

1                                   A bill to be entitled  
2           An act relating to health care; providing an  
3           appropriation for continued review of clinical  
4           laboratory services for kidney dialysis  
5           patients and requiring a report thereon;  
6           amending s. 20.43, F.S.; requiring the  
7           department to include certain assessments,  
8           projections, and recommendations in the  
9           department's strategic plan rather than in the  
10          state health plan; authorizing the department  
11          to hold copyrights, trademarks, and service  
12          marks and to enforce its rights to them;  
13          amending s. 39.303, F.S.; providing duties of  
14          the Children's Medical Services Program within  
15          the department with respect to child protection  
16          teams; amending s. 120.80, F.S.; revising  
17          procedures for hearings conducted with respect  
18          to the Brain and Spinal Cord Injury Program;  
19          amending s. 154.011, F.S.; revising duties of  
20          the department with respect to monitoring and  
21          administering certain primary care programs;  
22          amending s. 215.5602, F.S.; revising the goals  
23          of and expenditures for the Florida Biomedical  
24          Research Program within the Lawton Chiles  
25          Endowment Fund; amending s. 381.0011, F.S.;  
26          providing requirements for the department's  
27          strategic plan; amending s. 381.003, F.S.;  
28          requiring the department to develop an  
29          immunization registry; requiring that the  
30          registry include all children born in this  
31          state; providing procedures under which a

1 parent or guardian may elect not to participate  
2 in the immunization registry; providing for the  
3 electronic transfer of records between health  
4 care professionals and other agencies;  
5 authorizing the department to adopt rules for  
6 administering the registry; amending s.  
7 381.0031, F.S.; authorizing the department to  
8 obtain and inspect copies of certain medical  
9 records and information, notwithstanding laws  
10 governing the confidentiality of patient  
11 records; exempting health care practitioners,  
12 health care facilities, and agents and  
13 employees thereof from liability for the  
14 authorized release of patient records; amending  
15 s. 381.004, F.S.; revising requirements for the  
16 release of certain preliminary test results for  
17 human immunodeficiency virus; revising the  
18 definition of the term "medical personnel" to  
19 include additional personnel; amending s.  
20 381.0059, F.S.; defining the term "person who  
21 provides services under a school health  
22 services plan" for purposes of background  
23 screening requirements for school health  
24 services personnel; amending s. 381.0101, F.S.;  
25 revising certification requirements for certain  
26 environmental health professionals; amending s.  
27 381.731, F.S.; requiring that the department  
28 include certain strategies in the department's  
29 strategic plan rather than in the Healthy  
30 Communities, Healthy People Plan; amending s.  
31 381.734, F.S.; revising the requirements of the

1 Healthy Communities, Healthy People Program;  
2 transferring, renumbering, and amending s.  
3 413.46, F.S.; revising legislative intent with  
4 respect to the brain and spinal cord injury  
5 program; creating s. 381.745, F.S.; providing  
6 definitions for purposes of the Charlie Mack  
7 Overstreet Brain or Spinal Cord Injuries Act;  
8 amending s. 381.75, F.S., relating to duties of  
9 the department under the brain and spinal cord  
10 injury program; conforming provisions to  
11 changes made by the act; creating s. 381.755,  
12 F.S.; providing that the right to benefits  
13 under the program is not assignable; amending  
14 s. 381.76, F.S.; revising eligibility  
15 requirements for the brain and spinal cord  
16 injury program; creating s. 381.765, F.S.;  
17 authorizing the department to retain title to  
18 property and equipment and to dispose of  
19 surplus equipment; authorizing the department  
20 to adopt rules; creating s. 381.775, F.S.;  
21 continuing the confidentiality provided for  
22 records and information that pertains to  
23 applicants for and recipients of services under  
24 the brain and spinal cord injury program;  
25 specifying circumstances under which the  
26 department may release such records or  
27 information; amending s. 381.78, F.S., relating  
28 to the advisory council on brain and spinal  
29 cord injuries; authorizing reimbursement for  
30 per diem and travel expenses for members of the  
31 council; prohibiting a council member from

1 voting on matters that provide a financial  
2 benefit or create a conflict of interest;  
3 providing for removal of members for cause;  
4 creating s. 381.785, F.S.; authorizing the  
5 department to recover third-party payments for  
6 funded services; providing for the enforcement  
7 of such right to recovery pursuant to a lien;  
8 requiring the department to adopt rules  
9 governing the recovery of payments; amending s.  
10 381.79, F.S., relating to the Brain and Spinal  
11 Cord Injury Rehabilitation Trust Fund;  
12 redesignating the fund as the "Brain and Spinal  
13 Cord Injury Program Trust Fund"; providing  
14 additional purposes for which moneys in the  
15 trust fund may be used; authorizing the  
16 department to accept certain gifts; amending s.  
17 385.103, F.S.; providing for the department to  
18 operate community intervention programs rather  
19 than comprehensive health improvement projects;  
20 revising definitions; revising duties of the  
21 department in operating such services;  
22 requiring the department to adopt rules  
23 governing the operation of community  
24 intervention programs; amending s. 385.207,  
25 F.S., relating to programs in epilepsy control;  
26 conforming a cross-reference; amending s.  
27 402.181, F.S.; providing for certain damages  
28 and injuries caused by patients of institutions  
29 under the Department of Health and specified  
30 other state agencies to be reimbursed under the  
31 State Institutions Claims Program; amending s.

1 514.021, F.S.; requiring the department to  
2 review rules; designating Florida Alzheimer's  
3 Disease Day; providing planning for long-term  
4 community-based supports for specified brain  
5 and spinal cord injury individuals; providing  
6 purpose; providing for compliance with s.  
7 381.775, F.S.; providing for a study and  
8 report; providing base standard for ranking for  
9 services; providing limitation on use of  
10 funding; providing the department with certain  
11 rulemaking authority; providing residency  
12 requirement; providing severability; providing  
13 intent; creating the Jessie Trice Cancer  
14 Prevention Program within the Department of  
15 Health; providing funding contingent upon an  
16 appropriation; creating the Florida Commission  
17 on Excellence in Health Care; providing  
18 legislative findings and intent; providing  
19 definitions; providing duties and  
20 responsibilities; providing for membership,  
21 organization, meetings, procedures, and staff;  
22 providing for reimbursement of travel and  
23 related expenses of certain members; providing  
24 certain evidentiary prohibitions; requiring a  
25 report to the Governor, the President of the  
26 Senate, and the Speaker of the House of  
27 Representatives; providing for termination of  
28 the commission; providing an appropriation;  
29 creating s. 381.00325, F.S.; providing for a  
30 Hepatitis A awareness program; creating s.  
31 154.247, F.S.; authorizing authorities to issue

1           bonds to finance projects for health facilities  
2           or not-for-profit corporations under their  
3           common control outside the geographical limits  
4           of the local agency or outside the state;  
5           providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

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9           Section 1. Paragraph (1) of subsection (1) of section  
10          20.43, Florida Statutes, is amended and subsection (8) is  
11          added to that section to read:

12           20.43 Department of Health.--There is created a  
13          Department of Health.

14           (1) The purpose of the Department of Health is to  
15          promote and protect the health of all residents and visitors  
16          in the state through organized state and community efforts,  
17          including cooperative agreements with counties. The  
18          department shall:

19           (1) Include in the department's strategic plan  
20          ~~developed under s. 186.021 an assessment of Biennially~~  
21          ~~publish, and annually update, a state health plan that~~  
22          ~~assesses~~ current health programs, systems, and costs; ~~makes~~  
23          projections of future problems and opportunities; and  
24          recommended ~~recommends~~ changes that are needed in the health  
25          care system to improve the public health.

26           (8) The department may hold copyrights, trademarks,  
27          and service marks and enforce its rights with respect thereto,  
28          except such authority does not extend to any public records  
29          relating to the department's responsibilities for health care  
30          practitioners regulated under part II, chapter 455.

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

3           39.303 Child protection teams; services; eligible  
4 cases.--The Children's Medical Services Program in the  
5 Department of Health shall develop, maintain, and coordinate  
6 the services of one or more multidisciplinary child protection  
7 teams in each of the service districts of the Department of  
8 Children and Family Services. Such teams may be composed of  
9 appropriate representatives of school districts and  
10 appropriate health, mental health, social service, legal  
11 service, and law enforcement agencies. The Legislature finds  
12 that optimal coordination of child protection teams and sexual  
13 abuse treatment programs requires collaboration between the  
14 Department of Health and the Department of Children and Family  
15 Services. The two departments shall maintain an interagency  
16 agreement that establishes protocols for oversight and  
17 operations of child protection teams and sexual abuse  
18 treatment programs. The Secretary of Health and the Deputy  
19 Secretary ~~director~~ of Children's Medical Services, in  
20 consultation with the Secretary of Children and Family  
21 Services, shall maintain the responsibility for the screening,  
22 employment, and, if necessary, the termination of child  
23 protection team medical directors, at headquarters and in the  
24 15 districts. Child protection team medical directors shall be  
25 responsible for oversight of the teams in the districts.

26           (1) The Department of Health shall utilize and convene  
27 the teams to supplement the assessment and protective  
28 supervision activities of the family safety and preservation  
29 program of the Department of Children and Family Services.  
30 Nothing in this section shall be construed to remove or reduce  
31 the duty and responsibility of any person to report pursuant

1 to this chapter all suspected or actual cases of child abuse,  
2 abandonment, or neglect or sexual abuse of a child. The role  
3 of the teams shall be to support activities of the program and  
4 to provide services deemed by the teams to be necessary and  
5 appropriate to abused, abandoned, and neglected children upon  
6 referral. The specialized diagnostic assessment, evaluation,  
7 coordination, consultation, and other supportive services that  
8 a child protection team shall be capable of providing include,  
9 but are not limited to, the following:

10 (a) Medical diagnosis and evaluation services,  
11 including provision or interpretation of X rays and laboratory  
12 tests, and related services, as needed, and documentation of  
13 findings relative thereto.

14 (b) Telephone consultation services in emergencies and  
15 in other situations.

16 (c) Medical evaluation related to abuse, abandonment,  
17 or neglect, as defined by policy or rule of the Department of  
18 Health.

19 (d) Such psychological and psychiatric diagnosis and  
20 evaluation services for the child or the child's parent or  
21 parents, legal custodian or custodians, or other caregivers,  
22 or any other individual involved in a child abuse,  
23 abandonment, or neglect case, as the team may determine to be  
24 needed.

25 (e) Expert medical, psychological, and related  
26 professional testimony in court cases.

27 (f) Case staffings to develop treatment plans for  
28 children whose cases have been referred to the team. A child  
29 protection team may provide consultation with respect to a  
30 child who is alleged or is shown to be abused, abandoned, or  
31 neglected, which consultation shall be provided at the request



1 of a representative of the family safety and preservation  
2 program or at the request of any other professional involved  
3 with a child or the child's parent or parents, legal custodian  
4 or custodians, or other caregivers. In every such child  
5 protection team case staffing, consultation, or staff activity  
6 involving a child, a family safety and preservation program  
7 representative shall attend and participate.

8 (g) Case service coordination and assistance,  
9 including the location of services available from other public  
10 and private agencies in the community.

11 (h) Such training services for program and other  
12 employees of the Department of Children and Family Services,  
13 employees of the Department of Health, and other medical  
14 professionals as is deemed appropriate to enable them to  
15 develop and maintain their professional skills and abilities  
16 in handling child abuse, abandonment, and neglect cases.

17 (i) Educational and community awareness campaigns on  
18 child abuse, abandonment, and neglect in an effort to enable  
19 citizens more successfully to prevent, identify, and treat  
20 child abuse, abandonment, and neglect in the community.

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

26 (a) Bruises, burns, or fractures in a child of any  
27 age.

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

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

3 (d) Reported malnutrition of a child and failure of a  
4 child to thrive.

5 (e) Reported medical, physical, or emotional neglect  
6 of a child.

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

12 (g) Symptoms of serious emotional problems in a child  
13 when emotional or other abuse, abandonment, or neglect is  
14 suspected.

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

16 (3) All abuse and neglect cases transmitted for  
17 investigation to a district by the hotline must be  
18 simultaneously transmitted to the Department of Health child  
19 protection team for review. All cases transmitted to the child  
20 protection team which meet the criteria in subsection (2) must  
21 be timely reviewed by a board-certified pediatrician or  
22 registered nurse practitioner under the supervision of such  
23 pediatrician for the purpose of determining whether a  
24 face-to-face medical evaluation by a child protection team is  
25 necessary. Such face-to-face medical evaluation is not  
26 necessary only if it is determined that the child was examined  
27 by a physician for the alleged abuse or neglect, and a  
28 consultation between the child protection team board-certified  
29 pediatrician or nurse practitioner and the examining physician  
30 concludes that a further medical evaluation is unnecessary.

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1           (4) In all instances in which a child protection team  
2 is providing certain services to abused, abandoned, or  
3 neglected children, other offices and units of the Department  
4 of Health, and offices and units of the Department of Children  
5 and Family Services, shall avoid duplicating the provision of  
6 those services.

7           Section 3. Subsection (15) of section 120.80, Florida  
8 Statutes, is amended to read:

9           120.80 Exceptions and special requirements;  
10 agencies.--

11           (15) DEPARTMENT OF HEALTH.--Notwithstanding s.  
12 120.57(1)(a), formal hearings may not be conducted by the  
13 Secretary of Health, the director of the Agency for Health  
14 Care Administration, or a board or member of a board within  
15 the Department of Health or the Agency for Health Care  
16 Administration for matters relating to the regulation of  
17 professions, as defined by part II of chapter 455.  
18 Notwithstanding s. 120.57(1)(a), hearings conducted within the  
19 Department of Health in execution of the Special Supplemental  
20 Nutrition Program for Women, Infants, and Children; Child Care  
21 Food Program; Children's Medical Services Program; the Brain  
22 and Spinal Cord Injury Program; and the exemption from  
23 disqualification reviews for certified nurse assistants  
24 program need not be conducted by an administrative law judge  
25 assigned by the division. The Department of Health may  
26 contract with the Department of Children and Family Services  
27 for a hearing officer in these matters.

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

30           154.011 Primary care services.--

31

1           (2) The department shall monitor, measure, and  
2 evaluate ~~be responsible for monitoring, measuring, and~~  
3 ~~evaluating~~ the quality of care, cost-effectiveness, services,  
4 ~~and geographic accessibility~~ provided by each primary care  
5 program ~~and shall utilize the resulting data when~~  
6 ~~renegotiating contracts with counties.~~

7           (5) The department shall adopt rules to govern the  
8 operation of primary care programs authorized by this section.  
9 Such rules shall include, but not be limited to, quality of  
10 care, case management, a definition of income used to  
11 determine eligibility or sliding fees,and Medicaid  
12 participation and shall be developed by the State Health  
13 Officer. Rules governing services to clients under 21 years of  
14 age shall be developed in conjunction with children's medical  
15 services and shall at a minimum include preventive services as  
16 set forth in s. 627.6579.

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

20           215.5602 Florida Biomedical Research Program.--

21           (1) There is established within the Lawton Chiles  
22 Endowment Fund the Florida Biomedical Research Program to  
23 support research initiatives that address the health care  
24 problems of Floridians in the areas of cancer, cardiovascular  
25 disease, stroke, and pulmonary disease. The long-term goals of  
26 the program are to:

27           (a) Improve the health of Floridians by researching  
28 better prevention, diagnoses, and treatments for cancer,  
29 cardiovascular disease, stroke, and pulmonary disease.

30           (b) Expand the foundation of biomedical knowledge  
31 relating to the prevention, diagnosis, and treatment of

1 diseases related to tobacco use, including cancer,  
2 cardiovascular disease, stroke, and pulmonary disease.

3 (2) Funds appropriated from the Lawton Chiles  
4 Endowment Fund to the Department of Health for the purposes of  
5 this section shall be used exclusively for the award of grants  
6 and fellowships under the program established in this section;  
7 for research relating to the prevention, diagnosis, and  
8 treatment of diseases related to tobacco use, including  
9 cancer, cardiovascular disease, stroke, and pulmonary disease;  
10 and for expenses incurred in the administration of this  
11 section.

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

14 381.0011 Duties and powers of the Department of  
15 Health.--It is the duty of the Department of Health to:

16 (3) Include in the department's strategic plan  
17 developed under s. 186.021 a summary of ~~Develop a~~  
18 ~~comprehensive public health plan that addresses~~ all aspects of  
19 the public health mission and ~~establishes~~ health status  
20 objectives to direct the use of public health resources with  
21 an emphasis on prevention.

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

25 381.003 Communicable disease and acquired immune  
26 deficiency syndrome prevention and control.--

27 (1) The department shall conduct a communicable  
28 disease prevention and control program as part of fulfilling  
29 its public health mission. A communicable disease is any  
30 disease caused by transmission of a specific infectious agent,  
31 or its toxic products, from an infected person, an infected

1 animal, or the environment to a susceptible host, either  
2 directly or indirectly. The communicable disease program must  
3 include, but need not be limited to:

4 (e) Programs for the prevention and control of  
5 vaccine-preventable diseases, including programs to immunize  
6 school children as required by s. 232.032 and the development  
7 of an automated, electronic, and centralized database or  
8 registry of immunizations. The department shall ensure that  
9 all children in this state are immunized against  
10 vaccine-preventable diseases. The immunization registry shall  
11 allow the department to enhance current immunization  
12 activities for the purpose of improving the immunization of  
13 all children in this state.

14 1. Except as provided in subparagraph 2., the  
15 department shall include all children born in this state in  
16 the immunization registry by using the birth records from the  
17 Office of Vital Statistics. The department shall add other  
18 children to the registry as immunization services are  
19 provided.

20 2. The parent or guardian of a child may refuse to  
21 have the child included in the immunization registry by  
22 signing a form obtained from the department, or from the  
23 health care practitioner or entity that provides the  
24 immunization, which indicates that the parent or guardian does  
25 not wish to have the child included in the immunization  
26 registry. The decision to not participate in the immunization  
27 registry must be noted in the registry.

28 3. The immunization registry shall allow for  
29 immunization records to be electronically transferred to  
30 entities that are required by law to have such records,  
31 including schools, licensed child care facilities, and any

1 other entity that is required by law to obtain proof of a  
2 child's immunizations.

3 4. Any health care practitioner licensed under chapter  
4 458, chapter 459, or chapter 464 in this state who complies  
5 with rules adopted by the department to access the  
6 immunization registry may, through the immunization registry,  
7 directly access immunization records and update a child's  
8 immunization history or exchange immunization information with  
9 another authorized practitioner, entity, or agency involved in  
10 a child's care. The information included in the immunization  
11 registry must include the child's name, date of birth,  
12 address, and any other unique identifier necessary to  
13 correctly identify the child; the immunization record,  
14 including the date, type of administered vaccine, and vaccine  
15 lot number; and the presence or absence of any adverse  
16 reaction or contraindication related to the immunization.  
17 Information received by the department for the immunization  
18 registry retains its status as confidential medical  
19 information and the department must maintain the  
20 confidentiality of that information as otherwise required by  
21 law. A health care practitioner or other agency that obtains  
22 information from the immunization registry must maintain the  
23 confidentiality of any medical records in accordance with s.  
24 455.667 or as otherwise required by law.

25 (2) The department may adopt, repeal, and amend rules  
26 related to the prevention and control of communicable diseases  
27 and the administration of the immunization registry. Such  
28 rules may include, ~~including~~ procedures for investigating  
29 disease, timeframes for reporting disease, requirements for  
30 followup reports of known or suspected exposure to disease,  
31 and procedures for providing access to confidential

1 information necessary for disease investigations. For purposes  
2 of the immunization registry, the rules may include procedures  
3 for a health care practitioner to obtain authorization to use  
4 the immunization registry, methods for a parent or guardian to  
5 elect not to participate in the immunization registry, and  
6 procedures for a health care practitioner licensed under  
7 chapter 458, chapter 459, or chapter 464 to access and share  
8 electronic immunization records with other entities allowed by  
9 law to have access to the records.

10 Section 8. Section 381.0031, Florida Statutes, is  
11 amended to read:

12 381.0031 Report of diseases of public health  
13 significance to department.--

14 (1) Any practitioner licensed in this state to  
15 practice medicine, osteopathic medicine, chiropractic  
16 medicine, naturopathy, or veterinary medicine; any hospital  
17 licensed under part I of chapter 395; or any laboratory  
18 licensed under chapter 483 that diagnoses or suspects the  
19 existence of a disease of public health significance shall  
20 immediately report the fact to the Department of Health.

21 (2) Periodically the department shall issue a list of  
22 infectious or noninfectious diseases determined by it to be a  
23 threat to public health and therefore of significance to  
24 public health and shall furnish a copy of the list to the  
25 practitioners listed in subsection (1).

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

28 (4) Information submitted in reports required by this  
29 section is confidential, exempt from the provisions of s.  
30 119.07(1), and is to be made public only when necessary to  
31



1 public health. A report so submitted is not a violation of the  
2 confidential relationship between practitioner and patient.

3 (5) The department may obtain and inspect copies of  
4 medical records, records of laboratory tests, and other  
5 medical-related information for reported cases of diseases of  
6 public health significance described in subsection (2). The  
7 department shall examine the records of a person who has a  
8 disease of public health significance only for purposes of  
9 preventing and eliminating outbreaks of disease and making  
10 epidemiological investigations of reported cases of diseases  
11 of public health significance, notwithstanding any other law  
12 to the contrary. Health care practitioners, licensed health  
13 care facilities, and laboratories shall allow the department  
14 to inspect and obtain copies of such medical records and  
15 medical-related information, notwithstanding any other law to  
16 the contrary. Release of medical records and medical-related  
17 information to the department by a health care practitioner,  
18 licensed health care facility, or laboratory, or by an  
19 authorized employee or agent thereof, does not constitute a  
20 violation of the confidentiality of patient records. A health  
21 care practitioner, health care facility, or laboratory, or any  
22 employee or agent thereof, may not be held liable in any  
23 manner for damages and is not subject to criminal penalties  
24 for providing patient records to the department as authorized  
25 by this section.

26 ~~(6)~~(5) The department may adopt rules related to  
27 reporting diseases of significance to public health, which  
28 must specify the information to be included in the report, who  
29 is required to report, the method and time period for  
30 reporting, requirements for enforcement, and required followup

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1 activities by the department which are necessary to protect  
2 public health.

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4 This section does not affect s. 384.25.

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

7 381.004 Testing for human immunodeficiency virus.--

8 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED  
9 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

10 (d) No test result shall be determined as positive,  
11 and no positive test result shall be revealed to any person,  
12 without corroborating or confirmatory tests being conducted  
13 except in the following situations:

14 1. Preliminary test results may be released to  
15 licensed physicians or the medical or nonmedical personnel  
16 subject to the significant exposure for purposes of  
17 subparagraphs (h)10., 11., and 12.

18 2. Preliminary test results may be released to health  
19 care providers and to the person tested when decisions about  
20 medical care or treatment of, or recommendation to, the person  
21 tested and, in the case of an intrapartum or postpartum woman,  
22 when care, treatment, or recommendations regarding her  
23 newborn, cannot await the results of confirmatory testing.

24 Positive preliminary HIV test results shall not be  
25 characterized to the patient as a diagnosis of HIV infection.  
26 Justification for the use of preliminary test results must be  
27 documented in the medical record by the health care provider  
28 who ordered the test. This subparagraph does not authorize  
29 the release of preliminary test results for the purpose of  
30 routine identification of HIV-infected individuals or when HIV  
31 testing is incidental to the preliminary diagnosis or care of

1 a patient. Corroborating or confirmatory testing must be  
2 conducted as followup to a positive preliminary test. Results  
3 shall be communicated to the patient according to statute  
4 regardless of the outcome. Except as provided in this section,  
5 test results are confidential and exempt from the provisions  
6 of s. 119.07(1).

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

9 1. When testing for sexually transmissible diseases is  
10 required by state or federal law, or by rule including the  
11 following situations:

12 a. HIV testing pursuant to s. 796.08 of persons  
13 convicted of prostitution or of procuring another to commit  
14 prostitution.

15 b. Testing for HIV by a medical examiner in accordance  
16 with s. 406.11.

17 2. Those exceptions provided for blood, plasma,  
18 organs, skin, semen, or other human tissue pursuant to s.  
19 381.0041.

20 3. For the performance of an HIV-related test by  
21 licensed medical personnel in bona fide medical emergencies  
22 when the test results are necessary for medical diagnostic  
23 purposes to provide appropriate emergency care or treatment to  
24 the person being tested and the patient is unable to consent,  
25 as supported by documentation in the medical record.  
26 Notification of test results in accordance with paragraph (c)  
27 is required.

28 4. For the performance of an HIV-related test by  
29 licensed medical personnel for medical diagnosis of acute  
30 illness where, in the opinion of the attending physician,  
31 obtaining informed consent would be detrimental to the

1 patient, as supported by documentation in the medical record,  
2 and the test results are necessary for medical diagnostic  
3 purposes to provide appropriate care or treatment to the  
4 person being tested. Notification of test results in  
5 accordance with paragraph (c) is required if it would not be  
6 detrimental to the patient. This subparagraph does not  
7 authorize the routine testing of patients for HIV infection  
8 without informed consent.

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

11           6. For the performance of an HIV test upon a defendant  
12 pursuant to the victim's request in a prosecution for any type  
13 of sexual battery where a blood sample is taken from the  
14 defendant voluntarily, pursuant to court order for any  
15 purpose, or pursuant to the provisions of s. 775.0877, s.  
16 951.27, or s. 960.003; however, the results of any HIV test  
17 performed shall be disclosed solely to the victim and the  
18 defendant, except as provided in ss. 775.0877, 951.27, and  
19 960.003.

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

21           8. For epidemiological research pursuant to s.  
22 381.0032, for research consistent with institutional review  
23 boards created by 45 C.F.R. part 46, or for the performance of  
24 an HIV-related test for the purpose of research, if the  
25 testing is performed in a manner by which the identity of the  
26 test subject is not known and may not be retrieved by the  
27 researcher.

28           9. When human tissue is collected lawfully without the  
29 consent of the donor for corneal removal as authorized by s.  
30 732.9185 or enucleation of the eyes as authorized by s.  
31 732.919.

1           10. For the performance of an HIV test upon an  
2 individual who comes into contact with medical personnel in  
3 such a way that a significant exposure has occurred during the  
4 course of employment or within the scope of practice and where  
5 a blood sample is available that was taken from that  
6 individual voluntarily by medical personnel for other  
7 purposes. The term "medical personnel" includes a licensed or  
8 certified health care professional; an employee of a health  
9 care professional ~~or~~ health care facility; employees of a  
10 laboratory licensed under chapter 483; personnel of a, ~~or~~  
11 blood bank ~~or~~ plasma center; a medical student or other  
12 student who is receiving training as a health care  
13 professional at a health care facility; and a paramedic or  
14 emergency medical technician certified by the department to  
15 perform life-support procedures under ~~as defined in s. 401.23.~~

16           a. Prior to performance of an HIV test on a  
17 voluntarily obtained blood sample, the individual from whom  
18 the blood was obtained shall be requested to consent to the  
19 performance of the test and to the release of the results.  
20 The individual's refusal to consent and all information  
21 concerning the performance of an HIV test and any HIV test  
22 result shall be documented only in the medical personnel's  
23 record unless the individual gives written consent to entering  
24 this information on the individual's medical record.

25           b. Reasonable attempts to locate the individual and to  
26 obtain consent shall be made and all attempts must be  
27 documented. If the individual cannot be found, an HIV test may  
28 be conducted on the available blood sample. If the individual  
29 does not voluntarily consent to the performance of an HIV  
30 test, the individual shall be informed that an HIV test will  
31 be performed, and counseling shall be furnished as provided in

1 this section. However, HIV testing shall be conducted only  
2 after a licensed physician documents, in the medical record of  
3 the medical personnel, that there has been a significant  
4 exposure and that, in the physician's medical judgment, the  
5 information is medically necessary to determine the course of  
6 treatment for the medical personnel.

7 c. Costs of any HIV test of a blood sample performed  
8 with or without the consent of the individual, as provided in  
9 this subparagraph, shall be borne by the medical personnel or  
10 the employer of the medical personnel. However, costs of  
11 testing or treatment not directly related to the initial HIV  
12 tests or costs of subsequent testing or treatment shall not be  
13 borne by the medical personnel or the employer of the medical  
14 personnel.

15 d. In order to utilize the provisions of this  
16 subparagraph, the medical personnel must either be tested for  
17 HIV pursuant to this section or provide the results of an HIV  
18 test taken within 6 months prior to the significant exposure  
19 if such test results are negative.

20 e. A person who receives the results of an HIV test  
21 pursuant to this subparagraph shall maintain the  
22 confidentiality of the information received and of the persons  
23 tested. Such confidential information is exempt from s.  
24 119.07(1).

25 f. If the source of the exposure will not voluntarily  
26 submit to HIV testing and a blood sample is not available, the  
27 medical personnel or the employer of such person acting on  
28 behalf of the employee may seek a court order directing the  
29 source of the exposure to submit to HIV testing. A sworn  
30 statement by a physician licensed under chapter 458 or chapter  
31 459 that a significant exposure has occurred and that, in the

1 physician's medical judgment, testing is medically necessary  
2 to determine the course of treatment constitutes probable  
3 cause for the issuance of an order by the court. The results  
4 of the test shall be released to the source of the exposure  
5 and to the person who experienced the exposure.

6 11. For the performance of an HIV test upon an  
7 individual who comes into contact with medical personnel in  
8 such a way that a significant exposure has occurred during the  
9 course of employment or within the scope of practice of the  
10 medical personnel while the medical personnel provides  
11 emergency medical treatment to the individual; or who comes  
12 into contact with nonmedical personnel in such a way that a  
13 significant exposure has occurred while the nonmedical  
14 personnel provides emergency medical assistance during a  
15 medical emergency. For the purposes of this subparagraph, a  
16 medical emergency means an emergency medical condition outside  
17 of a hospital or health care facility that provides physician  
18 care. The test may be performed only during the course of  
19 treatment for the medical emergency.

20 a. An individual who is capable of providing consent  
21 shall be requested to consent to an HIV test prior to the  
22 testing. The individual's refusal to consent, and all  
23 information concerning the performance of an HIV test and its  
24 result, shall be documented only in the medical personnel's  
25 record unless the individual gives written consent to entering  
26 this information on the individual's medical record.

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

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

3 c. Costs of any HIV test performed with or without the  
4 consent of the individual, as provided in this subparagraph,  
5 shall be borne by the medical personnel or the employer of the  
6 medical personnel or nonmedical personnel. However, costs of  
7 testing or treatment not directly related to the initial HIV  
8 tests or costs of subsequent testing or treatment shall not be  
9 borne by the medical personnel or the employer of the medical  
10 personnel or nonmedical personnel.

11 d. In order to utilize the provisions of this  
12 subparagraph, the medical personnel or nonmedical personnel  
13 shall be tested for HIV pursuant to this section or shall  
14 provide the results of an HIV test taken within 6 months prior  
15 to the significant exposure if such test results are negative.

16 e. A person who receives the results of an HIV test  
17 pursuant to this subparagraph shall maintain the  
18 confidentiality of the information received and of the persons  
19 tested. Such confidential information is exempt from s.  
20 119.07(1).

21 f. If the source of the exposure will not voluntarily  
22 submit to HIV testing and a blood sample was not obtained  
23 during treatment for the medical emergency, the medical  
24 personnel, the employer of the medical personnel acting on  
25 behalf of the employee, or the nonmedical personnel may seek a  
26 court order directing the source of the exposure to submit to  
27 HIV testing. A sworn statement by a physician licensed under  
28 chapter 458 or chapter 459 that a significant exposure has  
29 occurred and that, in the physician's medical judgment,  
30 testing is medically necessary to determine the course of  
31 treatment constitutes probable cause for the issuance of an



1 order by the court. The results of the test shall be released  
2 to the source of the exposure and to the person who  
3 experienced the exposure.

4 12. For the performance of an HIV test by the medical  
5 examiner or attending physician upon an individual who expired  
6 or could not be resuscitated while receiving emergency medical  
7 assistance or care and who was the source of a significant  
8 exposure to medical or nonmedical personnel providing such  
9 assistance or care.

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

17 b. Costs of any HIV test performed under this  
18 subparagraph may not be charged to the deceased or to the  
19 family of the deceased person.

20 c. For the provisions of this subparagraph to be  
21 applicable, the medical personnel or nonmedical personnel must  
22 be tested for HIV under this section or must provide the  
23 results of an HIV test taken within 6 months before the  
24 significant exposure if such test results are negative.

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

27 13. For the performance of an HIV-related test  
28 medically indicated by licensed medical personnel for medical  
29 diagnosis of a hospitalized infant as necessary to provide  
30 appropriate care and treatment of the infant when, after a  
31 reasonable attempt, a parent cannot be contacted to provide

1 consent. The medical records of the infant shall reflect the  
2 reason consent of the parent was not initially obtained. Test  
3 results shall be provided to the parent when the parent is  
4 located.

5 14. For the performance of HIV testing conducted to  
6 monitor the clinical progress of a patient previously  
7 diagnosed to be HIV positive.

8 15. For the performance of repeated HIV testing  
9 conducted to monitor possible conversion from a significant  
10 exposure.

11 Section 10. Section 381.0059, Florida Statutes, is  
12 amended to read:

13 381.0059 Background screening requirements for school  
14 health services personnel.--

15 (1)(a) Any person who provides services under a school  
16 health services plan pursuant to s. 381.0056 must complete  
17 level 2 screening as provided in chapter 435. A person may  
18 satisfy the requirements of this subsection by submitting  
19 proof of compliance with the requirements of level 2 screening  
20 under s. 435.04, conducted within 12 months before the date  
21 that person initially provides services under a school health  
22 services plan pursuant to s. 381.0056. Any person who provides  
23 services under a school health services plan pursuant to s.  
24 381.0056 shall be on probationary status pending the results  
25 of the level 2 screening.

26 (b) In order to conduct level 2 screening, any person  
27 who provides services under a school health services plan  
28 pursuant to s. 381.0056 must furnish to the Department of  
29 Health a full set of fingerprints to enable the department to  
30 conduct a criminal background investigation. Each person who  
31 provides services under a school health services plan pursuant

1 to s. 381.0056 must file a complete set of fingerprints taken  
2 by an authorized law enforcement officer and must provide  
3 sufficient information for a statewide criminal records  
4 correspondence check through the Florida Department of Law  
5 Enforcement. The Department of Health shall submit the  
6 fingerprints to the Florida Department of Law Enforcement for  
7 a statewide criminal history check, and the Florida Department  
8 of Law Enforcement shall forward the fingerprints to the  
9 Federal Bureau of Investigation for a national criminal  
10 history check.

11 (c) The person subject to the required background  
12 screening or his or her employer must pay the fees required to  
13 obtain the background screening. Payment for the screening and  
14 the abuse registry check must be submitted to the Department  
15 of Health. The Florida Department of Law Enforcement shall  
16 charge the Department of Health for a level 2 screening at a  
17 rate sufficient to cover the costs of such screening pursuant  
18 to s. 943.053(3). The Department of Health shall establish a  
19 schedule of fees to cover the costs of the level 2 screening  
20 and the abuse registry check. The applicant or his or her  
21 employer who pays for the required screening may be reimbursed  
22 by the Department of Health from funds designated for this  
23 purpose.

24 (2)(a) When the Department of Health has reasonable  
25 cause to believe that grounds exist for the disqualification  
26 of any person providing services under a school health  
27 services plan pursuant to s. 381.0056, as a result of  
28 background screening, it shall notify the person in writing,  
29 stating the specific record that indicates noncompliance with  
30 the level 2 screening standards. The Department of Health must  
31 disqualify any person from providing services under a school

1 health services plan pursuant to s. 381.0056 if the department  
2 finds that the person is not in compliance with the level 2  
3 screening standards. A person who provides services under a  
4 school health plan pursuant to s. 381.0056 on a probationary  
5 status and who is disqualified because of the results of his  
6 or her background screening may contest that disqualification.

7 (b) As provided in s. 435.07, the Department of Health  
8 may grant an exemption from disqualification to a person  
9 providing services under a school health services plan  
10 pursuant to s. 381.0056 who has not received a professional  
11 license or certification from the Department of Health.

12 (c) As provided in s. 435.07, the Department of Health  
13 may grant an exemption from disqualification to a person  
14 providing services under a school health services plan  
15 pursuant to s. 381.0056 who has received a professional  
16 license or certification from the Department of Health.

17 (3) Any person who is required to undergo the  
18 background screening to provide services under a school health  
19 plan pursuant to s. 381.0056 who refuses to cooperate in such  
20 screening or refuses to submit the information necessary to  
21 complete the screening, including fingerprints, shall be  
22 disqualified for employment or volunteering in such position  
23 or, if employed, shall be dismissed.

24 (4) Under penalty of perjury, each person who provides  
25 services under a school health plan pursuant to s. 381.0056  
26 must attest to meeting the level 2 screening requirements for  
27 participation under the plan and agree to inform the  
28 Department of Health immediately if convicted of any  
29 disqualifying offense while providing services under a school  
30 health services plan pursuant to s. 381.0056.

31

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

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

7           381.0101 Environmental health professionals.--

8           (5) STANDARDS FOR CERTIFICATION.--The department shall  
9 adopt rules that establish minimum standards of education,  
10 training, or experience for those persons subject to this  
11 section. The rules shall also address the process for  
12 application, examination, issuance, expiration, and renewal of  
13 certification and ethical standards of practice for the  
14 profession.

15           (a) Persons employed as environmental health  
16 professionals shall exhibit a knowledge of rules and  
17 principles of environmental and public health law in Florida  
18 through examination. A person may not conduct environmental  
19 health evaluations in a primary program area unless he or she  
20 is currently certified in that program area or works under the  
21 direct supervision of a certified environmental health  
22 professional.

23           1. All persons who begin employment in a primary  
24 environmental health program on or after September 21, 1994,  
25 must be certified in that program within 6 months after  
26 employment.

27           2. Persons employed in the ~~a~~ primary environmental  
28 health program of a food protection program or an onsite  
29 sewage treatment and disposal system prior to September 21,  
30 1994, shall be considered certified while employed in that  
31 position and shall be required to adhere to any professional

1 standards established by the department pursuant to paragraph  
2 (b), complete any continuing education requirements imposed  
3 under paragraph (d), and pay the certificate renewal fee  
4 imposed under subsection (7).

5 3. Persons employed in the ~~a~~ primary environmental  
6 health program of a food protection program or an onsite  
7 sewage treatment and disposal system prior to September 21,  
8 1994, who change positions or program areas and transfer into  
9 another primary environmental health program area on or after  
10 September 21, 1994, must be certified in that program within 6  
11 months after such transfer, except that they will not be  
12 required to possess the college degree required under  
13 paragraph (e).

14 4. Registered sanitarians shall be considered  
15 certified and shall be required to adhere to any professional  
16 standards established by the department pursuant to paragraph  
17 (b).

18 (d) Persons who are certified shall renew their  
19 certification biennially by completing not less than 24  
20 contact hours of continuing education for each program area in  
21 which they maintain certification, subject to a maximum of 48  
22 hours for multiprogram certification.

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

25 381.731 Strategic planning ~~Healthy Communities,~~  
26 ~~Healthy People Plan.--~~

27 (1) The Department of Health shall include  
28 population-based health-promotion strategies in the  
29 department's strategic plan developed under s. 186.021 ~~develop~~  
30 ~~a biennial Healthy Communities, Healthy People Plan that shall~~  
31 ~~be submitted to the Governor, the President of the Senate, and~~

1 ~~the Speaker of the House of Representatives by December 31 of~~  
2 ~~each even-numbered year.~~

3       (2) The strategic plan must include data on the health  
4 status of the state's population, health status objectives and  
5 outcome measures, and public health strategies, including  
6 health promotion strategies. The strategic plan must also  
7 provide an overall conceptual framework for the state's health  
8 promotion programs that considers available information on  
9 mortality, morbidity, disability, and behavioral risk factors  
10 associated with chronic diseases and conditions; ~~proposals for~~  
11 ~~public and private health insurance reforms needed to fully~~  
12 ~~implement the state's health promotion initiative; the best~~  
13 ~~health promotion practices of the county health departments~~  
14 ~~and other states; and proposed educational reforms needed to~~  
15 ~~promote healthy behaviors among the state's school-age~~  
16 ~~children.~~

17       Section 13. Section 381.734, Florida Statutes, is  
18 amended to read:

19       381.734 Healthy Communities, Healthy People Program.--

20       (1) The department shall develop and implement the  
21 Healthy Communities, Healthy People Program, a comprehensive  
22 and community-based health promotion and wellness program.  
23 The program shall be designed to reduce major behavioral risk  
24 factors associated with chronic diseases, including those  
25 chronic diseases identified in chapter 385, ~~and injuries and~~  
26 ~~accidents~~, by enhancing the knowledge, skills, motivation, and  
27 opportunities for individuals, organizations, and communities  
28 to develop and maintain healthy lifestyles.

29       (2) The department shall consolidate and use existing  
30 resources, programs, and program data to develop this program,  
31 to avoid duplication of efforts or services. Such resources,

1 programs, and program data shall include the community  
2 intervention programs operated, ~~but not be limited to, s.~~  
3 ~~381.103, the comprehensive health improvement project under s.~~  
4 ~~385.103, and the comprehensive public health plan, public~~  
5 ~~information, and statewide injury control plan under s.~~  
6 ~~381.0011(3), (8), and (12).~~

7 (3) The program shall include:

8 (a) ~~Biennial~~ Statewide assessments of specific,  
9 causal, and behavioral risk factors that affect the health of  
10 residents of the state.

11 (b) The development of community-based health  
12 promotion programs, incorporating health promotion and  
13 preventive care practices supported in scientific and medical  
14 literature.

15 (c) The development and implementation of statewide  
16 age-specific, disease-specific, and community-specific health  
17 promotion and preventive care strategies using primary,  
18 secondary, and tertiary prevention interventions.

19 (d) ~~The development and implementation of models for~~  
20 ~~testing statewide health promotion of community-based~~  
21 health-promotion model programs that meet specific criteria  
22 and address major risk factors in the state and motivate  
23 individuals to permanently adopt healthy behaviors, enhance  
24 self-esteem, and increase social and personal  
25 responsibilities.

26 (e) The enhancement of the department's State Health  
27 ~~Office's~~ special initiatives to develop the mental, emotional,  
28 and social competencies of children and adolescents, using  
29 innovative school-based and neighborhood-based approaches to  
30 build self-esteem and prevent later problems such as drug  
31



1 abuse, poor school performance, criminal behavior, and other  
2 behavioral problems.

3 (f) The development and implementation of a statewide  
4 health education program to educate the public and communities  
5 about health risks and assist them in modifying unhealthy  
6 behaviors.

7 (g) The establishment of a comprehensive program to  
8 inform the public, health care professionals, and communities  
9 about the prevalence of chronic diseases in the state; known  
10 and potential risks, including social and behavioral risks;  
11 and behavior changes that would reduce risks.

12 (h) The development and implementation of a program  
13 for enhancing self-help organizations and volunteer programs  
14 that enlist the support of volunteers in health promotion  
15 activities, particularly persons who serve as role models  
16 because of their public visibility or because of their  
17 recovery from or skill in coping with disease.

18 (i) The development of policies that encourage the use  
19 of alternative community delivery sites for health promotion  
20 and preventive care programs and promote the use of  
21 neighborhood delivery sites that are close to work, home, and  
22 school.

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

26 Section 14. Section 413.46, Florida Statutes, is  
27 transferred, renumbered as section 381.7395, Florida Statutes,  
28 and amended to read:

29 381.7395 ~~413.46~~ Legislative intent.--It is the intent  
30 of the Legislature to ensure the referral of individuals  
31 ~~persons~~ who have moderate-to-severe brain or spinal cord

1 injuries to the brain and spinal cord injury program, a  
2 coordinated rehabilitation program ~~developed and~~ administered  
3 by the department division. The program shall provide eligible  
4 persons, as defined in s. 381.76 ~~s. 413.507~~, the opportunity  
5 to obtain the necessary rehabilitative services enabling them  
6 to be referred to a vocational rehabilitation program or to  
7 return to an appropriate level of functioning in their  
8 community. Further, it is intended that permanent disability  
9 be avoided, whenever possible, through prevention, early  
10 identification, ~~skilled~~ emergency medical services and  
11 transport evacuation procedures, and proper medical and  
12 rehabilitative treatment.

13 Section 15. Section 381.745, Florida Statutes, is  
14 created to read:

15 381.745 Definitions.--As used in ss. 381.739-381.79,  
16 the term:

17 (1) "Activity of daily living" means an activity  
18 required on a frequent basis which permits an individual to  
19 secure or maintain independence. Such activities include, but  
20 are not limited to, personal home care, transportation,  
21 personal-assistance services, housekeeping, shopping,  
22 attending school, communication, and employment.

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

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

- 27 1. Motor deficit.
- 28 2. Sensory deficit.
- 29 3. Bowel and bladder dysfunction.

30 (b) An insult to the skull, brain, or its covering,  
31 resulting from external trauma that produces an altered state

1 of consciousness or anatomic motor, sensory, cognitive, or  
2 behavioral deficits.

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

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

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

13 (6) "Designated facility" means a facility approved by  
14 the brain and spinal cord injury program which meets the  
15 criteria and standards of care of the brain and spinal cord  
16 injury program for individuals who have sustained a brain or  
17 spinal cord injury.

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

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

25 (9) "Transitional living facility" means a  
26 state-approved facility, as defined and licensed under chapter  
27 400, or a facility approved by the brain and spinal cord  
28 injury program in accordance with this chapter.

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

1           Section 16. Section 381.75, Florida Statutes, is  
2 amended to read:

3           381.75 Duties and responsibilities of the department,  
4 of transitional living facilities, and of  
5 residents.--Consistent with the mandate of s. 381.7395 ~~s.~~  
6 ~~413.46~~, the department shall develop and administer a  
7 multilevel treatment program for individuals ~~persons~~ who  
8 sustain ~~have~~ brain or spinal cord injuries and who are  
9 referred to the brain and spinal cord injury program.

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

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

20           (3) The department, in consultation with emergency  
21 medical service, shall develop standards for an emergency  
22 medical evacuation system that will ensure that all  
23 individuals ~~persons~~ who sustain traumatic brain or spinal cord  
24 injuries are transported to a department-approved trauma  
25 center that meets the standards and criteria established by  
26 the emergency medical service and the acute-care standards of  
27 the brain and spinal cord injury program.

28           (4) The department shall develop standards for  
29 designation of rehabilitation centers to provide  
30 rehabilitation services for individuals ~~persons~~ who have brain  
31 or spinal cord injuries.

1           (5) The department shall determine the appropriate  
2 number of designated acute-care facilities, inpatient  
3 rehabilitation centers, and outpatient rehabilitation centers,  
4 needed based on incidence, volume of admissions, and other  
5 appropriate criteria.

6           (6) The department shall develop standards for  
7 designation of transitional living facilities to provide  
8 individuals the opportunity to adjust to their disabilities  
9 and to develop physical and functional skills in a supported  
10 living environment.

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

15           (b) The goal of a transitional living program for  
16 individuals ~~persons~~ who have brain or spinal cord injuries is  
17 to assist each individual ~~person~~ who has such a disability to  
18 achieve a higher level of independent functioning and to  
19 enable that person to reenter the community. The program shall  
20 be focused on preparing participants to return to community  
21 living.

22           (c) A transitional living facility for an individual ~~a~~  
23 ~~person~~ who has a brain or spinal cord injury shall provide to  
24 such individual ~~person~~, in a residential setting, a  
25 goal-oriented treatment program designed to improve the  
26 individual's ~~person's~~ physical, cognitive, communicative,  
27 behavioral, psychological, and social functioning, as well as  
28 to provide necessary support and supervision. A transitional  
29 living facility shall offer at least the following therapies:  
30 physical, occupational, speech, neuropsychology, independent  
31 living skills training, behavior analysis for programs serving

1 brain-injured individuals ~~persons~~, health education, and  
2 recreation.

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

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

28 Section 17. Section 381.755, Florida Statutes, is  
29 created to read:

30 381.755 Benefits not assignable.--The right of an  
31 eligible individual to any services provided by the brain and

1 spinal cord injury program is not transferable or assignable,  
2 and any benefits, including money, goods, or chattels,  
3 received as services under the brain and spinal cord injury  
4 program are exempt from all state, county, and municipal taxes  
5 and from sale under the process of any court, except for  
6 obligations contracted for the purchase of such property.

7 Section 18. Section 381.76, Florida Statutes, is  
8 amended to read:

9 381.76 Eligibility for the brain and spinal cord  
10 injury program.--

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

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

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

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

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

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

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

28 Section 19. Section 381.765, Florida Statutes, is  
29 created to read:

30 381.765 Retention of title to and disposal of  
31 equipment.--

1           (1) The department may retain title to any property,  
2 tools, instruments, training supplies, equipment, or other  
3 items of value acquired for services provided under the brain  
4 and spinal cord injury program or for personnel employed in  
5 operating the brain and spinal cord injury program, and may  
6 repossess or transfer such property, tools, instruments,  
7 supplies, equipment, or other items of value.

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

20           (3) The department may adopt rules relating to records  
21 and recordkeeping for department-owned property referenced in  
22 subsections (1) and (2).

23           Section 20. Section 381.775, Florida Statutes, is  
24 created to read:

25           381.775 Applicant and recipient records; confidential  
26 and privileged.--

27           (1) All oral and written records, information,  
28 letters, and reports received, made, or maintained by the  
29 department relative to any applicant for or recipient of  
30 services under the brain and spinal cord injury program are  
31 privileged, confidential, and exempt from s. 119.07(1). Any



1 person who discloses or releases such records, information, or  
2 communications in violation of this section commits a  
3 misdemeanor of the second degree, punishable as provided in s.  
4 775.082 or s. 775.083. Such records may not be released,  
5 except that:

6 (a) Records may be released to the applicant or  
7 recipient, or his or her representative, upon receipt of a  
8 written waiver from the applicant or recipient. Medical,  
9 psychological, or other information that the department  
10 believes may be harmful to an applicant or recipient may not  
11 be released directly to him or her, but must be provided  
12 through a licensed health care professional designated by the  
13 applicant or recipient.

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

17 (c) Records used in administering the brain and spinal  
18 cord injury program may be released as required to administer  
19 the program or as required by an agency or political  
20 subdivision of the state in the performance of its duties. Any  
21 agency or political subdivision to which records are released  
22 under this paragraph may not disclose the records to third  
23 parties.

24 (d) Records may be released upon the order of an  
25 administrative law judge, a hearing officer, a judge of  
26 compensation claims, an agency head exercising quasi-judicial  
27 authority, or a judge of a court of competent jurisdiction  
28 following a finding in an in camera proceeding that the  
29 records are relevant to the inquiry before the court and  
30 should be released. The in camera proceeding and all records  
31

1 relating thereto are confidential and exempt from s.  
2 119.07(1).

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

7 (f) The department may release personal information  
8 about an applicant for or recipient of services under the  
9 brain and spinal cord injury program in order to protect him  
10 or her or others when the applicant or recipient poses a  
11 threat to his or her own safety or to the safety of others and  
12 shall, upon official request, release such information to law  
13 enforcement agencies investigating the commission of a crime.

14 (2) Records that come into the possession of the  
15 department relative to any applicant for or receipt of  
16 services under the brain and spinal cord injury program and  
17 that are confidential by other provisions of law are  
18 confidential and exempt from s. 119.07(1), and may not be  
19 released by the department, except as provided in this  
20 section.

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

23 381.78 Advisory council on brain and spinal cord  
24 injuries.--

25 (1) There is created within the department a 16-member  
26 advisory council on brain and spinal cord injuries. The  
27 council shall be composed of a minimum of four individuals  
28 ~~persons~~ who have brain injuries or are family members of  
29 individuals ~~persons~~ who have brain injuries, a minimum of four  
30 individuals ~~persons~~ who have spinal cord injuries or are  
31 family members of individuals ~~persons~~ who have spinal cord

1 injuries, and a minimum of two individuals ~~persons~~ who  
2 represent the special needs of children who have brain or  
3 spinal cord injuries. The balance of the council members shall  
4 be physicians, other allied health professionals,  
5 administrators of brain and spinal cord injury programs, and  
6 representatives from support groups that have expertise in  
7 areas related to the rehabilitation of individuals ~~persons~~ who  
8 have brain or spinal cord injuries.

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

12 ~~(a) Eight members of the first appointed council shall~~  
13 ~~serve an initial term of 2 years. This group shall include two~~  
14 ~~persons who have brain injuries or are family members of~~  
15 ~~persons who have brain injuries, two persons who have spinal~~  
16 ~~cord injuries or are family members of persons who have spinal~~  
17 ~~cord injuries, and four other persons from the previous~~  
18 ~~council.~~

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

22 ~~(c)~~ Any council member who is unwilling or unable to  
23 properly fulfill the duties of the office shall be succeeded  
24 by an individual ~~a person~~ chosen by the secretary to serve out  
25 the unexpired balance of the replaced council member's term.  
26 If the unexpired balance of the replaced council member's term  
27 is less than 18 months, then, notwithstanding the provisions  
28 of this subsection, the succeeding council member may be  
29 reappointed by the secretary twice.

30 (3) The council shall meet at least two times  
31 annually.

1 (4) The council shall:

2 (a) Provide advice and expertise to the department  
3 ~~division~~ in the preparation, implementation, and periodic  
4 review of the brain and spinal cord injury program ~~as~~  
5 ~~referenced in s. 413.49.~~

6 (b) Annually appoint a five-member committee composed  
7 of one individual ~~person~~ who has a brain injury or has a  
8 family member with a brain injury, one individual ~~person~~ who  
9 has a spinal cord injury or has a family member with a spinal  
10 cord injury, and three members who shall be chosen from among  
11 these representative groups: physicians, other allied health  
12 professionals, administrators of brain and spinal cord injury  
13 programs, and representatives from support groups with  
14 expertise in areas related to the rehabilitation of  
15 individuals ~~persons~~ who have brain or spinal cord injuries,  
16 except that one and only one member of the committee shall be  
17 an administrator of a transitional living facility. Membership  
18 on the council is not a prerequisite for membership on this  
19 committee.

20 1. The committee shall perform onsite visits to those  
21 transitional living facilities identified by the Agency for  
22 Health Care Administration as being in possible violation of  
23 the statutes and rules regulating such facilities. The  
24 committee members have the same rights of entry and inspection  
25 granted under s. 400.805(7) to designated representatives of  
26 the agency.

27 2. Factual findings of the committee resulting from an  
28 onsite investigation of a facility pursuant to subparagraph 1.  
29 shall be adopted by the agency in developing its  
30 administrative response regarding enforcement of statutes and  
31 rules regulating the operation of the facility.

1           3. Onsite investigations by the committee shall be  
2 funded by the Health Care Trust Fund.

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

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

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

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

22           (7) A member of the advisory council may be removed  
23 from office by the Secretary of Health for malfeasance,  
24 misfeasance, neglect of duty, incompetence, or permanent  
25 inability to perform official duties or for pleading nolo  
26 contendere to, or being found guilty of, a crime. Malfeasance  
27 includes, but is not limited to, a violation of any specific  
28 prohibition within this part.

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

31

1           381.785 Recovery of third-party payments for funded  
2 services.--

3           (1) Third-party coverage for funded services  
4 constitutes primary coverage.

5           (2) An applicant for or recipient of services funded  
6 under the brain and spinal cord injury program must inform the  
7 brain and spinal cord injury program of any rights she or he  
8 has to third-party payments for such services, and the brain  
9 and spinal cord injury program shall be subrogated to her or  
10 his rights to such third-party payments. The brain and spinal  
11 cord injury program may recover directly from:

12           (a) Any third party that is liable to make a benefit  
13 payment to the provider of the recipient's funded services or  
14 to the recipient under the terms of any contract, settlement,  
15 or award;

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

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

22           (3) An applicant for or a recipient of funded services  
23 is deemed to have assigned to the brain and spinal cord injury  
24 program her or his rights to any payments for such services  
25 from a third party and to have authorized the brain and spinal  
26 cord injury program to release information with respect to  
27 such services for the sole purpose of obtaining reimbursement.

28           (4) The brain and spinal cord injury program may, in  
29 order to enforce its rights under this section, institute,  
30 intervene in, or join any legal proceeding against a third  
31 party against whom recovery rights arise. Action taken by the

1 brain and spinal cord injury program does not preclude the  
2 recipient's recovery for that portion of her or his damages  
3 not subrogated to the brain and spinal cord injury program,  
4 and action taken by the recipient does not prejudice the  
5 rights of the brain and spinal cord injury program.

6 (5) When the brain and spinal cord injury program  
7 provides, pays for, or becomes liable for funded services, it  
8 has a lien for the amount of such services upon all causes of  
9 action that accrue to the recipient or to her or his legal  
10 representatives as a result of sickness, injury, disease,  
11 disability, or death due to the liability of a third party  
12 which necessitated funded services. To perfect such lien, a  
13 notice of lien must be filed with the clerk of the circuit  
14 court in the recipient's county of residence. The notice of  
15 lien must contain the name and address of the person to whom  
16 services were furnished and the name, address, and telephone  
17 number of a person at the brain and spinal cord injury program  
18 from whom information regarding the lien can be obtained.  
19 Failure of the brain and spinal cord injury program to file a  
20 notice of lien does not affect the program's other rights  
21 provided in this section. Any notice of lien filed as provided  
22 under this subsection is valid for 5 years after filing, and  
23 may be extended for an additional 5-year period by filing a  
24 new notice of lien at any time prior to the expiration of the  
25 original notice of lien.

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

29 (7) Notwithstanding any other law to the contrary,  
30 payments made for funded services are neither collateral  
31

1 payments nor collateral sources within the meaning of chapter  
2 86-160, Laws of Florida, or chapter 88-1, Laws of Florida.

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

7 (9) The department shall adopt rules to administer  
8 this section.

9 Section 23. Section 381.79, Florida Statutes, is  
10 amended to read:

11 381.79 Brain and Spinal Cord Injury Program  
12 ~~Rehabilitation~~ Trust Fund.--

13 (1) There is created in the State Treasury the Brain  
14 and Spinal Cord Injury Program ~~Rehabilitation~~ Trust Fund.  
15 Moneys in the fund shall be appropriated to the department for  
16 the purpose of providing the cost of care for brain or spinal  
17 cord injuries as a payor of last resort to residents of this  
18 state, for multilevel programs of care established pursuant to  
19 s. 381.75 ~~s. 413.49~~.

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

22 (b) Authorized expenditures include acute care,  
23 rehabilitation, transitional living, equipment, and supplies  
24 necessary for activities of daily living, public information,  
25 prevention, education, and research. In addition, the  
26 department may provide matching funds for public or private  
27 assistance provided under the brain and spinal cord injury  
28 program and may provide funds for any approved expansion of  
29 services for treating individuals who have sustained a brain  
30 or spinal cord injury.

31



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

5           (3) Annually, 5 percent of the revenues deposited  
6 monthly in the fund pursuant to s. 318.21(2)(d) shall be  
7 appropriated to the University of Florida and 5 percent to the  
8 University of Miami for spinal cord injury and brain injury  
9 research. The amount to be distributed to the universities  
10 shall be calculated based on the deposits into the fund for  
11 each quarter in the fiscal year, but may not exceed \$500,000  
12 per university per year. Funds distributed under this  
13 subsection shall be made in quarterly payments at the end of  
14 each quarter during the fiscal year.

15           (4) The Board of Regents shall establish a program  
16 administration process which shall include: an annual  
17 prospective program plan with goals, research design, proposed  
18 outcomes, a proposed budget, an annual report of research  
19 activities and findings, and an annual end-of-year financial  
20 statement. Prospective program plans shall be submitted to the  
21 Board of Regents, and funds shall be released upon acceptance  
22 of the proposed program plans. The annual report of research  
23 activities and findings shall be submitted to the Board of  
24 Regents, with the executive summaries submitted to the  
25 President of the Senate, the Speaker of the House of  
26 Representatives, and the Secretary ~~of the Department~~ of  
27 Health.

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

31

1           (6) The department may accept, deposit into the trust  
2 fund, and use for carrying out the purposes of this part gifts  
3 made unconditionally by will or otherwise. Any gift made under  
4 conditions that, in the judgment of the department, are proper  
5 and consistent with this section, the laws of the United  
6 States, and the laws of this state may be accepted and shall  
7 be held, invested, reinvested, and used in accordance with the  
8 conditions of the gift.

9           Section 24. Section 385.103, Florida Statutes, is  
10 amended to read:

11           385.103 Community intervention programs ~~Chronic~~  
12 ~~disease control program.--~~

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

15           (a) "Chronic disease prevention and control program"  
16 means a program including a combination of ~~at least~~ the  
17 following elements:

- 18           1. Health screening;
- 19           2. Risk factor detection;
- 20           3. Appropriate intervention to enable and encourage  
21 changes in behaviors that create health risks ~~risk factor~~  
22 ~~reversal~~; and
- 23           4. Counseling in nutrition, physical activity, the  
24 effects of tobacco use, hypertension, blood pressure control,  
25 and diabetes control and the provision of other clinical  
26 prevention services ~~counseling~~.

27           (b) "Community health education program" means a  
28 program involving the planned and coordinated use of the  
29 educational resources available in a community in an effort  
30 to:

31

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

3           2. Make available learning opportunities which will  
4 increase the ability of people to make informed decisions  
5 affecting their personal, family, and community well-being and  
6 which are designed to facilitate voluntary adoption of  
7 behavior which will improve or maintain health;

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

10          4. Facilitate collaboration among appropriate agencies  
11 for efficient use of scarce resources.

12          (c) "Community intervention program" ~~"Comprehensive~~  
13 ~~health improvement project"~~ means a program combining the  
14 required elements of ~~both~~ a chronic disease prevention and  
15 control program and a community health education program into  
16 a unified program over which a single administrative entity  
17 has authority and responsibility.

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

19          ~~(e) "District" means a service district of the~~  
20 ~~department.~~

21          ~~(e)~~(f) "Risk factor" means a factor identified during  
22 the course of an epidemiological study of a disease, which  
23 factor appears to be statistically associated with a high  
24 incidence of that disease.

25          (2) OPERATION OF COMMUNITY INTERVENTION PROGRAMS  
26 ~~COMPREHENSIVE HEALTH IMPROVEMENT PROJECTS.~~--

27          (a) The department shall assist the county health  
28 departments in developing and operating community intervention  
29 programs ~~comprehensive health improvement projects~~ throughout  
30 the state. At a minimum, the community intervention programs  
31 ~~comprehensive health improvement projects~~ shall address one to

1 three of the following ~~the~~ chronic diseases: ~~of~~ cancer,  
2 diabetes, heart disease, stroke, hypertension, renal disease,  
3 and chronic obstructive lung disease.

4 (b) Existing community resources, when available,  
5 shall be used to support the programs. The department shall  
6 seek funding for the programs from federal and state financial  
7 assistance programs which presently exist or which may be  
8 hereafter created. Additional services, as appropriate, may be  
9 incorporated into a program to the extent that resources are  
10 available. The department may accept gifts and grants in  
11 order to carry out a program.

12 (c) Volunteers shall be used to the maximum extent  
13 possible in carrying out the programs. The department shall  
14 contract for the necessary insurance coverage to protect  
15 volunteers from personal liability while acting within the  
16 scope of their volunteer assignments under a program.

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

21 (e) If the department determines that it is necessary  
22 for clients to help pay for services provided by a program,  
23 the department may require clients to make contribution  
24 therefor in either money or personal services. The amount of  
25 money or value of the personal services shall be fixed  
26 according to a fee schedule established by the department or  
27 by the entity developing the program. In establishing the fee  
28 schedule, the department or the entity developing the program  
29 shall take into account the expenses and resources of a client  
30 and his or her overall ability to pay for the services.

31

1 (f) The department shall adopt rules governing the  
2 operation of the community intervention programs ~~health~~  
3 ~~improvement projects. These rules shall include guidelines~~  
4 ~~for intake and enrollment of clients into the projects.~~

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

7 385.207 Care and assistance of persons with epilepsy;  
8 establishment of programs in epilepsy control.--

9 (3) Revenue for statewide implementation of programs  
10 for epilepsy prevention and education pursuant to this section  
11 shall be derived pursuant to the provisions of s. 318.21(6)~~s.~~  
12 ~~318.18(12)~~and shall be deposited in the Epilepsy Services  
13 Trust Fund, which is hereby established to be administered by  
14 the Department of Health. All funds deposited into the trust  
15 fund shall be invested pursuant to the provisions of s.  
16 18.125. Interest income accruing to such invested funds shall  
17 increase the total funds available under this subsection.

18 Section 26. Section 402.181, Florida Statutes, is  
19 amended to read:

20 402.181 State Institutions Claims Program.--

21 (1) There is created a State Institutions Claims  
22 Program, for the purpose of making restitution for property  
23 damages and direct medical expenses for injuries caused by  
24 shelter children or foster children, or escapees, or inmates,  
25 or patients of state institutions under the Department of  
26 Children and Family Services, the Department of Health, the  
27 Department of Juvenile Justice, or the Department of  
28 Corrections.

29 (2) Claims for restitution may be filed with the  
30 Department of Legal Affairs at its office in accordance with  
31 regulations prescribed by the Department of Legal Affairs. The

1 Department of Legal Affairs shall have full power and  
2 authority to hear, investigate, and determine all questions in  
3 respect to such claims and is authorized, within the limits of  
4 current appropriations, to pay individual claims up to \$1,000  
5 or, with respect to children in foster care and their  
6 families, individual claims up to \$1,500. Claims in excess of  
7 these amounts shall continue to require legislative approval.

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

12 (b) The Department of Legal Affairs shall work with  
13 the Department of Children and Family Services, the Department  
14 of Health, the Department of Juvenile Justice, and the  
15 Department of Corrections to streamline the process of  
16 investigations, hearings, and determinations with respect to  
17 claims under this section, to ensure that eligible claimants  
18 receive restitution within a reasonable time.

19 Section 27. Section 514.021, Florida Statutes, is  
20 amended to read:

21 514.021 Department authorization.--The department is  
22 authorized to adopt and enforce rules to protect the health,  
23 safety, or welfare of persons using public swimming pools and  
24 bathing places. The department shall review and revise such  
25 rules as necessary, but not less than biennially ~~biannually~~.  
26 Sanitation and safety standards shall include, but not be  
27 limited to, matters relating to structure; appurtenances;  
28 operation; source of water supply; bacteriological, chemical,  
29 and physical quality of water in the pool or bathing area;  
30 method of water purification, treatment, and disinfection;

31

1 lifesaving apparatus; measures to ensure safety of bathers;  
2 and measures to ensure the personal cleanliness of bathers.

3           Section 28. February 6th of each year is designated  
4 Florida Alzheimer's Disease Day.

5           Section 29. Long-term community-based supports.--The  
6 department shall, contingent upon specific appropriations for  
7 these purposes:

8           (1) Study the long-term needs for community-based  
9 supports and services for individuals who have sustained  
10 traumatic brain or spinal cord injuries. The purpose of this  
11 study is to prevent inappropriate residential and  
12 institutional placement of these individuals, and promote  
13 placement in the most cost effective and least restrictive  
14 environment. Any placement recommendations for these  
15 individuals shall ensure full utilization of and collaboration  
16 with other state agencies, programs, and community partners.  
17 This study shall be submitted to the Governor, the President  
18 of the Senate, and the Speaker of the House of Representatives  
19 not later than December 31, 2000.

20           (2) Based upon the results of this study, establish a  
21 plan for the implementation of a program of long-term  
22 community-based supports and services for individuals who have  
23 sustained traumatic brain or spinal cord injuries who may be  
24 subject to inappropriate residential and institutional  
25 placement as a direct result of such injuries.

26           (a) The program shall be payor of last resort for  
27 program services and expenditures for such services shall be  
28 considered funded services for purposes of section 381.785,  
29 Florida Statutes; however, notwithstanding section 381.79(5),  
30 Florida Statutes, proceeds resulting from this subsection  
31 shall be used solely for this program.

1           (b) The department shall create, by rule, procedures  
2 to ensure, that in the event the program is unable to directly  
3 or indirectly provide such services to all eligible  
4 individuals due to lack of funds, those individuals most at  
5 risk to suffer the greatest harm from an imminent  
6 inappropriate residential or institutional placement are  
7 served first.

8           (c) Every applicant or recipient of the long-term  
9 community-based supports and services program shall have been  
10 a resident of the state for 1 year immediately preceding  
11 application and be a resident of the state at the time of  
12 application.

13           (d) The department shall adopt rules pursuant to  
14 sections 120.536(1) and 120.54, Florida Statutes, to implement  
15 the provision of this subsection.

16           Section 30. If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 invalidity does not affect other provisions or applications of  
19 this act which can be given effect without the invalid  
20 provision or application, and to this end the provisions of  
21 this act are severable.

22           Section 31. (1) It is the intent of the Legislature  
23 to:

24           (a) Reduce the rates of illness and death from lung  
25 cancer and other cancers and improve the quality of life among  
26 low-income African-American and Hispanic populations through  
27 increased access to early, effective screening and diagnosis,  
28 education, and treatment programs.

29           (b) Create a community faith-based disease-prevention  
30 program in conjunction with the Health Choice Network and  
31 other community health centers to build upon the natural



1 referral and education networks in place within minority  
2 communities and to increase access to health service delivery  
3 in South Florida.

4 (c) Establish a funding source to build upon local  
5 private participation to sustain the operation of the program.

6 (2)(a) There is created the Jessie Trice Cancer  
7 Prevention Program, to be located, for administrative  
8 purposes, within the Department of Health, and operated from  
9 the community health centers within the Health Choice Network  
10 in South Florida.

11 (b) Funding will be provided to develop contracts with  
12 community health centers and local community faith-based  
13 education programs to provide cancer screening, diagnosis,  
14 education, and treatment services to low-income populations  
15 throughout the state. Pilot programs will be initially created  
16 in the communities of Goulds, Naranja, Coconut Grove, Liberty  
17 City, and East Little Havana in Dade County and Dunbar in Lee  
18 County.

19 Section 32. Funds to implement the provisions in this  
20 act are contingent upon a specific appropriation for that  
21 purpose in the General Appropriations Act.

22 Section 33. Florida Commission on Excellence in Health  
23 Care.--

24 (1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature  
25 finds that the health care delivery industry is one of the  
26 largest and most complex industries in Florida. The  
27 Legislature finds that additional focus on strengthening  
28 health care delivery systems by eliminating avoidable mistakes  
29 in the diagnosis and treatment of Floridians holds tremendous  
30 promise to increase the quality of health care services  
31 available to Floridians. To achieve this enhanced focus, it is

1 the intent of the Legislature to create the Florida Commission  
2 on Excellence in Health Care to facilitate the development of  
3 a comprehensive statewide strategy for improving health care  
4 delivery systems through meaningful reporting standards, data  
5 collection and review, and quality measurement.

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

7 (a) "Agency" means the Agency for Health Care  
8 Administration.

9 (b) "Commission" means the Florida Commission on  
10 Excellence in Health Care.

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

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

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

22 (f) "Health care provider" means any health care  
23 facility or other health care organization licensed or  
24 certified to provide approved medical and allied health  
25 services in this state.

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

29 (a) Identify existing data sources that evaluate  
30 quality of care in Florida and collect, analyze, and evaluate  
31 this data.

1           (b) Establish guidelines for data sharing and  
2 coordination.

3           (c) Identify core sets of quality measures for  
4 standardized reporting by appropriate components of the health  
5 care continuum.

6           (d) Recommend a framework for quality measurement and  
7 outcome reporting.

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

10           (f) Make recommendations regarding research and  
11 development needed to advance quality measurement and  
12 reporting.

13           (g) Evaluate regulatory issues relating to the  
14 pharmacy profession and recommend changes necessary to  
15 optimize patient safety.

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

20           (i) Sponsor public hearings to share information and  
21 expertise, identify "best practices," and recommend methods to  
22 promote their acceptance.

23           (j) Evaluate current regulatory programs to determine  
24 what changes, if any, need to be made to facilitate patient  
25 safety.

26           (k) Review public and private health care purchasing  
27 systems to determine if there are sufficient mandates and  
28 incentives to facilitate continuous improvement in patient  
29 safety.

30  
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1           (l) Analyze how effective existing regulatory systems  
2 are in ensuring continuous competence and knowledge of  
3 effective safety practices.

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

11           (n) Recommend procedures for development of a  
12 curriculum on patient safety and methods of incorporating such  
13 curriculum into training, licensure, and certification  
14 requirements.

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

20           (p) Recommend procedures to incorporate recognized  
21 patient safety considerations into practice guidelines and  
22 into standards related to the introduction and diffusion of  
23 new technologies, therapies, and drugs.

24           (q) Recommend a framework for development of  
25 community-based collaborative initiatives for error reporting  
26 and analysis and implementation of patient safety  
27 improvements.

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

30           (4) MEMBERSHIP, ORGANIZATION, MEETINGS, PROCEDURES,  
31 STAFF.--

- 1           (a) The commission shall consist of:
- 2           1. The Secretary of Health and the Director of Health
- 3 Care Administration;
- 4           2. One representative each from the following agencies
- 5 or organizations: the Board of Medicine, the Board of
- 6 Osteopathic Medicine, the Board of Pharmacy, the Board of
- 7 Dentistry, the Board of Nursing, the Florida Dental
- 8 Association, the Florida Medical Association, the Florida
- 9 Osteopathic Medical Association, the Florida Chiropractic
- 10 Association, the Florida Chiropractic Society, the Florida
- 11 Podiatric Medical Association, the Florida Nurses Association,
- 12 the Florida Organization of Nursing Executives, the Florida
- 13 Pharmacy Association, the Florida Society of Health System
- 14 Pharmacists, Inc., the Florida Hospital Association, the
- 15 Association of Community Hospitals and Health Systems of
- 16 Florida, Inc., the Florida League of Health Systems, the
- 17 Florida Health Care Risk Management Advisory Council, the
- 18 Florida Health Care Association, the Florida Statutory
- 19 Teaching Hospital Council, Inc., the Florida Statutory Rural
- 20 Hospital Council, the Florida Association of Homes for the
- 21 Aging, and the Florida Society for Respiratory Care;
- 22           3. Two health lawyers, appointed by the Secretary of
- 23 Health, one of whom must be a member of the Health Law Section
- 24 of The Florida Bar who defends physicians and one of whom must
- 25 be a member of the Academy of Florida Trial Lawyers;
- 26           4. Two representatives of the health insurance
- 27 industry, appointed by the Director of Health Care
- 28 Administration, one of whom shall represent indemnity plans
- 29 and one of whom shall represent managed care;
- 30           5. Five consumer advocates, consisting of one from the
- 31 Association for Responsible Medicine, two appointed by the

1 Governor, one appointed by the President of the Senate, and  
2 one appointed by the Speaker of the House of Representatives;

3 6. Two legislators, one appointed by the President of  
4 the Senate and one appointed by the Speaker of the House of  
5 Representatives; and

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

8  
9 Commission membership shall reflect the geographic and  
10 demographic diversity of the state.

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

1           (5) EVIDENTIARY PROHIBITIONS.--  
2           (a) The findings, recommendations, evaluations,  
3 opinions, investigations, proceedings, records, reports,  
4 minutes, testimony, correspondence, work product, and actions  
5 of the commission shall be available to the public, but may  
6 not be introduced into evidence at any civil, criminal,  
7 special, or administrative proceeding against a health care  
8 practitioner or health care provider arising out of the  
9 matters which are the subject of the findings of the  
10 commission. Moreover, no member of the commission shall be  
11 examined in any civil, criminal, special, or administrative  
12 proceeding against a health care practitioner or health care  
13 provider as to any evidence or other matters produced or  
14 presented during the proceedings of this commission or as to  
15 any findings, recommendations, evaluations, opinions,  
16 investigations, proceedings, records, reports, minutes,  
17 testimony, correspondence, work product, or other actions of  
18 the commission or any members thereof. However, nothing in  
19 this section shall be construed to mean that information,  
20 documents, or records otherwise available and obtained from  
21 original sources are immune from discovery or use in any  
22 civil, criminal, special, or administrative proceeding merely  
23 because they were presented during proceedings of the  
24 commission. Nor shall any person who testifies before the  
25 commission or who is a member of the commission be prevented  
26 from testifying as to matters within his or her knowledge in a  
27 subsequent civil, criminal, special, or administrative  
28 proceeding merely because such person testified in front of  
29 the commission.  
30           (b) The findings, recommendations, evaluations,  
31 opinions, investigations, proceedings, records, reports,

1 minutes, testimony, correspondence, work product, and actions  
2 of the commission shall be used as a guide and resource and  
3 shall not be construed as establishing or advocating the  
4 standard of care for health care practitioners or health care  
5 providers unless subsequently enacted into law or adopted in  
6 rule. Nor shall any findings, recommendations, evaluations,  
7 opinions, investigations, proceedings, records, reports,  
8 minutes, testimony, correspondence, work product, or actions  
9 of the commission be admissible as evidence in any way,  
10 directly or indirectly, by introduction of documents or as a  
11 basis of an expert opinion as to the standard of care  
12 applicable to health care practitioners or health care  
13 providers in any civil, criminal, special, or administrative  
14 proceeding unless subsequently enacted into law or adopted in  
15 rule.

16 (c) No person who testifies before the commission or  
17 who is a member of the commission may specifically identify  
18 any patient, health care practitioner, or health care provider  
19 by name. Moreover, the findings, recommendations, evaluations,  
20 opinions, investigations, proceedings, records, reports,  
21 minutes, testimony, correspondence, work product, and actions  
22 of the commission may not specifically identify any patient,  
23 health care practitioner, or health care provider by name.

24 (6) REPORT; TERMINATION.--The commission shall provide  
25 a report of its findings and recommendations to the Governor,  
26 the President of the Senate, and the Speaker of the House of  
27 Representatives no later than February 1, 2001. After  
28 submission of the report, the commission shall continue to  
29 exist for the purpose of assisting the Department of Health,  
30 the Agency for Health Care Administration, and the regulatory  
31 boards in their drafting of proposed legislation and rules to



1 implement its recommendations and for the purpose of providing  
2 information to the health care industry on its  
3 recommendations. The commission shall be terminated June 1,  
4 2001.

5 Section 34. The sum of \$91,000 in nonrecurring general  
6 revenue is hereby appropriated from the General Revenue Fund  
7 to the Department of Health to cover costs of the Florida  
8 Commission on Excellence in Health Care relating to the travel  
9 and related expenses of staff and consumer members and the  
10 reproduction and dissemination of documents.

11 Section 35. Pursuant to section 187 of chapter 99-397,  
12 Laws of Florida, the Agency for Health Care Administration was  
13 directed to conduct a detailed study and analysis of clinical  
14 laboratory services for kidney dialysis patients in the State  
15 of Florida and to report back to the Legislature no later than  
16 February 1, 2000. The agency reported that additional time and  
17 investigative resources were necessary to adequately respond  
18 to the legislative directives. Therefore, the sum of \$230,000  
19 from the Agency for Health Care Administration Tobacco  
20 Settlement Trust Fund is appropriated to the Agency for Health  
21 Care Administration to contract with the University of South  
22 Florida to conduct a review of laboratory test utilization,  
23 any self-referral to clinical laboratories, financial  
24 arrangements among kidney dialysis centers, their medical  
25 directors, referring physicians, and any business  
26 relationships and affiliations with clinical laboratories, and  
27 the quality and effectiveness of kidney dialysis treatment in  
28 this state. A report on the findings from such review shall be  
29 presented to the President of the Senate, the Speaker of the  
30 House of Representatives, and the chairs of the appropriate

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1 substantive committees of the Legislature no later than  
2 February 1, 2001.

3 Section 36. Section 381.00325, Florida Statutes, is  
4 created to read:

5 381.00325 Hepatitis A awareness program.--The  
6 Department of Health shall develop a Hepatitis A awareness  
7 program. This program shall include information regarding the  
8 appropriate education of the public and information regarding  
9 the availability of Hepatitis A vaccine. The department shall  
10 work with private businesses and associations in developing  
11 the program and in disseminating the information.

12 Section 37. Section 154.247, Florida Statutes, is  
13 created to read:

14 154.247 Financing of projects located outside of local  
15 agency.--Notwithstanding any provision of this part to the  
16 contrary, an authority may, if it finds that there will be a  
17 benefit or a cost savings to a health facility located within  
18 its jurisdiction, issue bonds for such health facility to  
19 finance projects for such health facility, or for another  
20 not-for-profit corporation under common control with such  
21 health facility, located outside the geographical limits of  
22 the local agency or outside this state.

23 Section 38. This act shall take effect July 1, 2000.  
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