

By the Committee on Health, Aging and Long-Term Care; and
Senator Clary

317-1827-00

1 A bill to be entitled
2 An act relating to the Department of Health;
3 amending s. 20.43, F.S.; requiring the
4 department to include certain assessments,
5 projections, and recommendations in the
6 department's strategic plan rather than in the
7 state health plan; amending s. 39.303, F.S.;
8 providing duties of the Children's Medical
9 Services Program within the department with
10 respect to child protection teams; amending s.
11 120.80, F.S.; revising procedures for hearings
12 conducted with respect to the Brain and Spinal
13 Cord Injury Program; amending s. 154.011, F.S.;
14 revising duties of the department with respect
15 to monitoring and administering certain primary
16 care programs; amending s. 215.5602, F.S.;
17 revising the goals of and expenditures for the
18 Florida Biomedical Research Program within the
19 Lawton Chiles Endowment Fund; amending s.
20 381.0011, F.S.; providing requirements for the
21 department's strategic plan; amending s.
22 381.003, F.S.; requiring the department to
23 develop an immunization registry; requiring
24 that the registry include all children born in
25 this state; providing procedures under which a
26 parent or guardian may elect not to participate
27 in the immunization registry; providing for the
28 electronic transfer of records between health
29 care professionals and other agencies;
30 authorizing the department to adopt rules for
31 administering the registry; amending s.

1 381.0031, F.S.; authorizing the department to
2 obtain and inspect copies of certain medical
3 records and information, notwithstanding laws
4 governing the confidentiality of patient
5 records; exempting health care practitioners,
6 health care facilities, and agents and
7 employees thereof from liability for the
8 authorized release of patient records; amending
9 s. 381.004, F.S.; revising requirements for the
10 release of certain preliminary test results for
11 human immunodeficiency virus; revising the
12 definition of the term "medical personnel" to
13 include additional personnel; amending s.
14 381.0059, F.S.; defining the term "person who
15 provides services under a school health
16 services plan" for purposes of background
17 screening requirements for school health
18 services personnel; amending s. 381.0101, F.S.;
19 revising certification requirements for certain
20 environmental health professionals; amending s.
21 381.731, F.S.; requiring that the department
22 include certain strategies in the department's
23 strategic plan rather than in the Healthy
24 Communities, Healthy People Plan; amending s.
25 381.734, F.S.; revising the requirements of the
26 Healthy Communities, Healthy People Program;
27 transferring, renumbering, and amending s.
28 413.46, F.S.; revising legislative intent with
29 respect to the brain and spinal cord injury
30 program; creating s. 381.745, F.S.; providing
31 definitions for purposes of the Charlie Mack

1 Overstreet Brain or Spinal Cord Injuries Act;
2 amending s. 381.75, F.S., relating to duties of
3 the department under the brain and spinal cord
4 injury program; conforming provisions to
5 changes made by the act; creating s. 381.755,
6 F.S.; providing that the right to benefits
7 under the program is not assignable; amending
8 s. 381.76, F.S.; revising eligibility
9 requirements for the brain and spinal cord
10 injury program; creating s. 381.765, F.S.;
11 authorizing the department to retain title to
12 property and equipment and to dispose of
13 surplus equipment; authorizing the department
14 to adopt rules; creating s. 381.775, F.S.;
15 continuing the confidentiality provided for
16 records and information that pertains to
17 applicants for and recipients of services under
18 the brain and spinal cord injury program;
19 specifying circumstances under which the
20 department may release such records or
21 information; amending s. 381.78, F.S., relating
22 to the advisory council on brain and spinal
23 cord injuries; authorizing reimbursement for
24 per diem and travel expenses for members of the
25 council; prohibiting a council member from
26 voting on matters that provide a financial
27 benefit or create a conflict of interest;
28 providing for removal of members for cause;
29 creating s. 381.785, F.S.; authorizing the
30 department to recover third-party payments for
31 funded services; providing for the enforcement

1 of such right to recovery pursuant to a lien;
2 requiring the department to adopt rules
3 governing the recovery of payments; amending s.
4 381.79, F.S., relating to the Brain and Spinal
5 Cord Injury Rehabilitation Trust Fund;
6 redesignating the fund as the "Brain and Spinal
7 Cord Injury Program Trust Fund"; providing
8 additional purposes for which moneys in the
9 trust fund may be used; authorizing the
10 department to accept certain gifts; amending s.
11 385.103, F.S.; providing for the department to
12 operate community intervention programs rather
13 than comprehensive health improvement projects;
14 revising definitions; revising duties of the
15 department in operating such services;
16 requiring the department to adopt rules
17 governing the operation of community
18 intervention programs; amending s. 385.207,
19 F.S., relating to programs in epilepsy control;
20 conforming a cross-reference; amending s.
21 402.181, F.S.; providing for certain damages
22 and injuries caused by patients of institutions
23 under the Department of Health and specified
24 other state agencies to be reimbursed under the
25 State Institutions Claims Program; amending s.
26 514.021, F.S.; requiring the department to
27 review rules; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraph (1) of subsection (1) of section
2 20.43, Florida Statutes, is amended to read:

3 20.43 Department of Health.--There is created a
4 Department of Health.

5 (1) The purpose of the Department of Health is to
6 promote and protect the health of all residents and visitors
7 in the state through organized state and community efforts,
8 including cooperative agreements with counties. The
9 department shall:

10 (1) Include in the department's strategic plan
11 developed under s. 186.021 an assessment of ~~Biennially~~
12 ~~publish, and annually update, a state health plan that~~
13 ~~assesses~~ current health programs, systems, and costs; ~~makes~~
14 projections of future problems and opportunities; and
15 recommended ~~recommends~~ changes that are needed in the health
16 care system to improve the public health.

17 Section 2. Section 39.303, Florida Statutes, is
18 amended to read:

19 39.303 Child protection teams; services; eligible
20 cases.--The Children's Medical Services Program in the
21 Department of Health shall develop, maintain, and coordinate
22 the services of one or more multidisciplinary child protection
23 teams in each of the service districts of the Department of
24 Children and Family Services. Such teams may be composed of
25 appropriate representatives of school districts and
26 appropriate health, mental health, social service, legal
27 service, and law enforcement agencies. The Legislature finds
28 that optimal coordination of child protection teams and sexual
29 abuse treatment programs requires collaboration between the
30 Department of Health and the Department of Children and Family
31 Services. The two departments shall maintain an interagency

1 agreement that establishes protocols for oversight and
2 operations of child protection teams and sexual abuse
3 treatment programs. The Secretary of Health and the Deputy
4 Secretary ~~director~~ of Children's Medical Services, in
5 consultation with the Secretary of Children and Family
6 Services, shall maintain the responsibility for the screening,
7 employment, and, if necessary, the termination of child
8 protection team medical directors, at headquarters and in the
9 15 districts. Child protection team medical directors shall be
10 responsible for oversight of the teams in the districts.

11 (1) The Department of Health shall utilize and convene
12 the teams to supplement the assessment and protective
13 supervision activities of the family safety and preservation
14 program of the Department of Children and Family Services.

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

26 (a) Medical diagnosis and evaluation services,
27 including provision or interpretation of X rays and laboratory
28 tests, and related services, as needed, and documentation of
29 findings relative thereto.

30 (b) Telephone consultation services in emergencies and
31 in other situations.

1 (c) Medical evaluation related to abuse, abandonment,
2 or neglect, as defined by policy or rule of the Department of
3 Health.

4 (d) Such psychological and psychiatric diagnosis and
5 evaluation services for the child or the child's parent or
6 parents, legal custodian or custodians, or other caregivers,
7 or any other individual involved in a child abuse,
8 abandonment, or neglect case, as the team may determine to be
9 needed.

10 (e) Expert medical, psychological, and related
11 professional testimony in court cases.

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

24 (g) Case service coordination and assistance,
25 including the location of services available from other public
26 and private agencies in the community.

27 (h) Such training services for program and other
28 employees of the Department of Children and Family Services,
29 employees of the Department of Health, and other medical
30 professionals as is deemed appropriate to enable them to
31

1 develop and maintain their professional skills and abilities
2 in handling child abuse, abandonment, and neglect cases.

3 (i) Educational and community awareness campaigns on
4 child abuse, abandonment, and neglect in an effort to enable
5 citizens more successfully to prevent, identify, and treat
6 child abuse, abandonment, and neglect in the community.

7 (2) The child abuse, abandonment, and neglect reports
8 that must be referred by the Department of Children and Family
9 Services to child protection teams of the Department of Health
10 for medical evaluation and available support services as set
11 forth in subsection (1) must include cases involving:

12 (a) Bruises, burns, or fractures in a child of any
13 age.

14 (b) Sexual abuse of a child in which vaginal or anal
15 penetration is alleged or in which other unlawful sexual
16 conduct has been determined to have occurred.

17 (c) Venereal disease, or any other sexually
18 transmitted disease, in a prepubescent child.

19 (d) Reported malnutrition of a child and failure of a
20 child to thrive.

21 (e) Reported medical, physical, or emotional neglect
22 of a child.

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

28 (g) Symptoms of serious emotional problems in a child
29 when emotional or other abuse, abandonment, or neglect is
30 suspected.

31 (h) Injuries to a child's head.

1 (3) All abuse and neglect cases transmitted for
2 investigation to a district by the hotline must be
3 simultaneously transmitted to the Department of Health child
4 protection team for review. All cases transmitted to the child
5 protection team which meet the criteria in subsection (2) must
6 be timely reviewed by a board-certified pediatrician or
7 registered nurse practitioner under the supervision of such
8 pediatrician for the purpose of determining whether a
9 face-to-face medical evaluation by a child protection team is
10 necessary. Such face-to-face medical evaluation is not
11 necessary only if it is determined that the child was examined
12 by a physician for the alleged abuse or neglect, and a
13 consultation between the child protection team board-certified
14 pediatrician or nurse practitioner and the examining physician
15 concludes that a further medical evaluation is unnecessary.

16 (4) In all instances in which a child protection team
17 is providing certain services to abused, abandoned, or
18 neglected children, other offices and units of the Department
19 of Health, and offices and units of the Department of Children
20 and Family Services, shall avoid duplicating the provision of
21 those services.

22 Section 3. Subsection (15) of section 120.80, Florida
23 Statutes, 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 execution of the Special Supplemental
4 Nutrition Program for Women, Infants, and Children; Child Care
5 Food Program; Children's Medical Services Program; the Brain
6 and Spinal Cord Injury Program; and the exemption from
7 disqualification reviews for certified nurse assistants
8 program need not be conducted by an administrative law judge
9 assigned by the division. The Department of Health may
10 contract with the Department of Children and Family Services
11 for a hearing officer in these matters.

12 Section 4. Subsections (2) and (5) of section 154.011,
13 Florida Statutes, are amended to read:

14 154.011 Primary care services.--

15 (2) The department shall monitor, measure, and
16 evaluate ~~be responsible for monitoring, measuring, and~~
17 ~~evaluating the quality of care, cost-effectiveness, services,~~
18 ~~and geographic accessibility~~ provided by each primary care
19 program ~~and shall utilize the resulting data when~~
20 ~~renegotiating contracts with counties.~~

21 (5) The department shall adopt rules to govern the
22 operation of primary care programs authorized by this section.
23 Such rules shall include, but not be limited to, quality of
24 care, case management, a definition of income used to
25 determine eligibility or sliding fees, and Medicaid
26 participation and shall be developed by the State Health
27 Officer. Rules governing services to clients under 21 years of
28 age shall be developed in conjunction with children's medical
29 services and shall at a minimum include preventive services as
30 set forth in s. 627.6579.

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1 Section 5. Paragraphs (a) and (b) of subsection (1)
2 and subsection (2) of section 215.5602, Florida Statutes, are
3 amended to read:

4 215.5602 Florida Biomedical Research Program.--

5 (1) There is established within the Lawton Chiles
6 Endowment Fund the Florida Biomedical Research Program to
7 support research initiatives that address the health care
8 problems of Floridians in the areas of cancer, cardiovascular
9 disease, stroke, and pulmonary disease. The long-term goals of
10 the program are to:

11 (a) Improve the health of Floridians by researching
12 better prevention, diagnoses, and treatments for cancer,
13 cardiovascular disease, stroke, and pulmonary disease.

14 (b) Expand the foundation of biomedical knowledge
15 relating to the prevention, diagnosis, and treatment of
16 diseases related to tobacco use, including cancer,
17 cardiovascular disease, stroke, and pulmonary disease.

18 (2) Funds appropriated from the Lawton Chiles
19 Endowment Fund to the Department of Health for the purposes of
20 this section shall be used exclusively for the award of grants
21 and fellowships under the program established in this section;
22 for research relating to the prevention, diagnosis, and
23 treatment of diseases related to tobacco use, including
24 cancer, cardiovascular disease, stroke, and pulmonary disease;
25 and for expenses incurred in the administration of this
26 section.

27 Section 6. Subsection (3) of section 381.0011, Florida
28 Statutes, is amended to read:

29 381.0011 Duties and powers of the Department of
30 Health.--It is the duty of the Department of Health to:

31

1 (3) Include in the department's strategic plan
2 developed under s. 186.021 a summary of ~~Develop a~~
3 ~~comprehensive public health plan that addresses~~ all aspects of
4 the public health mission and ~~establishes~~ health status
5 objectives to direct the use of public health resources with
6 an emphasis on prevention.

7 Section 7. Paragraph (e) of subsection (1) and
8 subsection (2) of section 381.003, Florida Statutes, is
9 amended to read:

10 381.003 Communicable disease and acquired immune
11 deficiency syndrome prevention and control.--

12 (1) The department shall conduct a communicable
13 disease prevention and control program as part of fulfilling
14 its public health mission. A communicable disease is any
15 disease caused by transmission of a specific infectious agent,
16 or its toxic products, from an infected person, an infected
17 animal, or the environment to a susceptible host, either
18 directly or indirectly. The communicable disease program must
19 include, but need not be limited to:

20 (e) Programs for the prevention and control of
21 vaccine-preventable diseases, including programs to immunize
22 school children as required by s. 232.032 and the development
23 of an automated, electronic, and centralized database or
24 registry of immunizations. The department shall ensure that
25 all children in this state are immunized against
26 vaccine-preventable diseases. The immunization registry shall
27 allow the department to enhance current immunization
28 activities for the purpose of improving the immunization of
29 all children in this state.

30 1. Except as provided in subparagraph 2., the
31 department shall include all children born in this state in

1 the immunization registry by using the birth records from the
2 Office of Vital Statistics. The department shall add other
3 children to the registry as immunization services are
4 provided.

5 2. The parent or guardian of a child may refuse to
6 participate in the immunization registry by signing a form
7 obtained from the department, or from the health care
8 practitioner or entity that provides the immunization, which
9 indicates that the parent or guardian does not wish to
10 participate in the immunization registry. The decision to not
11 participate in the immunization registry must be noted in the
12 registry.

13 3. The immunization registry shall allow for
14 immunization records to be electronically transferred to
15 entities that are required by law to have such records,
16 including schools, licensed child care facilities, and any
17 other entity that is required by law to obtain proof of a
18 child's immunizations.

19 4. Any health care practitioner licensed under chapter
20 458, chapter 459, or chapter 464 in this state who complies
21 with rules adopted by the department to access the
22 immunization registry may, through the immunization registry,
23 directly access immunization records and update a child's
24 immunization history or exchange immunization information with
25 another authorized practitioner, entity, or agency involved in
26 a child's care. The information included in the immunization
27 registry must include the child's name, date of birth,
28 address, and any other unique identifier necessary to
29 correctly identify the child; the immunization record,
30 including the date, type of administered vaccine, and vaccine
31 lot number; and the presence or absence of any adverse

1 reaction or contraindication related to the immunization.
2 Information received by the department for the immunization
3 registry retains its status as confidential medical
4 information and the department must maintain the
5 confidentiality of that information as otherwise required by
6 law. A health care practitioner or other agency that obtains
7 information from the immunization registry must maintain the
8 confidentiality of any medical records in accordance with s.
9 455.667 or as otherwise required by law.

10 (2) The department may adopt, repeal, and amend rules
11 related to the prevention and control of communicable diseases
12 and the administration of the immunization registry. Such
13 rules may include, including procedures for investigating
14 disease, timeframes for reporting disease, requirements for
15 followup reports of known or suspected exposure to disease,
16 and procedures for providing access to confidential
17 information necessary for disease investigations. For purposes
18 of the immunization registry, the rules may include procedures
19 for a health care practitioner to obtain authorization to use
20 the immunization registry, methods for a parent or guardian to
21 elect not to participate in the immunization registry, and
22 procedures for a health care practitioner licensed under
23 chapter 458, chapter 459, or chapter 464 to access and share
24 electronic immunization records with other entities allowed by
25 law to have access to the records.

26 Section 8. Section 381.0031, Florida Statutes, is
27 amended to read:

28 381.0031 Report of diseases of public health
29 significance to department.--

30 (1) Any practitioner licensed in this state to
31 practice medicine, osteopathic medicine, chiropractic

1 medicine, naturopathy, or veterinary medicine; any hospital
2 licensed under part I of chapter 395; or any laboratory
3 licensed under chapter 483 that diagnoses or suspects the
4 existence of a disease of public health significance shall
5 immediately report the fact to the Department of Health.

6 (2) Periodically the department shall issue a list of
7 infectious or noninfectious diseases determined by it to be a
8 threat to public health and therefore of significance to
9 public health and shall furnish a copy of the list to the
10 practitioners listed in subsection (1).

11 (3) Reports required by this section must be in
12 accordance with methods specified by rule of the department.

13 (4) Information submitted in reports required by this
14 section is confidential, exempt from the provisions of s.
15 119.07(1), and is to be made public only when necessary to
16 public health. A report so submitted is not a violation of the
17 confidential relationship between practitioner and patient.

18 (5) The department may obtain and inspect copies of
19 medical records, records of laboratory tests, and other
20 medical-related information for reported cases of diseases of
21 public health significance described in subsection (2). The
22 department shall examine the records of a person who has a
23 disease of public health significance only for purposes of
24 preventing and eliminating outbreaks of disease and making
25 epidemiological investigations of reported cases of diseases
26 of public health significance, notwithstanding any other law
27 to the contrary. Health care practitioners, licensed health
28 care facilities, and laboratories shall allow the department
29 to inspect and obtain copies of such medical records and
30 medical-related information, notwithstanding any other law to
31 the contrary. Release of medical records and medical-related

1 information to the department by a health care practitioner,
2 licensed health care facility, or laboratory, or by an
3 authorized employee or agent thereof, does not constitute a
4 violation of the confidentiality of patient records. A health
5 care practitioner, health care facility, or laboratory, or any
6 employee or agent thereof, may not be held liable in any
7 manner for damages and is not subject to criminal penalties
8 for providing patient records to the department as authorized
9 by this section.

10 (6)(5) The department may adopt rules related to
11 reporting diseases of significance to public health, which
12 must specify the information to be included in the report, who
13 is required to report, the method and time period for
14 reporting, requirements for enforcement, and required followup
15 activities by the department which are necessary to protect
16 public health.

17
18 This section does not affect s. 384.25.

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

21 381.004 Testing for human immunodeficiency virus.--

22 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
23 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

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

28 1. Preliminary test results may be released to
29 licensed physicians or the medical or nonmedical personnel
30 subject to the significant exposure for purposes of
31 subparagraphs (h)10., 11., and 12.

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

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

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

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

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

31

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. The term "medical personnel" includes a licensed or
23 certified health care professional; an employee of a health
24 care professional ~~or~~ health care facility; employees of a
25 laboratory licensed under chapter 483; personnel of a, ~~or~~
26 blood bank ~~or~~ plasma center; a medical student or other
27 student who is receiving training as a health care
28 professional at a health care facility; and a paramedic or
29 emergency medical technician certified by the department to
30 perform life-support procedures under ~~as defined in s. 401.23.~~
31

1 a. Prior to performance of an HIV test on a
2 voluntarily obtained blood sample, the individual from whom
3 the blood was obtained shall be requested to consent to the
4 performance of the test and to the release of the results.
5 The individual's refusal to consent and all information
6 concerning the performance of an HIV test and any HIV test
7 result shall be documented only in the medical personnel's
8 record unless the individual gives written consent to entering
9 this information on the individual's medical record.

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

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

31

1 d. In order to utilize the provisions of this
2 subparagraph, the medical personnel must either be tested for
3 HIV pursuant to this section or provide the results of an HIV
4 test taken within 6 months prior to the significant exposure
5 if such test results are negative.

6 e. A person who receives the results of an HIV test
7 pursuant to this subparagraph shall maintain the
8 confidentiality of the information received and of the persons
9 tested. Such confidential information is exempt from s.
10 119.07(1).

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

23 11. For the performance of an HIV test upon an
24 individual who comes into contact with medical personnel in
25 such a way that a significant exposure has occurred during the
26 course of employment or within the scope of practice of the
27 medical personnel while the medical personnel provides
28 emergency medical treatment to the individual; or who comes
29 into contact with nonmedical personnel in such a way that a
30 significant exposure has occurred while the nonmedical
31 personnel provides emergency medical assistance during a

1 medical emergency. For the purposes of this subparagraph, a
2 medical emergency means an emergency medical condition outside
3 of a hospital or health care facility that provides physician
4 care. The test may be performed only during the course of
5 treatment for the medical emergency.

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

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

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

28 d. In order to utilize the provisions of this
29 subparagraph, the medical personnel or nonmedical personnel
30 shall be tested for HIV pursuant to this section or shall
31

1 provide the results of an HIV test taken within 6 months prior
2 to the significant exposure if such test results are negative.

3 e. A person who receives the results of an HIV test
4 pursuant to this subparagraph shall maintain the
5 confidentiality of the information received and of the persons
6 tested. Such confidential information is exempt from s.
7 119.07(1).

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

22 12. For the performance of an HIV test by the medical
23 examiner or attending physician upon an individual who expired
24 or could not be resuscitated while receiving emergency medical
25 assistance or care and who was the source of a significant
26 exposure to medical or nonmedical personnel providing such
27 assistance or care.

28 a. HIV testing may be conducted only after a licensed
29 physician documents in the medical record of the medical
30 personnel or nonmedical personnel that there has been a
31 significant exposure and that, in the physician's medical

1 judgment, the information is medically necessary to determine
2 the course of treatment for the medical personnel or
3 nonmedical personnel.

4 b. Costs of any HIV test performed under this
5 subparagraph may not be charged to the deceased or to the
6 family of the deceased person.

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

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

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

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

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

29 Section 10. Section 381.0059, Florida Statutes, is
30 amended to read:

31

1 381.0059 Background screening requirements for school
2 health services personnel.--

3 (1)(a) Any person who provides services under a school
4 health services plan pursuant to s. 381.0056 must complete
5 level 2 screening as provided in chapter 435. A person may
6 satisfy the requirements of this subsection by submitting
7 proof of compliance with the requirements of level 2 screening
8 under s. 435.04, conducted within 12 months before the date
9 that person initially provides services under a school health
10 services plan pursuant to s. 381.0056. Any person who provides
11 services under a school health services plan pursuant to s.
12 381.0056 shall be on probationary status pending the results
13 of the level 2 screening.

14 (b) In order to conduct level 2 screening, any person
15 who provides services under a school health services plan
16 pursuant to s. 381.0056 must furnish to the Department of
17 Health a full set of fingerprints to enable the department to
18 conduct a criminal background investigation. Each person who
19 provides services under a school health services plan pursuant
20 to s. 381.0056 must file a complete set of fingerprints taken
21 by an authorized law enforcement officer and must provide
22 sufficient information for a statewide criminal records
23 correspondence check through the Florida Department of Law
24 Enforcement. The Department of Health shall submit the
25 fingerprints to the Florida Department of Law Enforcement for
26 a statewide criminal history check, and the Florida Department
27 of Law Enforcement shall forward the fingerprints to the
28 Federal Bureau of Investigation for a national criminal
29 history check.

30 (c) The person subject to the required background
31 screening or his or her employer must pay the fees required to

1 obtain the background screening. Payment for the screening and
2 the abuse registry check must be submitted to the Department
3 of Health. The Florida Department of Law Enforcement shall
4 charge the Department of Health for a level 2 screening at a
5 rate sufficient to cover the costs of such screening pursuant
6 to s. 943.053(3). The Department of Health shall establish a
7 schedule of fees to cover the costs of the level 2 screening
8 and the abuse registry check. The applicant or his or her
9 employer who pays for the required screening may be reimbursed
10 by the Department of Health from funds designated for this
11 purpose.

12 (2)(a) When the Department of Health has reasonable
13 cause to believe that grounds exist for the disqualification
14 of any person providing services under a school health
15 services plan pursuant to s. 381.0056, as a result of
16 background screening, it shall notify the person in writing,
17 stating the specific record that indicates noncompliance with
18 the level 2 screening standards. The Department of Health must
19 disqualify any person from providing services under a school
20 health services plan pursuant to s. 381.0056 if the department
21 finds that the person is not in compliance with the level 2
22 screening standards. A person who provides services under a
23 school health plan pursuant to s. 381.0056 on a probationary
24 status and who is disqualified because of the results of his
25 or her background screening may contest that disqualification.

26 (b) As provided in s. 435.07, the Department of Health
27 may grant an exemption from disqualification to a person
28 providing services under a school health services plan
29 pursuant to s. 381.0056 who has not received a professional
30 license or certification from the Department of Health.

31

1 (c) As provided in s. 435.07, the Department of Health
2 may grant an exemption from disqualification to a person
3 providing services under a school health services plan
4 pursuant to s. 381.0056 who has received a professional
5 license or certification from the Department of Health.

6 (3) Any person who is required to undergo the
7 background screening to provide services under a school health
8 plan pursuant to s. 381.0056 who refuses to cooperate in such
9 screening or refuses to submit the information necessary to
10 complete the screening, including fingerprints, shall be
11 disqualified for employment or volunteering in such position
12 or, if employed, shall be dismissed.

13 (4) Under penalty of perjury, each person who provides
14 services under a school health plan pursuant to s. 381.0056
15 must attest to meeting the level 2 screening requirements for
16 participation under the plan and agree to inform the
17 Department of Health immediately if convicted of any
18 disqualifying offense while providing services under a school
19 health services plan pursuant to s. 381.0056.

20 (5) As used in this section, the term "person who
21 provides services under a school health services plan" does
22 not include an unpaid volunteer who lectures students in group
23 settings on health education topics.

24 Section 11. Paragraphs (a) and (d) of subsection (5)
25 of section 381.0101, Florida Statutes, are amended to read:

26 381.0101 Environmental health professionals.--

27 (5) STANDARDS FOR CERTIFICATION.--The department shall
28 adopt rules that establish minimum standards of education,
29 training, or experience for those persons subject to this
30 section. The rules shall also address the process for
31 application, examination, issuance, expiration, and renewal of

1 certification and ethical standards of practice for the
2 profession.

3 (a) Persons employed as environmental health
4 professionals shall exhibit a knowledge of rules and
5 principles of environmental and public health law in Florida
6 through examination. A person may not conduct environmental
7 health evaluations in a primary program area unless he or she
8 is currently certified in that program area or works under the
9 direct supervision of a certified environmental health
10 professional.

11 1. All persons who begin employment in a primary
12 environmental health program on or after September 21, 1994,
13 must be certified in that program within 6 months after
14 employment.

15 2. Persons employed in the ~~a~~ primary environmental
16 health program of a food protection program or an onsite
17 sewage treatment and disposal system prior to September 21,
18 1994, shall be considered certified while employed in that
19 position and shall be required to adhere to any professional
20 standards established by the department pursuant to paragraph
21 (b), complete any continuing education requirements imposed
22 under paragraph (d), and pay the certificate renewal fee
23 imposed under subsection (7).

24 3. Persons employed in the ~~a~~ primary environmental
25 health program of a food protection program or an onsite
26 sewage treatment and disposal system prior to September 21,
27 1994, who change positions or program areas and transfer into
28 another primary environmental health program area on or after
29 September 21, 1994, must be certified in that program within 6
30 months after such transfer, except that they will not be

31

1 required to possess the college degree required under
2 paragraph (e).

3 4. Registered sanitarians shall be considered
4 certified and shall be required to adhere to any professional
5 standards established by the department pursuant to paragraph
6 (b).

7 (d) Persons who are certified shall renew their
8 certification biennially by completing not less than 24
9 contact hours of continuing education for each program area in
10 which they maintain certification, subject to a maximum of 48
11 hours for multiprogram certification.

12 Section 12. Section 381.731, Florida Statutes, is
13 amended to read:

14 381.731 Strategic planning ~~Healthy Communities,~~
15 ~~Healthy People Plan.--~~

16 (1) The Department of Health shall include
17 population-based health-promotion strategies in the
18 department's strategic plan developed under s. 186.021 ~~develop~~
19 ~~a biennial Healthy Communities, Healthy People Plan that shall~~
20 ~~be submitted to the Governor, the President of the Senate, and~~
21 ~~the Speaker of the House of Representatives by December 31 of~~
22 ~~each even-numbered year.~~

23 (2) The strategic plan must include data on the health
24 status of the state's population, health status objectives and
25 outcome measures, and public health strategies, including
26 health promotion strategies. The strategic plan must also
27 provide an overall conceptual framework for the state's health
28 promotion programs that considers available information on
29 mortality, morbidity, disability, and behavioral risk factors
30 associated with chronic diseases and conditions; ~~proposals for~~
31 ~~public and private health insurance reforms needed to fully~~

1 ~~implement the state's health promotion initiative; the best~~
2 ~~health promotion practices of the county health departments~~
3 ~~and other states; and proposed educational reforms needed to~~
4 ~~promote healthy behaviors among the state's school-age~~
5 ~~children.~~

6 Section 13. Section 381.734, Florida Statutes, is
7 amended to read:

8 381.734 Healthy Communities, Healthy People Program.--

9 (1) The department shall develop and implement the
10 Healthy Communities, Healthy People Program, a comprehensive
11 and community-based health promotion and wellness program.
12 The program shall be designed to reduce major behavioral risk
13 factors associated with chronic diseases, including those
14 chronic diseases identified in chapter 385, ~~and injuries and~~
15 ~~accidents~~, by enhancing the knowledge, skills, motivation, and
16 opportunities for individuals, organizations, and communities
17 to develop and maintain healthy lifestyles.

18 (2) The department shall consolidate and use existing
19 resources, programs, and program data to develop this program,
20 to avoid duplication of efforts or services. Such resources,
21 programs, and program data shall include the community
22 intervention programs operated, ~~but not be limited to, s.~~
23 ~~381.103, the comprehensive health improvement project under s.~~
24 ~~385.103, and the comprehensive public health plan, public~~
25 ~~information, and statewide injury control plan under s.~~
26 ~~381.0011(3), (8), and (12).~~

27 (3) The program shall include:

28 (a) ~~Biennial~~ Statewide assessments of specific,
29 causal, and behavioral risk factors that affect the health of
30 residents of the state.

31

1 (b) The development of community-based health
2 promotion programs, incorporating health promotion and
3 preventive care practices supported in scientific and medical
4 literature.

5 (c) The development and implementation of statewide
6 age-specific, disease-specific, and community-specific health
7 promotion and preventive care strategies using primary,
8 secondary, and tertiary prevention interventions.

9 (d) ~~The development and implementation of models for~~
10 ~~testing statewide health~~ promotion of community-based
11 health-promotion model programs that meet specific criteria
12 and address major risk factors in the state and motivate
13 individuals to permanently adopt healthy behaviors, enhance
14 self-esteem, and increase social and personal
15 responsibilities.

16 (e) The enhancement of the department's ~~State Health~~
17 ~~Office's~~ special initiatives to develop the mental, emotional,
18 and social competencies of children and adolescents, using
19 innovative school-based and neighborhood-based approaches to
20 build self-esteem and prevent later problems such as drug
21 abuse, poor school performance, criminal behavior, and other
22 behavioral problems.

23 (f) The development and implementation of a statewide
24 health education program to educate the public and communities
25 about health risks and assist them in modifying unhealthy
26 behaviors.

27 (g) The establishment of a comprehensive program to
28 inform the public, health care professionals, and communities
29 about the prevalence of chronic diseases in the state; known
30 and potential risks, including social and behavioral risks;
31 and behavior changes that would reduce risks.

1 (h) The development and implementation of a program
2 for enhancing self-help organizations and volunteer programs
3 that enlist the support of volunteers in health promotion
4 activities, particularly persons who serve as role models
5 because of their public visibility or because of their
6 recovery from or skill in coping with disease.

7 (i) The development of policies that encourage the use
8 of alternative community delivery sites for health promotion
9 and preventive care programs and promote the use of
10 neighborhood delivery sites that are close to work, home, and
11 school.

12 (j) An emphasis on the importance of a physically
13 active lifestyle to build self-esteem, reduce morbidity and
14 mortality associated with chronic disease, and reduce obesity.

15 Section 14. Section 413.46, Florida Statutes, is
16 transferred, renumbered as section 381.7395, Florida Statutes,
17 and amended to read:

18 381.7395 ~~413.46~~ Legislative intent.--It is the intent
19 of the Legislature to ensure the referral of individuals
20 ~~persons~~ who have moderate-to-severe brain or spinal cord
21 injuries to the brain and spinal cord injury program, a
22 coordinated rehabilitation program ~~developed and~~ administered
23 by the department ~~division~~. The program shall provide eligible
24 persons, as defined in s. 381.76 ~~s. 413.507~~, the opportunity
25 to obtain the necessary rehabilitative services enabling them
26 to be referred to a vocational rehabilitation program or to
27 return to an appropriate level of functioning in their
28 community. Further, it is intended that permanent disability
29 be avoided, whenever possible, through prevention, early
30 identification, ~~skilled~~ emergency medical services and

31

1 transport ~~evacuation procedures~~, and proper medical and
2 rehabilitative treatment.

3 Section 15. Section 381.745, Florida Statutes, is
4 created to read:

5 381.745 Definitions.--As used in ss. 381.739-381.79,
6 the term:

7 (1) "Activity of daily living" means an activity
8 required on a frequent basis which permits an individual to
9 secure or maintain independence. Such activities include, but
10 are not limited to, personal home care, transportation,
11 personal-assistance services, housekeeping, shopping,
12 attending school, communication, and employment.

13 (2) "Brain or spinal cord injury" means:

14 (a) A lesion to the spinal cord or cauda equina,
15 resulting from external trauma, with evidence of significant
16 involvement of two of the following deficits or dysfunctions:

17 1. Motor deficit.

18 2. Sensory deficit.

19 3. Bowel and bladder dysfunction.

20 (b) An insult to the skull, brain, or its covering,
21 resulting from external trauma that produces an altered state
22 of consciousness or anatomic motor, sensory, cognitive, or
23 behavioral deficits.

24 (3) "Emergency medical evacuation system" means a
25 department-approved transportation system that provides timely
26 and skilled emergency care and movement of individuals
27 believed to have sustained a brain or spinal cord injury.

28 (4) "Personal-assistance services" means a range of
29 services, provided by one or more individuals, which are
30 designed to assist an individual who has a disability to
31 perform activities of daily living.

1 (5) "Funded services" means services paid for through
2 the brain and spinal cord injury program.

3 (6) "Designated facility" means a facility approved by
4 the brain and spinal cord injury program which meets the
5 criteria and standards of care of the brain and spinal cord
6 injury program for individuals who have sustained a brain or
7 spinal cord injury.

8 (7) "Third-party coverage" means any claim for, right
9 to receive payment for, or any coverage for the payment of any
10 services under the brain and spinal cord injury program.

11 (8) "Third-party payment" means any and all payments
12 received or due as a result of any third-party obligation
13 created by gift, coverage or other contract, settlement or
14 judicial decision, or action of law.

15 (9) "Transitional living facility" means a
16 state-approved facility, as defined and licensed under chapter
17 400, or a facility approved by the brain and spinal cord
18 injury program in accordance with this chapter.

19 (10) "Trauma center" means a department-approved acute
20 care facility that provides diagnosis and treatment of
21 individuals who have sustained a brain or spinal cord injury.

22 Section 16. Section 381.75, Florida Statutes, is
23 amended to read:

24 381.75 Duties and responsibilities of the department,
25 of transitional living facilities, and of
26 residents.--Consistent with the mandate of s. 381.7395 ~~s.~~
27 ~~413.46~~, the department shall develop and administer a
28 multilevel treatment program for individuals ~~persons~~ who
29 sustain have brain or spinal cord injuries and who are
30 referred to the brain and spinal cord injury program.

31

1 (1) Within 15 days after any report of an individual ~~a~~
2 ~~person~~ who has sustained a brain or spinal cord injury, the
3 department shall notify the individual or the most immediate
4 available family members of their right to assistance from the
5 state, the services available, and the eligibility
6 requirements.

7 (2) The department shall refer individuals ~~persons~~ who
8 have brain or spinal cord injuries to other state agencies to
9 assure that rehabilitative services, if desired, are obtained
10 by that individual ~~person~~.

11 (3) The department, in consultation with emergency
12 medical service, shall develop standards for an emergency
13 medical evacuation system that will ensure that all
14 individuals ~~persons~~ who sustain traumatic brain or spinal cord
15 injuries are transported to a department-approved trauma
16 center that meets the standards and criteria established by
17 the emergency medical service and the acute-care standards of
18 the brain and spinal cord injury program.

19 (4) The department shall develop standards for
20 designation of rehabilitation centers to provide
21 rehabilitation services for individuals ~~persons~~ who have brain
22 or spinal cord injuries.

23 (5) The department shall determine the appropriate
24 number of designated acute-care facilities, inpatient
25 rehabilitation centers, and outpatient rehabilitation centers,
26 needed based on incidence, volume of admissions, and other
27 appropriate criteria.

28 (6) The department shall develop standards for
29 designation of transitional living facilities to provide
30 individuals the opportunity to adjust to their disabilities
31

1 and to develop physical and functional skills in a supported
2 living environment.

3 (a) The Agency for Health Care Administration, in
4 consultation with the department, shall develop rules for the
5 licensure of transitional living facilities for individuals
6 ~~persons~~ who have brain or spinal cord injuries.

7 (b) The goal of a transitional living program for
8 individuals ~~persons~~ who have brain or spinal cord injuries is
9 to assist each individual ~~person~~ who has such a disability to
10 achieve a higher level of independent functioning and to
11 enable that person to reenter the community. The program shall
12 be focused on preparing participants to return to community
13 living.

14 (c) A transitional living facility for an individual ~~a~~
15 ~~person~~ who has a brain or spinal cord injury shall provide to
16 such individual ~~person~~, in a residential setting, a
17 goal-oriented treatment program designed to improve the
18 individual's ~~person's~~ physical, cognitive, communicative,
19 behavioral, psychological, and social functioning, as well as
20 to provide necessary support and supervision. A transitional
21 living facility shall offer at least the following therapies:
22 physical, occupational, speech, neuropsychology, independent
23 living skills training, behavior analysis for programs serving
24 brain-injured individuals ~~persons~~, health education, and
25 recreation.

26 (d) All residents shall use the transitional living
27 facility as a temporary measure and not as a permanent home or
28 domicile. The transitional living facility shall develop an
29 initial treatment plan for each resident within 3 days after
30 the resident's admission. The transitional living facility
31 shall develop a comprehensive plan of treatment and a

1 discharge plan for each resident as soon as practical, but no
2 later than 30 days after the resident's admission. Each
3 comprehensive treatment plan and discharge plan must be
4 reviewed and updated as necessary, but no less often than
5 quarterly. This subsection does not require the discharge of
6 an individual who continues to require any of the specialized
7 services described in paragraph (c) or who is making
8 measurable progress in accordance with that individual's
9 comprehensive treatment plan. The transitional living facility
10 shall discharge any individual who has an appropriate
11 discharge site and who has achieved the goals of his or her
12 discharge plan or who is no longer making progress toward the
13 goals established in the comprehensive treatment plan and the
14 discharge plan. The discharge location must be the least
15 restrictive environment in which an individual's health,
16 well-being, and safety is preserved.

17 (7) Recipients of services, under this section, from
18 any of the facilities referred to in this section shall pay a
19 fee based on ability to pay.

20 Section 17. Section 381.755, Florida Statutes, is
21 created to read:

22 381.755 Benefits not assignable.--The right of an
23 eligible individual to any services provided by the brain and
24 spinal cord injury program is not transferable or assignable,
25 and any benefits, including money, goods, or chattels,
26 received as services under the brain and spinal cord injury
27 program are exempt from all state, county, and municipal taxes
28 and from sale under the process of any court, except for
29 obligations contracted for the purchase of such property.

30 Section 18. Section 381.76, Florida Statutes, is
31 amended to read:

1 381.76 Eligibility for the brain and spinal cord
2 injury program.--

3 (1) An individual shall be accepted as eligible for
4 the brain and spinal cord injury program following
5 certification by the department that the individual:

6 (a) Has been referred to the central registry pursuant
7 to s. 381.74; ~~s. 413.48.~~

8 (b) Is a legal resident of this state at the time of
9 application for services; ~~-~~

10 (c) Has sustained a brain or spinal cord ~~suffered a~~
11 ~~traumatic injury; as defined in s. 413.20.~~

12 (d) Is medically stable; and ~~as defined by rules of~~
13 ~~the department.~~

14 (e) Is reasonably expected to achieve reintegration
15 into the community through ~~rehabilitative~~ services provided by
16 the brain and spinal cord injury program.

17 (2) ~~If in the event~~ the department is unable to
18 provide services to all eligible individuals, the department
19 may establish an order of selection.

20 Section 19. Section 381.765, Florida Statutes, is
21 created to read:

22 381.765 Retention of title to and disposal of
23 equipment.--

24 (1) The department may retain title to any property,
25 tools, instruments, training supplies, equipment, or other
26 items of value acquired for services provided under the brain
27 and spinal cord injury program or for personnel employed in
28 operating the brain and spinal cord injury program, and may
29 repossess or transfer such property, tools, instruments,
30 supplies, equipment, or other items of value.

31

1 (2) The department may offer for sale any surplus
2 items acquired in operating the brain and spinal cord injury
3 program when they are no longer necessary or exchange them for
4 necessary items that may be used to greater advantage. When
5 any such surplus equipment is sold or exchanged, a receipt for
6 the equipment shall be taken from the purchaser showing the
7 consideration given for such equipment and forwarded to the
8 Treasurer, and any funds received by the brain and spinal cord
9 injury program pursuant to any such transaction shall be
10 deposited in the Brain and Spinal Cord Injury Rehabilitation
11 Trust Fund and shall be available for expenditure for any
12 purpose consistent with this part.

13 (3) The department may adopt rules relating to records
14 and recordkeeping for department-owned property referenced in
15 subsections (1) and (2).

16 Section 20. Section 381.775, Florida Statutes, is
17 created to read:

18 381.775 Applicant and recipient records; confidential
19 and privileged.--

20 (1) All oral and written records, information,
21 letters, and reports received, made, or maintained by the
22 department relative to any applicant for or recipient of
23 services under the brain and spinal cord injury program are
24 privileged, confidential, and exempt from s. 119.07(1). Any
25 person who discloses or releases such records, information, or
26 communications in violation of this section commits a
27 misdemeanor of the second degree, punishable as provided in s.
28 775.082 or s. 775.083. Such records may not be released,
29 except that:

30 (a) Records may be released to the applicant or
31 recipient, or his or her representative, upon receipt of a

1 written waiver from the applicant or recipient. Medical,
2 psychological, or other information that the department
3 believes may be harmful to an applicant or recipient may not
4 be released directly to him or her, but must be provided
5 through a licensed health care professional designated by the
6 applicant or recipient.

7 (b) Records that do not identify applicants or
8 recipients may be released for the purpose of research, when
9 the research is approved by the department.

10 (c) Records used in administering the brain and spinal
11 cord injury program may be released as required to administer
12 the program or as required by an agency or political
13 subdivision of the state in the performance of its duties. Any
14 agency or political subdivision to which records are released
15 under this paragraph may not disclose the records to third
16 parties.

17 (d) Records may be released upon the order of an
18 administrative law judge, a hearing officer, a judge of
19 compensation claims, an agency head exercising quasi-judicial
20 authority, or a judge of a court of competent jurisdiction
21 following a finding in an in camera proceeding that the
22 records are relevant to the inquiry before the court and
23 should be released. The in camera proceeding and all records
24 relating thereto are confidential and exempt from s.
25 119.07(1).

26 (e) Whenever an applicant for or recipient of services
27 under the brain and spinal cord injury program has declared
28 any intention to harm other persons or property, such
29 declaration may be disclosed.

30 (f) The department may release personal information
31 about an applicant for or recipient of services under the

1 brain and spinal cord injury program in order to protect him
2 or her or others when the applicant or recipient poses a
3 threat to his or her own safety or to the safety of others and
4 shall, upon official request, release such information to law
5 enforcement agencies investigating the commission of a crime.

6 (2) Records that come into the possession of the
7 department relative to any applicant for or receipt of
8 services under the brain and spinal cord injury program and
9 that are confidential by other provisions of law are
10 confidential and exempt from s. 119.07(1), and may not be
11 released by the department, except as provided in this
12 section.

13 Section 21. Section 381.78, Florida Statutes, is
14 amended to read:

15 381.78 Advisory council on brain and spinal cord
16 injuries.--

17 (1) There is created within the department a 16-member
18 advisory council on brain and spinal cord injuries. The
19 council shall be composed of a minimum of four individuals
20 ~~persons~~ who have brain injuries or are family members of
21 individuals ~~persons~~ who have brain injuries, a minimum of four
22 individuals ~~persons~~ who have spinal cord injuries or are
23 family members of individuals ~~persons~~ who have spinal cord
24 injuries, and a minimum of two individuals ~~persons~~ who
25 represent the special needs of children who have brain or
26 spinal cord injuries. The balance of the council members shall
27 be physicians, other allied health professionals,
28 administrators of brain and spinal cord injury programs, and
29 representatives from support groups that have expertise in
30 areas related to the rehabilitation of individuals ~~persons~~ who
31 have brain or spinal cord injuries.

1 (2) Members of the council shall be appointed to serve
2 by the Secretary of Health. All members' terms shall be for 4
3 years. An individual may not serve more than two terms.

4 ~~(a) Eight members of the first appointed council shall~~
5 ~~serve an initial term of 2 years. This group shall include two~~
6 ~~persons who have brain injuries or are family members of~~
7 ~~persons who have brain injuries, two persons who have spinal~~
8 ~~cord injuries or are family members of persons who have spinal~~
9 ~~cord injuries, and four other persons from the previous~~
10 ~~council.~~

11 ~~(b) The remaining members of the first appointed~~
12 ~~council shall serve an initial term of 4 years. Thereafter all~~
13 ~~members' terms shall be for 4 years.~~

14 ~~(c)~~ Any council member who is unwilling or unable to
15 properly fulfill the duties of the office shall be succeeded
16 by an individual ~~a person~~ chosen by the secretary to serve out
17 the unexpired balance of the replaced council member's term.
18 If the unexpired balance of the replaced council member's term
19 is less than 18 months, then, notwithstanding the provisions
20 of this subsection, the succeeding council member may be
21 reappointed by the secretary twice.

22 (3) The council shall meet at least two times
23 annually.

24 (4) The council shall:

25 (a) Provide advice and expertise to the department
26 ~~division~~ in the preparation, implementation, and periodic
27 review of the brain and spinal cord injury program ~~as~~
28 ~~referenced in s. 413.49.~~

29 (b) Annually appoint a five-member committee composed
30 of one individual ~~person~~ who has a brain injury or has a
31 family member with a brain injury, one individual ~~person~~ who

1 has a spinal cord injury or has a family member with a spinal
2 cord injury, and three members who shall be chosen from among
3 these representative groups: physicians, other allied health
4 professionals, administrators of brain and spinal cord injury
5 programs, and representatives from support groups with
6 expertise in areas related to the rehabilitation of
7 individuals ~~persons~~ who have brain or spinal cord injuries,
8 except that one and only one member of the committee shall be
9 an administrator of a transitional living facility. Membership
10 on the council is not a prerequisite for membership on this
11 committee.

12 1. The committee shall perform onsite visits to those
13 transitional living facilities identified by the Agency for
14 Health Care Administration as being in possible violation of
15 the statutes and rules regulating such facilities. The
16 committee members have the same rights of entry and inspection
17 granted under s. 400.805(7) to designated representatives of
18 the agency.

19 2. Factual findings of the committee resulting from an
20 onsite investigation of a facility pursuant to subparagraph 1.
21 shall be adopted by the agency in developing its
22 administrative response regarding enforcement of statutes and
23 rules regulating the operation of the facility.

24 3. Onsite investigations by the committee shall be
25 funded by the Health Care Trust Fund.

26 4. Travel expenses for committee members shall be
27 reimbursed in accordance with s. 112.061.

28 5. Members of the committee shall recuse themselves
29 from participating in any investigation that would create a
30 conflict of interest under state law, and the council shall
31 replace the member, either temporarily or permanently.

1 (5) Members of the advisory council are entitled to
2 reimbursement for per diem and travel expenses for required
3 attendance at council meetings in accordance with s. 112.061.
4 Reasonable expenses for personal-assistance services and
5 interpreters needed by members during required attendance at
6 council meetings shall be reimbursed. A member may not receive
7 any compensation for performing duties specified in, or
8 arising out of, her or his duties as a council member under
9 this part, except as otherwise specified in this part.

10 (6) A member of the advisory council may not cast a
11 vote on any matter that would provide direct financial benefit
12 to the member or create a conflict of interest under state
13 law.

14 (7) A member of the advisory council may be removed
15 from office by the Secretary of Health for malfeasance,
16 misfeasance, neglect of duty, incompetence, or permanent
17 inability to perform official duties or for pleading nolo
18 contendere to, or being found guilty of, a crime. Malfeasance
19 includes, but is not limited to, a violation of any specific
20 prohibition within this part.

21 Section 22. Section 381.785, Florida Statutes, is
22 created to read:

23 381.785 Recovery of third-party payments for funded
24 services.--

25 (1) Third-party coverage for funded services
26 constitutes primary coverage.

27 (2) An applicant for or recipient of services funded
28 under the brain and spinal cord injury program must inform the
29 brain and spinal cord injury program of any rights she or he
30 has to third-party payments for such services, and the brain
31 and spinal cord injury program shall be subrogated to her or

1 his rights to such third-party payments. The brain and spinal
2 cord injury program may recover directly from:

3 (a) Any third party that is liable to make a benefit
4 payment to the provider of the recipient's funded services or
5 to the recipient under the terms of any contract, settlement,
6 or award;

7 (b) The recipient, if she or he has received a
8 third-party payment for funded services provided to her or
9 him; or

10 (c) The provider of the recipient's funded services,
11 if third-party payment for such services has been recovered by
12 the provider.

13 (3) An applicant for or a recipient of funded services
14 is deemed to have assigned to the brain and spinal cord injury
15 program her or his rights to any payments for such services
16 from a third party and to have authorized the brain and spinal
17 cord injury program to release information with respect to
18 such services for the sole purpose of obtaining reimbursement.

19 (4) The brain and spinal cord injury program may, in
20 order to enforce its rights under this section, institute,
21 intervene in, or join any legal proceeding against a third
22 party against whom recovery rights arise. Action taken by the
23 brain and spinal cord injury program does not preclude the
24 recipient's recovery for that portion of her or his damages
25 not subrogated to the brain and spinal cord injury program,
26 and action taken by the recipient does not prejudice the
27 rights of the brain and spinal cord injury program.

28 (5) When the brain and spinal cord injury program
29 provides, pays for, or becomes liable for funded services, it
30 has a lien for the amount of such services upon all causes of
31 action that accrue to the recipient or to her or his legal

1 representatives as a result of sickness, injury, disease,
2 disability, or death due to the liability of a third party
3 which necessitated funded services. To perfect such lien, a
4 notice of lien must be filed with the clerk of the circuit
5 court in the recipient's county of residence. The notice of
6 lien must contain the name and address of the person to whom
7 services were furnished and the name, address, and telephone
8 number of a person at the brain and spinal cord injury program
9 from whom information regarding the lien can be obtained.
10 Failure of the brain and spinal cord injury program to file a
11 notice of lien does not affect the program's other rights
12 provided in this section. Any notice of lien filed as provided
13 under this subsection is valid for 5 years after filing, and
14 may be extended for an additional 5-year period by filing a
15 new notice of lien at any time prior to the expiration of the
16 original notice of lien.

17 (6) In recovering any payments in accordance with this
18 section, the brain and spinal cord injury program may make
19 appropriate settlements.

20 (7) Notwithstanding any other law to the contrary,
21 payments made for funded services are neither collateral
22 payments nor collateral sources within the meaning of chapter
23 86-160, Laws of Florida, or chapter 88-1, Laws of Florida.

24 (8) Notwithstanding any other law to the contrary, the
25 brain and spinal cord injury program retains all rights and
26 remedies granted under this section as against moneys paid
27 under chapter 440.

28 (9) The department shall adopt rules to administer
29 this section.

30 Section 23. Section 381.79, Florida Statutes, is
31 amended to read:

1 381.79 Brain and Spinal Cord Injury Program

2 ~~Rehabilitation~~ Trust Fund.--

3 (1) There is created in the State Treasury the Brain
4 and Spinal Cord Injury Program ~~Rehabilitation~~ Trust Fund.
5 Moneys in the fund shall be appropriated to the department for
6 the purpose of providing the cost of care for brain or spinal
7 cord injuries as a payor of last resort to residents of this
8 state, for multilevel programs of care established pursuant to
9 s. 381.75 ~~s. 413.49~~.

10 (a) Authorization of expenditures for brain or spinal
11 cord injury care shall be made only by the department.

12 (b) Authorized expenditures include acute care,
13 rehabilitation, transitional living, equipment, and supplies
14 necessary for activities of daily living, public information,
15 prevention, education, and research. In addition, the
16 department may provide matching funds for public or private
17 assistance provided under the brain and spinal cord injury
18 program and may provide funds for any approved expansion of
19 services for treating individuals who have sustained a brain
20 or spinal cord injury.

21 (2) The department shall issue a report to the
22 President of the Senate and the Speaker of the House of
23 Representatives by March 1 of each year, summarizing the
24 activities supported by the trust fund.

25 (3) Annually, 5 percent of the revenues deposited
26 monthly in the fund pursuant to s. 318.21(2)(d) shall be
27 appropriated to the University of Florida and 5 percent to the
28 University of Miami for spinal cord injury and brain injury
29 research. The amount to be distributed to the universities
30 shall be calculated based on the deposits into the fund for
31 each quarter in the fiscal year, but may not exceed \$500,000

1 per university per year. Funds distributed under this
2 subsection shall be made in quarterly payments at the end of
3 each quarter during the fiscal year.

4 (4) The Board of Regents shall establish a program
5 administration process which shall include: an annual
6 prospective program plan with goals, research design, proposed
7 outcomes, a proposed budget, an annual report of research
8 activities and findings, and an annual end-of-year financial
9 statement. Prospective program plans shall be submitted to the
10 Board of Regents, and funds shall be released upon acceptance
11 of the proposed program plans. The annual report of research
12 activities and findings shall be submitted to the Board of
13 Regents, with the executive summaries submitted to the
14 President of the Senate, the Speaker of the House of
15 Representatives, and the Secretary ~~of the Department~~ of
16 Health.

17 (5) Moneys received under s. 381.785 shall be
18 deposited into the trust fund and used for the purposes
19 specified in subsection (1).

20 (6) The department may accept, deposit into the trust
21 fund, and use for carrying out the purposes of this part gifts
22 made unconditionally by will or otherwise. Any gift made under
23 conditions that, in the judgment of the department, are proper
24 and consistent with this section, the laws of the United
25 States, and the laws of this state may be accepted and shall
26 be held, invested, reinvested, and used in accordance with the
27 conditions of the gift.

28 Section 24. Section 385.103, Florida Statutes, is
29 amended to read:

30 385.103 Community intervention programs ~~Chronic~~
31 ~~disease control program.--~~

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

3 (a) "Chronic disease prevention and control program"
4 means a program including a combination of ~~at least~~ the
5 following elements:

6 1. Health screening;
7 2. Risk factor detection;
8 3. Appropriate intervention to enable and encourage
9 changes in behaviors that create health risks ~~risk factor~~
10 ~~reversal~~; and

11 4. Counseling in nutrition, physical activity, the
12 effects of tobacco use, hypertension, blood pressure control,
13 and diabetes control and the provision of other clinical
14 prevention services ~~counseling~~.

15 (b) "Community health education program" means a
16 program involving the planned and coordinated use of the
17 educational resources available in a community in an effort
18 to:

19 1. Motivate and assist citizens to adopt and maintain
20 healthful practices and lifestyles;

21 2. Make available learning opportunities which will
22 increase the ability of people to make informed decisions
23 affecting their personal, family, and community well-being and
24 which are designed to facilitate voluntary adoption of
25 behavior which will improve or maintain health;

26 3. Reduce, through coordination among appropriate
27 agencies, duplication of health education efforts; and

28 4. Facilitate collaboration among appropriate agencies
29 for efficient use of scarce resources.

30 (c) "Community intervention program" ~~"Comprehensive~~
31 ~~health improvement project"~~ means a program combining the

1 required elements of ~~both~~ a chronic disease prevention and
2 control program and a community health education program into
3 a unified program over which a single administrative entity
4 has authority and responsibility.

5 (d) "Department" means the Department of Health.

6 ~~(e) "District" means a service district of the~~
7 ~~department.~~

8 (e)(f) "Risk factor" means a factor identified during
9 the course of an epidemiological study of a disease, which
10 factor appears to be statistically associated with a high
11 incidence of that disease.

12 (2) OPERATION OF COMMUNITY INTERVENTION PROGRAMS
13 ~~COMPREHENSIVE HEALTH IMPROVEMENT PROJECTS.~~--

14 (a) The department shall assist the county health
15 departments in developing and operating community intervention
16 programs ~~comprehensive health improvement projects~~ throughout
17 the state. At a minimum, the community intervention programs
18 ~~comprehensive health improvement projects~~ shall address one to
19 three of the following ~~the~~ chronic diseases: of cancer,
20 diabetes, heart disease, stroke, hypertension, renal disease,
21 and chronic obstructive lung disease.

22 (b) Existing community resources, when available,
23 shall be used to support the programs. The department shall
24 seek funding for the programs from federal and state financial
25 assistance programs which presently exist or which may be
26 hereafter created. Additional services, as appropriate, may be
27 incorporated into a program to the extent that resources are
28 available. The department may accept gifts and grants in
29 order to carry out a program.

30 (c) Volunteers shall be used to the maximum extent
31 possible in carrying out the programs. The department shall

1 contract for the necessary insurance coverage to protect
2 volunteers from personal liability while acting within the
3 scope of their volunteer assignments under a program.

4 (d) The department may contract for the provision of
5 all or any portion of the services required by a program, and
6 shall so contract whenever the services so provided are more
7 cost-efficient than those provided by the department.

8 (e) If the department determines that it is necessary
9 for clients to help pay for services provided by a program,
10 the department may require clients to make contribution
11 therefor in either money or personal services. The amount of
12 money or value of the personal services shall be fixed
13 according to a fee schedule established by the department or
14 by the entity developing the program. In establishing the fee
15 schedule, the department or the entity developing the program
16 shall take into account the expenses and resources of a client
17 and his or her overall ability to pay for the services.

18 (f) The department shall adopt rules governing the
19 operation of the community intervention programs ~~health~~
20 ~~improvement projects. These rules shall include guidelines~~
21 ~~for intake and enrollment of clients into the projects.~~

22 Section 25. Subsection (3) of section 385.207, Florida
23 Statutes, is amended to read:

24 385.207 Care and assistance of persons with epilepsy;
25 establishment of programs in epilepsy control.--

26 (3) Revenue for statewide implementation of programs
27 for epilepsy prevention and education pursuant to this section
28 shall be derived pursuant to the provisions of s. 318.21(6)s.
29 ~~318.18(12)~~ and shall be deposited in the Epilepsy Services
30 Trust Fund, which is hereby established to be administered by
31 the Department of Health. All funds deposited into the trust

1 fund shall be invested pursuant to the provisions of s.
2 18.125. Interest income accruing to such invested funds shall
3 increase the total funds available under this subsection.

4 Section 26. Section 402.181, Florida Statutes, is
5 amended to read:

6 402.181 State Institutions Claims Program.--

7 (1) There is created a State Institutions Claims
8 Program, for the purpose of making restitution for property
9 damages and direct medical expenses for injuries caused by
10 shelter children or foster children, or escapees, or inmates,
11 or patients of state institutions under the Department of
12 Children and Family Services, the Department of Health, the
13 Department of Juvenile Justice, or the Department of
14 Corrections.

15 (2) Claims for restitution may be filed with the
16 Department of Legal Affairs at its office in accordance with
17 regulations prescribed by the Department of Legal Affairs. The
18 Department of Legal Affairs shall have full power and
19 authority to hear, investigate, and determine all questions in
20 respect to such claims and is authorized, within the limits of
21 current appropriations, to pay individual claims up to \$1,000
22 or, with respect to children in foster care and their
23 families, individual claims up to \$1,500. Claims in excess of
24 these amounts shall continue to require legislative approval.

25 (3)(a) The Department of Legal Affairs shall make or
26 cause to be made such investigations as it considers necessary
27 in respect to such claims. Hearings shall be held in
28 accordance with chapter 120.

29 (b) The Department of Legal Affairs shall work with
30 the Department of Children and Family Services, the Department
31 of Health, the Department of Juvenile Justice, and the

1 Department of Corrections to streamline the process of
2 investigations, hearings, and determinations with respect to
3 claims under this section, to ensure that eligible claimants
4 receive restitution within a reasonable time.

5 Section 27. Section 514.021, Florida Statutes, is
6 amended to read:

7 514.021 Department authorization.--The department is
8 authorized to adopt and enforce rules to protect the health,
9 safety, or welfare of persons using public swimming pools and
10 bathing places. The department shall review and revise such
11 rules as necessary, but not less than biennially ~~biannually~~.
12 Sanitation and safety standards shall include, but not be
13 limited to, matters relating to structure; appurtenances;
14 operation; source of water supply; bacteriological, chemical,
15 and physical quality of water in the pool or bathing area;
16 method of water purification, treatment, and disinfection;
17 lifesaving apparatus; measures to ensure safety of bathers;
18 and measures to ensure the personal cleanliness of bathers.

19 Section 28. This act shall take effect July 1, 2000.
20

21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 2034

24 The committee substitute revises an exception to the
25 prohibition on release of HIV preliminary test results in
26 those instances where decisions about medical care or
27 treatment cannot await the results of confirmatory testing to
28 clarify for whom and the circumstances under which the
29 preliminary test results may be released. The bill deletes a
30 procedure for the appointment of guardian advocates for
31 certain tuberculosis patients at A.G. Holley State Hospital
and deletes an expansion of a public records exemption that
would have required law enforcement agencies to keep
confidential the name or identity of a person subject to court
action by the Tuberculosis Control Program.