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