

1 A bill to be entitled
2 An act relating to health care; creating the
3 Public Cord Blood Tissue Bank as a statewide
4 consortium; providing purposes, membership, and
5 duties of the consortium; providing duties of
6 the Agency for Health Care Administration;
7 providing requirements of specified
8 state-funded health care programs; providing an
9 exception from provisions of the act; requiring
10 specified written disclosure by certain health
11 care facilities and providers; specifying that
12 donation under the act is voluntary;
13 authorizing the consortium to charge fees;
14 amending s. 20.42, F.S.; designating the agency
15 as a department; reorganizing the agency and
16 removing it from under the Department of
17 Business and Professional Regulation; providing
18 for appointment of the Secretary of Health Care
19 Administration by the Governor, subject to
20 confirmation by the Senate; providing for
21 responsibilities and administration of the
22 department; amending s. 440.134, F.S.;
23 providing exclusive jurisdiction of the Agency
24 for Health Care Administration over workers'
25 compensation managed care arrangements and
26 exclusive authority to investigate medical
27 services provided under such arrangements;
28 limiting the agency's duties relating to
29 quality of medical care; amending ss. 120.80,
30 215.5601, 381.6023, 381.90, 395.0163,
31 395.10972, 400.0067, 400.235, 400.4415,

1 400.967, 408.036, 408.05, 408.902, 409.8132,
2 430.710, 478.44, 627.4236, 641.454, 641.60,
3 641.70, 732.9216, to conform provisions to
4 changes made by the act; repealing s. 408.001,
5 F.S., relating to the Florida Health Care
6 Purchasing Cooperative; providing for repeal on
7 a date certain or upon the occurrence of a
8 contingency; transferring all powers, duties,
9 and functions and funds of the Agency for
10 Health Care Administration of the Department of
11 Business and Professional Regulation to the new
12 department; providing for certain transfer of
13 positions and funds from the Department of
14 Labor and Employment Security; providing an
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. PUBLIC CORD BLOOD TISSUE BANK.--
20 (1) There is established a statewide consortium to be
21 known as the Public Cord Blood Tissue Bank. The Public Cord
22 Blood Tissue Bank is established as a nonprofit legal entity
23 to collect, screen for infectious and genetic diseases,
24 perform tissue typing, cryopreserve, and store umbilical cord
25 blood as a resource to the public. The University of Florida,
26 the University of South Florida, the University of Miami, and
27 the Mayo Clinic, Jacksonville shall jointly form the
28 collaborative consortium, each working with community
29 resources such as regional blood banks, hospitals, and other
30 health care providers to develop local and regional coalitions
31 for the purposes set forth in this act. The consortium

1 participants shall align their outreach programs and
2 activities to all geographic areas of the state, covering the
3 entire state. The consortium is encouraged to conduct
4 outreach and research for Hispanics, African Americans, Native
5 Americans, and other ethnic and racial minorities.

6 (2) The Agency for Health Care Administration shall
7 develop and make available to all health care providers
8 information relating to and standardized release forms for
9 donation of umbilical cord blood. The agency and the
10 Department of Health shall encourage health care providers,
11 including, but not limited to, hospitals, birthing facilities,
12 county health departments, physicians, midwives, and nurses,
13 to disseminate information about the Public Cord Blood Tissue
14 Bank.

15 (3) The Agency for Health Care Administration shall
16 develop training materials for agencies and state employees
17 working with pregnant women to educate and inform pregnant
18 women about the public cord blood tissue bank program.

19 (4) All state-funded health care programs providing
20 education or services to pregnant women shall provide
21 information on the Public Cord Blood Tissue Bank program.
22 Information regarding this program shall be provided by, but
23 not be limited to, the Healthy Start program, county health
24 departments, Medicaid, and MediPass.

25 (5) Nothing in this act creates a requirement of any
26 health care or services program that is directly affiliated
27 with a bona fide religious denomination that includes as an
28 integral part of its beliefs and practices the tenet that
29 blood transfer is contrary to the moral principles the
30 denomination considers to be an essential part of its beliefs.

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1 (6) Any health care facility or health care provider
2 receiving financial remuneration for the collection of
3 umbilical cord blood shall provide written disclosure of this
4 information to any woman postpartum or parent of a newborn
5 from whom the umbilical cord blood is collected prior to the
6 harvesting of the umbilical cord blood.

7 (7) All women admitted to a hospital or birthing
8 facility for obstetrical services may be offered the
9 opportunity to donate umbilical cord blood to the Public Cord
10 Blood Tissue Bank. No woman shall be required to make such a
11 donation.

12 (8) The consortium may charge reasonable rates and
13 fees to recipients of cord blood tissue bank products.

14 (9) In order to fund the provisions of this section
15 the consortium participants and the Agency for Health Care
16 Administration shall seek private or federal funds or utilize
17 existing budgetary resources to the extent possible to
18 initiate program actions for fiscal year 2000-2001.

19 Section 2. Section 20.42, Florida Statutes, is amended
20 to read:

21 20.42 Agency for Health Care Administration.--

22 (1) There is created a department that,
23 notwithstanding the provisions of subsection 20.04(1), shall
24 be called the Agency for Health Care Administration within the
25 Department of Business and Professional Regulation. The agency
26 shall be a separate budget entity, and the director of the
27 agency shall be the agency head for all purposes. The agency
28 shall not be subject to control, supervision, or direction by
29 the Department of Business and Professional Regulation in any
30 manner, including, but not limited to, personnel, purchasing,

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1 ~~transactions involving real or personal property, and~~
2 ~~budgetary matters.~~

3 ~~(2)(1) DIRECTOR OF HEALTH CARE ADMINISTRATION.~~--The
4 head of the department ~~agency~~ is the Secretary ~~Director~~ of
5 Health Care Administration, who shall be appointed by the
6 Governor, subject to confirmation by the Senate. The secretary
7 ~~director~~ shall serve at the pleasure of and report to the
8 Governor.

9 ~~(3)(2) ORGANIZATION OF THE AGENCY.~~--The department
10 ~~agency~~ shall be the chief health policy and planning entity
11 for the state. The department is responsible for health
12 facility licensure, inspection, and regulatory enforcement;
13 investigation of consumer complaints related to health care
14 facilities and managed care plans; the implementation of the
15 certificate of need program; the operation of the State Center
16 for Health Statistics; the administration of the Medicaid
17 program; the administration of the contracts with the Florida
18 Healthy Kids Corporation; the certification of health
19 maintenance organizations and prepaid health clinics as set
20 forth in ch. 641, part III; and any other duties prescribed by
21 statute or agreement.~~organized as follows:~~

22 ~~(a) The Division of Health Quality Assurance, which~~
23 ~~shall be responsible for health facility licensure and~~
24 ~~inspection.~~

25 ~~(b) The Division of Health Policy and Cost Control,~~
26 ~~which shall be responsible for health policy, the State Center~~
27 ~~for Health Statistics, the development of The Florida Health~~
28 ~~Plan, certificate of need, state and local health planning~~
29 ~~under s. 408.033, and research and analysis.~~

30 ~~(c) The Division of State Health Purchasing shall be~~
31 ~~responsible for the Medicaid program. The division shall also~~

1 ~~administer the contracts with the Florida Health Access~~
2 ~~Corporation program and the Florida Health Care Purchasing~~
3 ~~Cooperative and the Florida Healthy Kids Corporation.~~

4 ~~(d) The Division of Administrative Services, which~~
5 ~~shall be responsible for revenue management, budget,~~
6 ~~personnel, and general services.~~

7 ~~(3) DEPUTY DIRECTOR FOR HEALTH QUALITY ASSURANCE.--The~~
8 ~~director shall appoint a Deputy Director for Health Quality~~
9 ~~Assurance who shall serve at the pleasure of, and be directly~~
10 ~~responsible to, the director. The Deputy Director for Health~~
11 ~~Quality Assurance shall be responsible for the Division of~~
12 ~~Health Quality Assurance.~~

13 ~~(4) DEPUTY DIRECTOR FOR HEALTH POLICY AND COST~~
14 ~~CONTROL.--The director shall appoint a Deputy Director for~~
15 ~~Health Policy and Cost Control who shall serve at the pleasure~~
16 ~~of, and be directly responsible to, the director. The Deputy~~
17 ~~Director for Health Policy and Cost Control shall be~~
18 ~~responsible for the Division of Health Policy and Cost~~
19 ~~Control.~~

20 ~~(5) DEPUTY DIRECTOR FOR STATE HEALTH PURCHASING.--The~~
21 ~~director shall appoint a Deputy Director for State Health~~
22 ~~Purchasing who shall serve at the pleasure of, and be directly~~
23 ~~responsible to, the director. The Deputy Director for State~~
24 ~~Health Purchasing shall be responsible for the Division of~~
25 ~~State Health Purchasing.~~

26 ~~(6) DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES.--The~~
27 ~~director shall appoint a Deputy Director of Administrative~~
28 ~~Services who shall serve at the pleasure of, and be directly~~
29 ~~responsible to, the director. The deputy director shall be~~
30 ~~responsible for the Division of Administrative Services.~~

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1 Section 3. Paragraph (a) of subsection (2) of section
2 440.134, Florida Statutes, is amended to read:

3 440.134 Workers' compensation managed care
4 arrangement.--

5 (2)(a) The agency shall, ~~beginning April 1, 1994,~~
6 authorize an insurer to offer or utilize a workers'
7 compensation managed care arrangement after the insurer files
8 a completed application along with the payment of a \$1,000
9 application fee, and upon the agency's being satisfied that
10 the applicant has the ability to provide quality of care
11 consistent with the prevailing professional standards of care
12 and the insurer and its workers' compensation managed care
13 arrangement otherwise meets the requirements of this section.
14 ~~Effective April 1, 1994,~~No insurer may offer or utilize a
15 managed care arrangement without such authorization. The
16 authorization, unless sooner suspended or revoked, shall
17 automatically expire 2 years after the date of issuance unless
18 renewed by the insurer. The authorization shall be renewed
19 upon application for renewal and payment of a renewal fee of
20 \$1,000, provided that the insurer is in compliance with the
21 requirements of this section and any rules adopted hereunder.
22 An application for renewal of the authorization shall be made
23 90 days prior to expiration of the authorization, on forms
24 provided by the agency. The renewal application shall not
25 require the resubmission of any documents previously filed
26 with the agency if such documents have remained valid and
27 unchanged since their original filing. The agency shall have
28 exclusive jurisdiction over workers' compensation managed care
29 arrangements and shall have exclusive authority to investigate
30 the quality of medical services provided by a workers'
31 compensation managed care arrangement. When reviewing the

1 quality of medical services offered by or provided through a
2 workers' compensation managed care arrangement, the agency
3 shall only review issues related to the managed care
4 arrangement as a whole, pertaining to the ability of the
5 managed care arrangement to provide quality of care as
6 required herein. The agency shall not interpret managed care
7 arrangements as they pertain to an individual employee.

8 Section 4. Subsection (15) of section 120.80, Florida
9 Statutes, is amended to read:

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

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

28 Section 5. Paragraph (d) of subsection (4) of section
29 215.5601, Florida Statutes, is amended to read:

30 215.5601 Lawton Chiles Endowment Fund.--

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1 (4) LAWTON CHILES ENDOWMENT FUND; CREATION; PURPOSES
2 AND USES.--

3 (d) The Secretary of Health, the Secretary of Children
4 and Family Services, the Secretary of Elderly Affairs, and the
5 Secretary ~~Director~~ of Health Care Administration shall conduct
6 meetings to discuss program priorities for endowment funding
7 prior to submitting their budget requests to the Executive
8 Office of the Governor and the Legislature. The purpose of the
9 meetings shall be to gain consensus for priority requests and
10 recommended endowment funding levels for those priority
11 requests. An agency head may not designate a proxy for these
12 meetings.

13 Section 6. Subsections (2), (3) and (7) of section
14 381.0602, Florida Statutes, are amended to read:

15 381.0602 Organ Transplant Advisory Council;
16 membership; responsibilities.--

17 (2) The Secretary ~~Director~~ of Health Care
18 Administration shall appoint all members of the council to
19 serve a term of 2 years.

20 (3) The Secretary ~~Director~~ of Health Care
21 Administration shall fill each vacancy on the council for the
22 balance of the unexpired term. Priority consideration must be
23 given to the appointment of an individual whose primary
24 interest, experience, or expertise lies with clients of the
25 Department of Health and the agency. If an appointment is not
26 made within 120 days after a vacancy occurs on the council,
27 the vacancy must be filled by the majority vote of the
28 council.

29 (7) The council shall meet at least annually or upon
30 the call of the chairperson or the Secretary ~~Director~~ of
31 Health Care Administration.

1 Section 7. Subsection (1) of section 381.6023, Florida
2 Statutes, is amended to read:

3 381.6023 Organ and Tissue Procurement and
4 Transplantation Advisory Board; creation; duties.--

5 (1) There is hereby created the Organ and Tissue
6 Procurement and Transplantation Advisory Board, which shall
7 consist of 14 members who are appointed by and report directly
8 to the Secretary ~~Director~~ of Health Care Administration. The
9 membership must be regionally distributed and must include:

10 (a) Two representatives who have expertise in vascular
11 organ transplant surgery;

12 (b) Two representatives who have expertise in vascular
13 organ procurement, preservation, and distribution;

14 (c) Two representatives who have expertise in
15 musculoskeletal tissue transplant surgery;

16 (d) Two representatives who have expertise in
17 musculoskeletal tissue procurement, processing, and
18 distribution;

19 (e) A representative who has expertise in eye and
20 cornea transplant surgery;

21 (f) A representative who has expertise in eye and
22 cornea procurement, processing, and distribution;

23 (g) A representative who has expertise in bone marrow
24 procurement, processing, and transplantation;

25 (h) A representative from the Florida Pediatric
26 Society;

27 (i) A representative from the Florida Society of
28 Pathologists; and

29 (j) A representative from the Florida Medical
30 Examiners Commission.

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1 Section 8. Subsection (3) of section 381.90, Florida
2 Statutes, is amended to read:

3 381.90 Health Information Systems Council; legislative
4 intent; creation, appointment, duties.--

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

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

8 (b) The secretary of the Department of Business and
9 Professional Regulation;

10 (c) The secretary of the Department of Children and
11 Family Services;

12 (d) The secretary of ~~director of the Agency for~~ Health
13 Care Administration;

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

15 (f) The Attorney General;

16 (g) The executive director of the Correctional Medical
17 Authority;

18 (h) Two members representing county health
19 departments, one from a small county and one from a large
20 county, appointed by the Governor;

21 (i) A representative from the Florida Association of
22 Counties;

23 (j) The State Treasurer and Insurance Commissioner;

24 (k) A representative from the Florida Healthy Kids
25 Corporation;

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

28 (m) The Commissioner of Education;

29 (n) The secretary of the Department of Elderly
30 Affairs; and

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1 (o) The secretary of the Department of Juvenile
2 Justice.

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4 Representatives of the Federal Government may serve without
5 voting rights.

6 Section 9. Paragraph (a) of subsection (1) of section
7 395.0163, Florida Statutes, is amended to read:

8 395.0163 Construction inspections; plan submission and
9 approval; fees.--

10 (1)(a) The agency shall make, or cause to be made,
11 such construction inspections and investigations as it deems
12 necessary. The agency may prescribe by rule that any licensee
13 or applicant desiring to make specified types of alterations
14 or additions to its facilities or to construct new facilities
15 shall, before commencing such alteration, addition, or new
16 construction, submit plans and specifications therefor to the
17 agency for preliminary inspection and approval or
18 recommendation with respect to compliance with agency rules
19 and standards. The agency shall approve or disapprove the
20 plans and specifications within 60 days after receipt of the
21 fee for review of plans as required in subsection (2). The
22 agency may be granted one 15-day extension for the review
23 period if the secretary ~~director~~ of the agency approves the
24 extension. If the agency fails to act within the specified
25 time, it shall be deemed to have approved the plans and
26 specifications. When the agency disapproves plans and
27 specifications, it shall set forth in writing the reasons for
28 its disapproval. Conferences and consultations may be provided
29 as necessary.

30 Section 10. Section 395.10972, Florida Statutes, is
31 amended to read:

1 395.10972 Health Care Risk Manager Advisory
2 Council.--The Secretary ~~Director~~ of Health Care Administration
3 may appoint a five-member advisory council to advise the
4 agency on matters pertaining to health care risk managers. The
5 members of the council shall serve at the pleasure of the
6 secretary ~~director~~. The council shall designate a chair. The
7 council shall meet at the call of the secretary ~~director~~ or at
8 those times as may be required by rule of the agency. The
9 members of the advisory council shall receive no compensation
10 for their services, but shall be reimbursed for travel
11 expenses as provided in s. 112.061. The council shall consist
12 of individuals representing the following areas:

- 13 (1) Two shall be active health care risk managers.
14 (2) One shall be an active hospital administrator.
15 (3) One shall be an employee of an insurer or
16 self-insurer of medical malpractice coverage.
17 (4) One shall be a representative of the
18 health-care-consuming public.

19 Section 11. Paragraph (h) of subsection (2) of section
20 400.0067, Florida Statutes, is amended to read:

21 400.0067 Establishment of State Long-Term Care
22 Ombudsman Council; duties; membership.--

- 23 (2) The State Long-Term Care Ombudsman Council shall:
24 (h) Prepare an annual report describing the activities
25 carried out by the ombudsman and the State Long-Term Care
26 Ombudsman Council in the year for which the report is
27 prepared. The State Long-Term Care Ombudsman Council shall
28 submit the report to the Commissioner of the United States
29 Administration on Aging, the Governor, the President of the
30 Senate, the Speaker of the House of Representatives, the
31 minority leaders of the House and Senate, the chairpersons of

1 appropriate House and Senate committees, the Secretaries of
2 Elderly Affairs and Children and Family Services, and the
3 Secretary ~~Director~~ of Health Care Administration. The report
4 shall be submitted at least 30 days before the convening of
5 the regular session of the Legislature and shall, at a
6 minimum:

7 1. Contain and analyze data collected concerning
8 complaints about and conditions in long-term care facilities.

9 2. Evaluate the problems experienced by residents of
10 long-term care facilities.

11 3. Contain recommendations for improving the quality
12 of life of the residents and for protecting the health,
13 safety, welfare, and rights of the residents.

14 4. Analyze the success of the ombudsman program during
15 the preceding year and identify the barriers that prevent the
16 optimal operation of the program. The report of the program's
17 successes shall also address the relationship between the
18 state long-term care ombudsman program, the Department of
19 Elderly Affairs, the Agency for Health Care Administration,
20 and the Department of Children and Family Services, and an
21 assessment of how successfully the state long-term care
22 ombudsman program has carried out its responsibilities under
23 the Older Americans Act.

24 5. Provide policy and regulatory and legislative
25 recommendations to solve identified problems; resolve
26 residents' complaints; improve the quality of care and life of
27 the residents; protect the health, safety, welfare, and rights
28 of the residents; and remove the barriers to the optimal
29 operation of the state long-term care ombudsman program.

30 6. Contain recommendations from the district ombudsman
31 councils regarding program functions and activities.

1 7. Include a report on the activities of the legal
2 advocate and other legal advocates acting on behalf of the
3 district and state councils.

4 Section 12. Paragraph (a) of subsection (3) of section
5 400.235, Florida Statutes, is amended to read:

6 400.235 Nursing home quality and licensure status;
7 Gold Seal Program.--

8 (3)(a) The Gold Seal Program shall be developed and
9 implemented by the Governor's Panel on Excellence in Long-Term
10 Care which shall operate under the authority of the Executive
11 Office of the Governor. The panel shall be composed of three
12 persons appointed by the Governor, to include a consumer
13 advocate for senior citizens and two persons with expertise in
14 the fields of quality management, service delivery excellence,
15 or public sector accountability; three persons appointed by
16 the Secretary of Elderly Affairs, to include an active member
17 of a nursing facility family and resident care council and a
18 member of the University Consortium on Aging; the State
19 Long-Term Care Ombudsman; one person appointed by the Florida
20 Life Care Residents Association; one person appointed by the
21 Secretary of Health; two persons appointed by the Secretary
22 ~~Director~~ of Health Care Administration, ~~to include the Deputy~~
23 ~~Director for State Health Purchasing~~; one person appointed by
24 the Florida Association of Homes for the Aging; and one person
25 appointed by the Florida Health Care Association. ~~All members~~
26 ~~of the panel shall be appointed by October 1, 1999, and the~~
27 ~~panel shall hold its organizational meeting no later than~~
28 ~~December 10, 1999.~~ Vacancies on the panel shall be filled in
29 the same manner as the original appointments. No member shall
30 serve for more than 4 consecutive years from the date of
31 appointment.

1 Section 13. Subsection (1) of section 400.4415,
2 Florida Statutes, is amended to read:

3 400.4415 Assisted living facilities advisory
4 committee.--

5 (1) There is created the assisted living facilities
6 advisory committee, which shall assist the agency in
7 developing and implementing a pilot rating system for
8 facilities. The committee shall consist of nine members who
9 are to be appointed by, and report directly to, the secretary
10 ~~director~~ of the agency. The membership is to include:

11 (a) One researcher from a university center on aging.

12 (b) One representative from the Florida Health Care
13 Association.

14 (c) One representative from the Florida Assisted
15 Living Association.

16 (d) One representative from the Florida Association of
17 Homes for the Aging.

18 (e) One representative from the Agency for Health Care
19 Administration.

20 (f) One representative from the adult services program
21 of the Department of Children and Family Services.

22 (g) One representative from the alcohol, drug abuse,
23 and mental health program of the Department of Children and
24 Family Services.

25 (h) One representative from the Department of Elderly
26 Affairs.

27 (i) One consumer representative from a district
28 long-term care ombudsman council.

29 Section 14. Subsection (5) of section 400.967, Florida
30 Statutes, is amended to read:

31 400.967 Rules and classification of deficiencies.--

1 (5) The agency shall approve or disapprove the plans
2 and specifications within 60 days after receipt of the final
3 plans and specifications. The agency may be granted one 15-day
4 extension for the review period, if the secretary ~~director~~ of
5 the agency so approves. If the agency fails to act within the
6 specified time, it is deemed to have approved the plans and
7 specifications. When the agency disapproves plans and
8 specifications, it must set forth in writing the reasons for
9 disapproval. Conferences and consultations may be provided as
10 necessary.

11 Section 15. Subsection (3) of section 408.036, Florida
12 Statutes, is amended to read:

13 408.036 Projects subject to review.--

14 (3) EXEMPTIONS.--Upon request, supported by such
15 documentation as the agency requires, the agency shall grant
16 an exemption from the provisions of subsection (1):

17 (a) For the initiation or expansion of obstetric
18 services.

19 (b) For any expenditure to replace or renovate any
20 part of a licensed health care facility, provided that the
21 number of licensed beds will not increase and, in the case of
22 a replacement facility, the project site is the same as the
23 facility being replaced.

24 (c) For providing respite care services. An individual
25 may be admitted to a respite care program in a hospital
26 without regard to inpatient requirements relating to admitting
27 order and attendance of a member of a medical staff.

28 (d) For hospice services or home health services
29 provided by a rural hospital, as defined in s. 395.602, or for
30 swing beds in such rural hospital in a number that does not
31 exceed one-half of its licensed beds.

1 (e) For the conversion of licensed acute care hospital
 2 beds to Medicare and Medicaid certified skilled nursing beds
 3 in a rural hospital as defined in s. 395.602, so long as the
 4 conversion of the beds does not involve the construction of
 5 new facilities. The total number of skilled nursing beds,
 6 including swing beds, may not exceed one-half of the total
 7 number of licensed beds in the rural hospital as of July 1,
 8 1993. Certified skilled nursing beds designated under this
 9 paragraph, excluding swing beds, shall be included in the
 10 community nursing home bed inventory. A rural hospital which
 11 subsequently decertifies any acute care beds exempted under
 12 this paragraph shall notify the agency of the decertification,
 13 and the agency shall adjust the community nursing home bed
 14 inventory accordingly.

15 (f) For the addition of nursing home beds at a skilled
 16 nursing facility that is part of a retirement community that
 17 provides a variety of residential settings and supportive
 18 services and that has been incorporated and operated in this
 19 state for at least 65 years on or before July 1, 1994. All
 20 nursing home beds must not be available to the public but must
 21 be for the exclusive use of the community residents.

22 (g) For an increase in the bed capacity of a nursing
 23 facility licensed for at least 50 beds as of January 1, 1994,
 24 under part II of chapter 400 which is not part of a continuing
 25 care facility if, after the increase, the total licensed bed
 26 capacity of that facility is not more than 60 beds and if the
 27 facility has been continuously licensed since 1950 and has
 28 received a superior rating on each of its two most recent
 29 licensure surveys.

30 (h) For the establishment of a Medicare-certified home
 31 health agency by a facility certified under chapter 651; a

1 retirement community, as defined in s. 400.404(2)(g); or a
2 residential facility that serves only retired military
3 personnel, their dependents, and the surviving dependents of
4 deceased military personnel. Medicare-reimbursed home health
5 services provided through such agency shall be offered
6 exclusively to residents of the facility or retirement
7 community or to residents of facilities or retirement
8 communities owned, operated, or managed by the same corporate
9 entity. Each visit made to deliver Medicare-reimbursable home
10 health services to a home health patient who, at the time of
11 service, is not a resident of the facility or retirement
12 community shall be a deceptive and unfair trade practice and
13 constitutes a violation of ss. 501.201-501.213.

14 (i) For the establishment of a Medicare-certified home
15 health agency. This paragraph shall take effect 90 days after
16 the adjournment sine die of the next regular session of the
17 Legislature occurring after the legislative session in which
18 the Legislature receives a report from the Secretary ~~Director~~
19 of Health Care Administration certifying that the federal
20 Health Care Financing Administration has implemented a
21 per-episode prospective pay system for Medicare-certified home
22 health agencies.

23 (j) For an inmate health care facility built by or for
24 the exclusive use of the Department of Corrections as provided
25 in chapter 945. This exemption expires when such facility is
26 converted to other uses.

27 (k) For an expenditure by or on behalf of a health
28 care facility to provide a health service exclusively on an
29 outpatient basis.

30 (l) For the termination of a health care service.

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1 (m) For the delicensure of beds. An application
2 submitted under this paragraph must identify the number, the
3 classification, and the name of the facility in which the beds
4 to be delicensed are located.

5 (n) For the provision of adult inpatient diagnostic
6 cardiac catheterization services in a hospital.

7 1. In addition to any other documentation otherwise
8 required by the agency, a request for an exemption submitted
9 under this paragraph must comply with the following criteria:

10 a. The applicant must certify it will not provide
11 therapeutic cardiac catheterization pursuant to the grant of
12 the exemption.

13 b. The applicant must certify it will meet and
14 continuously maintain the minimum licensure requirements
15 adopted by the agency governing such programs pursuant to
16 subparagraph 2.

17 c. The applicant must certify it will provide a
18 minimum of 2 percent of its services to charity and Medicaid
19 patients.

20 2. The agency shall adopt licensure requirements by
21 rule which govern the operation of adult inpatient diagnostic
22 cardiac catheterization programs established pursuant to the
23 exemption provided in this paragraph. The rules shall ensure
24 that such programs:

25 a. Perform only adult inpatient diagnostic cardiac
26 catheterization services authorized by the exemption and will
27 not provide therapeutic cardiac catheterization or any other
28 services not authorized by the exemption.

29 b. Maintain sufficient appropriate equipment and
30 health personnel to ensure quality and safety.

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1 c. Maintain appropriate times of operation and
2 protocols to ensure availability and appropriate referrals in
3 the event of emergencies.

4 d. Maintain appropriate program volumes to ensure
5 quality and safety.

6 e. Provide a minimum of 2 percent of its services to
7 charity and Medicaid patients each year.

8 3.a. The exemption provided by this paragraph shall
9 not apply unless the agency determines that the program is in
10 compliance with the requirements of subparagraph 1. and that
11 the program will, after beginning operation, continuously
12 comply with the rules adopted pursuant to subparagraph 2. The
13 agency shall monitor such programs to ensure compliance with
14 the requirements of subparagraph 2.

15 b.(I) The exemption for a program shall expire
16 immediately when the program fails to comply with the rules
17 adopted pursuant to sub-subparagraphs 2.a., b., and c.

18 (II) Beginning 18 months after a program first begins
19 treating patients, the exemption for a program shall expire
20 when the program fails to comply with the rules adopted
21 pursuant to sub-subparagraphs 2.d. and e.

22 (III) If the exemption for a program expires pursuant
23 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
24 agency shall not grant an exemption pursuant to this paragraph
25 for an adult inpatient diagnostic cardiac catheterization
26 program located at the same hospital until 2 years following
27 the date of the determination by the agency that the program
28 failed to comply with the rules adopted pursuant to
29 subparagraph 2.

30 4. The agency shall not grant any exemption under this
31 paragraph until the adoption of the rules required under this

1 paragraph, or until March 1, 1998, whichever comes first.
2 However, if final rules have not been adopted by March 1,
3 1998, the proposed rules governing the exemptions shall be
4 used by the agency to grant exemptions under the provisions of
5 this paragraph until final rules become effective.

6 (o) For any expenditure to provide mobile surgical
7 facilities and related health care services under contract
8 with the Department of Corrections or a private correctional
9 facility operating pursuant to chapter 957.

10 (p) For state veterans' nursing homes operated by or
11 on behalf of the Florida Department of Veterans' Affairs in
12 accordance with part II of chapter 296 for which at least 50
13 percent of the construction cost is federally funded and for
14 which the Federal Government pays a per diem rate not to
15 exceed one-half of the cost of the veterans' care in such
16 state nursing homes. These beds shall not be included in the
17 nursing home bed inventory.

18

19 A request for exemption under this subsection may be made at
20 any time and is not subject to the batching requirements of
21 this section.

22 Section 16. Paragraph (a) of subsection (8) of section
23 408.05, Florida Statutes, is amended to read:

24 408.05 State Center for Health Statistics.--

25 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
26 ADVISORY COUNCIL.--

27 (a) There is established in the agency the State
28 Comprehensive Health Information System Advisory Council to
29 assist the center in reviewing the comprehensive health
30 information system and to recommend improvements for such
31 system. The council shall consist of the following members:

1 1. An employee of the Executive Office of the
2 Governor, to be appointed by the Governor.

3 2. An employee of the Department of Insurance, to be
4 appointed by the Insurance Commissioner.

5 3. An employee of the Department of Education, to be
6 appointed by the Commissioner of Education.

7 4. Ten persons, to be appointed by the Secretary
8 ~~Director~~ of Health Care Administration, representing other
9 state and local agencies, state universities, the Florida
10 Association of Business/Health Coalitions, local health
11 councils, professional health-care-related associations,
12 consumers, and purchasers.

13 Section 17. Subsection (1) of section 408.902, Florida
14 Statutes, is amended to read:

15 408.902 MedAccess program; creation; program title.--

16 (1) Effective July 1, 1994, there is hereby created
17 the MedAccess program to be administered by the Agency for
18 Health Care Administration. The MedAccess program shall not
19 be subject to the requirements of the Department of Insurance
20 or chapter 627. The secretary ~~director~~ of the agency shall
21 appoint an administrator of the MedAccess program ~~which shall~~
22 ~~be located in the Division of State Health Purchasing.~~

23 Section 18. Subsection (2) of section 409.8132,
24 Florida Statutes, is amended to read:

25 409.8132 Medikids program component.--

26 (2) ADMINISTRATION.--The secretary ~~director~~ of the
27 agency shall appoint an administrator of the Medikids program
28 component, ~~which shall be located in the Division of State~~
29 ~~Health Purchasing.~~ The Agency for Health Care Administration
30 is designated as the state agency authorized to make payments
31 for medical assistance and related services for the Medikids

1 program component of the Florida Kidcare program. Payments
2 shall be made, subject to any limitations or directions in the
3 General Appropriations Act, only for covered services provided
4 to eligible children by qualified health care providers under
5 the Florida Kidcare program.

6 Section 19. Subsection (1) of section 430.710, Florida
7 Statutes, is amended to read:

8 430.710 Long-term care interagency advisory council.--

9 (1) The long-term care interagency advisory council is
10 created within the Department of Elderly Affairs to advise the
11 secretary of the department on matters related to the
12 long-term care community diversion pilot projects. The
13 department and the agency shall provide staff support to the
14 council, as determined by the secretary of the department and
15 the secretary ~~director~~ of the agency.

16 (a) The Secretary of the Department of Children and
17 Family Services shall appoint four members, one each to
18 represent the following:

19 1. Consumers, or family or guardians of consumers, of
20 optional state supplementation, adult protective services,
21 developmental services, or mental health services from the
22 department.

23 2. Providers of community-based services.

24 3. Consumer advocacy organizations.

25 4. Consumers, or representatives of consumers, who
26 have nonage related physical disabilities.

27 (b) The Secretary of the Department of Elderly Affairs
28 shall appoint five members, one each to represent the
29 following:

30 1. The nursing home industry.

31 2. The assisted living industry.

- 1 3. Consumers of long-term care services.
- 2 4. Providers of community-based services.
- 3 5. Area Agencies on Aging.

4 (c) The Commissioner of Insurance shall appoint one
5 member to represent the insurance industry.

6 (d) The Secretary of ~~Director of the Agency for~~ Health
7 Care Administration shall appoint three members, one each to
8 represent the following:

- 9 1. The hospital industry.
- 10 2. The home health industry.
- 11 3. Health maintenance organizations.

12 Section 20. Paragraph (c) of subsection (4) of section
13 478.44, Florida Statutes, is amended to read:

14 478.44 Electrolysis Council; creation; function;
15 powers and duties.--

16 (4)

17 (c) Unless otherwise provided by law, a council member
18 shall be compensated \$50 for each day the member attends an
19 official meeting of the council or participates in official
20 council business. A council member is also entitled to
21 reimbursement for expenses pursuant to s. 112.061. Travel out
22 of state requires the prior approval of the Secretary ~~Director~~
23 of Health ~~Care Administration~~.

24 Section 21. Subsection (3) of section 627.4236,
25 Florida Statutes, is amended to read:

26 627.4236 Coverage for bone marrow transplant
27 procedures.--

28 (3)(a) The Agency for Health Care Administration shall
29 adopt rules specifying the bone marrow transplant procedures
30 that are accepted within the appropriate oncological specialty
31 and are not experimental for purposes of this section. The

1 rules must be based upon recommendations of an advisory panel
2 appointed by the secretary ~~director~~ of the agency, composed
3 of:

- 4 1. One adult oncologist, selected from a list of three
5 names recommended by the Florida Medical Association;
- 6 2. One pediatric oncologist, selected from a list of
7 three names recommended by the Florida Pediatric Society;
- 8 3. One representative of the J. Hillis Miller Health
9 Center at the University of Florida;
- 10 4. One representative of the H. Lee Moffitt Cancer
11 Center and Research Institute, Inc.;
- 12 5. One consumer representative, selected from a list
13 of three names recommended by the Insurance Commissioner;
- 14 6. One representative of the Health Insurance
15 Association of America;
- 16 7. Two representatives of health insurers, one of whom
17 represents the insurer with the largest Florida health
18 insurance premium volume and one of whom represents the
19 insurer with the second largest Florida health insurance
20 premium volume; and
- 21 8. One representative of the insurer with the largest
22 Florida small group health insurance premium volume.

23 (b) The director shall also appoint a member of the
24 advisory panel to serve as chairperson.

25 (c) The agency shall provide, within existing
26 resources, staff support to enable the panel to carry out its
27 responsibilities under this section.

28 (d) In making recommendations and adopting rules under
29 this section, the advisory panel and the director shall:

- 30 1. Take into account findings, studies, or research of
31 the federal Agency for Health Care Policy, National Cancer

1 Institute, National Academy of Sciences, Health Care Financing
2 Administration, and Congressional Office of Technology
3 Assessment, and any other relevant information.

4 2. Consider whether the federal Food and Drug
5 Administration or National Cancer Institute are conducting or
6 sponsoring assessment procedures to determine the safety and
7 efficacy of the procedure or substantially similar procedures,
8 or of any part of such procedures.

9 3. Consider practices of providers with respect to
10 requesting or requiring patients to sign a written
11 acknowledgment that a bone marrow transplant procedure is
12 experimental.

13 (e) The advisory panel shall conduct, at least
14 biennially, a review of scientific evidence to ensure that its
15 recommendations are based on current research findings and
16 that insurance policies offer coverage for the latest
17 medically acceptable bone marrow transplant procedures.

18 Section 22. Section 641.454, Florida Statutes, is
19 amended to read:

20 641.454 Civil action to enforce prepaid health clinic
21 contract; attorney's fees; court costs.--In any civil action
22 brought to enforce the terms and conditions of a prepaid
23 health clinic contract, the prevailing party is entitled to
24 recover reasonable attorney's fees and court costs. This
25 section shall not be construed to authorize a civil action
26 against the department, its employees, or the Insurance
27 Commissioner and Treasurer or against the Agency for Health
28 Care Administration, the employees of the Agency for Health
29 Care Administration, or the Secretary ~~Director~~ of Health Care
30 Administration.

31

1 Section 23. Paragraph (f) of subsection (6) of section
2 641.60, Florida Statutes, is amended to read:

3 641.60 Statewide Managed Care Ombudsman Committee.--

4 (6) The statewide committee or a member of the
5 committee:

6 (f) Shall conduct meetings at least two times a year
7 at the call of the chairperson and at other times at the call
8 of the secretary of the agency ~~director~~ or by written request
9 of three members.

10 Section 24. Subsection (3) of section 641.70, Florida
11 Statutes, is amended to read:

12 641.70 Agency duties relating to the Statewide Managed
13 Care Ombudsman Committee and the district managed care
14 ombudsman committees.--

15 (3) The secretary ~~director~~ of the agency shall ensure
16 the full cooperation and assistance of agency employees with
17 members of the statewide committee and district committees.

18 Section 25. Subsections (3) and (5) of section
19 732.9216, Florida Statutes, are amended to read:

20 732.9216 Organ and tissue donor education panel.--

21 (3) All members of the panel shall be appointed by the
22 Secretary ~~Director~~ of Health Care Administration to serve a
23 term of 2 years, except that, initially, six members shall be
24 appointed for 1-year terms and six members shall be appointed
25 for 2-year terms.

26 (5) The panel shall meet at least semiannually or upon
27 the call of the chairperson or the Secretary ~~Director~~ of
28 Health Care Administration.

29 Section 26. Section 408.001, Florida Statutes, is
30 repealed effective December 31, 2000, or upon dissolution of
31

1 the Florida Health Care Purchasing Cooperative, whichever
2 occurs first.

3 Section 27. All powers, duties, and functions and
4 rules, records, personnel, property, and unexpended balances
5 of appropriations, allocations, or other funds of the Agency
6 for Health Care Administration within the Department of
7 Business and Professional Regulation are transferred by a type
8 one transfer, as defined in s. 20.06(1), Florida Statutes, to
9 the Agency for Health Care Administration, as created by this
10 act.

11 Section 28. Twenty full-time-equivalent positions and
12 \$686,835 in salaries and benefits, and \$135,138 in expenses,
13 are transferred by a type two transfer, as defined in section
14 20.06(2), Florida Statutes, from the Department of Labor and
15 Employment Security to the Agency for Health Care
16 Administration to carry out the agency's responsibilities
17 under sections 440.13(1)(m), 440.13(15), 440.132, and 440.134,
18 Florida Statutes, relating to workers' compensation managed
19 care arrangements.

20 Section 29. This act shall take effect October 1,
21 2000.