

1
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 and
7 the Department of Health; providing an
8 exception from provisions of the act; requiring
9 specified written disclosure by certain health
10 care facilities and providers; specifying that
11 donation under the act is voluntary;
12 authorizing the consortium to charge fees;
13 amending s. 20.42, F.S.; designating the agency
14 as a department; reorganizing the agency and
15 removing it from under the Department of
16 Business and Professional Regulation; providing
17 for appointment of the Secretary of Health Care
18 Administration by the Governor, subject to
19 confirmation by the Senate; providing for
20 responsibilities and administration of the
21 department; amending s. 440.134, F.S.; deleting
22 obsolete language; amending ss. 120.80,
23 215.5601, 381.6023, 381.90, 395.0163,
24 395.10972, 400.0067, 400.235, 400.4415,
25 400.967, 408.036, 408.05, 408.902, 409.8132,
26 430.710, 478.44, 627.4236, 641.454, 641.60,
27 641.70, 732.9216, to conform provisions to
28 changes made by the act; repealing s. 408.001,
29 F.S., relating to the Florida Health Care
30 Purchasing Cooperative; providing for repeal on
31 a date certain or upon the occurrence of a

1 contingency; transferring all powers, duties,
2 and functions and funds of the Agency for
3 Health Care Administration of the Department of
4 Business and Professional Regulation to the new
5 department; providing an effective date.

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

8
9 Section 1. PUBLIC CORD BLOOD TISSUE BANK.--

10 (1) There is established a statewide consortium to be
11 known as the Public Cord Blood Tissue Bank. The Public Cord
12 Blood Tissue Bank is established as a nonprofit legal entity
13 to collect, screen for infectious and genetic diseases,
14 perform tissue typing, cryopreserve, and store umbilical cord
15 blood as a resource to the public. The University of Florida,
16 the University of South Florida, the University of Miami, and
17 the Mayo Clinic, Jacksonville shall jointly form the
18 collaborative consortium, each working with community
19 resources such as regional blood banks, hospitals, and other
20 health care providers to develop local and regional coalitions
21 for the purposes set forth in this act. The consortium
22 participants shall align their outreach programs and
23 activities to all geographic areas of the state, covering the
24 entire state. The consortium is encouraged to conduct
25 outreach and research for Hispanics, African Americans, Native
26 Americans, and other ethnic and racial minorities.

27 (2) The Agency for Health Care Administration and the
28 Department of Health shall encourage health care providers,
29 including, but not limited to, hospitals, birthing facilities,
30 county health departments, physicians, midwives, and nurses,
31

1 to disseminate information about the Public Cord Blood Tissue
2 Bank.

3 (3) Nothing in this section creates a requirement of
4 any health care or services program that is directly
5 affiliated with a bona fide religious denomination that
6 includes as an integral part of its beliefs and practices the
7 tenet that blood transfer is contrary to the moral principles
8 the denomination considers to be an essential part of its
9 beliefs.

10 (4) Any health care facility or health care provider
11 receiving financial remuneration for the collection of
12 umbilical cord blood shall provide written disclosure of this
13 information to any woman postpartum or parent of a newborn
14 from whom the umbilical cord blood is collected prior to the
15 harvesting of the umbilical cord blood.

16 (5) A woman admitted to a hospital or birthing
17 facility for obstetrical services may be offered the
18 opportunity to donate umbilical cord blood to the Public Cord
19 Blood Tissue Bank. A woman may not be required to make such a
20 donation.

21 (6) The consortium may charge reasonable rates and
22 fees to recipients of cord blood tissue bank products.

23 (7) In order to fund the provisions of this section
24 the consortium participants, the Agency for Health Care
25 Administration, and the Department of Health shall seek
26 private or federal funds to initiate program actions for
27 fiscal year 2000-2001.

28 Section 2. Section 20.42, Florida Statutes, is amended
29 to read:

30 20.42 Agency for Health Care Administration.--
31

1 (1) There is created a department that,
2 notwithstanding the provisions of subsection 20.04(1), shall
3 be called the Agency for Health Care Administration within the
4 Department of Business and Professional Regulation. The agency
5 shall be a separate budget entity, and the director of the
6 agency shall be the agency head for all purposes. The agency
7 shall not be subject to control, supervision, or direction by
8 the Department of Business and Professional Regulation in any
9 manner, including, but not limited to, personnel, purchasing,
10 transactions involving real or personal property, and
11 budgetary matters.

12 (2)(1) DIRECTOR OF HEALTH CARE ADMINISTRATION.--The
13 head of the department agency is the Secretary Director of
14 Health Care Administration, who shall be appointed by the
15 Governor, subject to confirmation by the Senate. The secretary
16 director shall serve at the pleasure of and report to the
17 Governor.

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

31

1 ~~(a) The Division of Health Quality Assurance, which~~
2 ~~shall be responsible for health facility licensure and~~
3 ~~inspection.~~

4 ~~(b) The Division of Health Policy and Cost Control,~~
5 ~~which shall be responsible for health policy, the State Center~~
6 ~~for Health Statistics, the development of The Florida Health~~
7 ~~Plan, certificate of need, state and local health planning~~
8 ~~under s. 408.033, and research and analysis.~~

9 ~~(c) The Division of State Health Purchasing shall be~~
10 ~~responsible for the Medicaid program. The division shall also~~
11 ~~administer the contracts with the Florida Health Access~~
12 ~~Corporation program and the Florida Health Care Purchasing~~
13 ~~Cooperative and the Florida Healthy Kids Corporation.~~

14 ~~(d) The Division of Administrative Services, which~~
15 ~~shall be responsible for revenue management, budget,~~
16 ~~personnel, and general services.~~

17 ~~(3) DEPUTY DIRECTOR FOR HEALTH QUALITY ASSURANCE.--The~~
18 ~~director shall appoint a Deputy Director for Health Quality~~
19 ~~Assurance who shall serve at the pleasure of, and be directly~~
20 ~~responsible to, the director. The Deputy Director for Health~~
21 ~~Quality Assurance shall be responsible for the Division of~~
22 ~~Health Quality Assurance.~~

23 ~~(4) DEPUTY DIRECTOR FOR HEALTH POLICY AND COST~~
24 ~~CONTROL.--The director shall appoint a Deputy Director for~~
25 ~~Health Policy and Cost Control who shall serve at the pleasure~~
26 ~~of, and be directly responsible to, the director. The Deputy~~
27 ~~Director for Health Policy and Cost Control shall be~~
28 ~~responsible for the Division of Health Policy and Cost~~
29 ~~Control.~~

30 ~~(5) DEPUTY DIRECTOR FOR STATE HEALTH PURCHASING.--The~~
31 ~~director shall appoint a Deputy Director for State Health~~

1 ~~Purchasing who shall serve at the pleasure of, and be directly~~
2 ~~responsible to, the director. The Deputy Director for State~~
3 ~~Health Purchasing shall be responsible for the Division of~~
4 ~~State Health Purchasing.~~

5 ~~(6) DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES. The~~
6 ~~director shall appoint a Deputy Director of Administrative~~
7 ~~Services who shall serve at the pleasure of, and be directly~~
8 ~~responsible to, the director. The deputy director shall be~~
9 ~~responsible for the Division of Administrative Services.~~

10 Section 3. Paragraph (a) of subsection (2) of section
11 440.134, Florida Statutes, is amended to read:

12 440.134 Workers' compensation managed care
13 arrangement.--

14 (2)(a) The agency shall, ~~beginning April 1, 1994,~~
15 authorize an insurer to offer or utilize a workers'
16 compensation managed care arrangement after the insurer files
17 a completed application along with the payment of a \$1,000
18 application fee, and upon the agency's being satisfied that
19 the applicant has the ability to provide quality of care
20 consistent with the prevailing professional standards of care
21 and the insurer and its workers' compensation managed care
22 arrangement otherwise meets the requirements of this section.
23 ~~Effective April 1, 1994,~~No insurer may offer or utilize a
24 managed care arrangement without such authorization. The
25 authorization, unless sooner suspended or revoked, shall
26 automatically expire 2 years after the date of issuance unless
27 renewed by the insurer. The authorization shall be renewed
28 upon application for renewal and payment of a renewal fee of
29 \$1,000, provided that the insurer is in compliance with the
30 requirements of this section and any rules adopted hereunder.
31 An application for renewal of the authorization shall be made

1 90 days prior to expiration of the authorization, on forms
2 provided by the agency. The renewal application shall not
3 require the resubmission of any documents previously filed
4 with the agency if such documents have remained valid and
5 unchanged since their original filing.

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

8 120.80 Exceptions and special requirements;
9 agencies.--

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

26 Section 5. Paragraph (d) of subsection (4) of section
27 215.5601, Florida Statutes, is amended to read:

28 215.5601 Lawton Chiles Endowment Fund.--

29 (4) LAWTON CHILES ENDOWMENT FUND; CREATION; PURPOSES
30 AND USES.--

31

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

11 Section 6. Subsections (2), (3) and (7) of section
12 381.0602, Florida Statutes, are amended to read:

13 381.0602 Organ Transplant Advisory Council;
14 membership; responsibilities.--

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

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

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

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

1 381.6023 Organ and Tissue Procurement and
2 Transplantation Advisory Board; creation; duties.--

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

8 (a) Two representatives who have expertise in vascular
9 organ transplant surgery;

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

12 (c) Two representatives who have expertise in
13 musculoskeletal tissue transplant surgery;

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

17 (e) A representative who has expertise in eye and
18 cornea transplant surgery;

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

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

23 (h) A representative from the Florida Pediatric
24 Society;

25 (i) A representative from the Florida Society of
26 Pathologists; and

27 (j) A representative from the Florida Medical
28 Examiners Commission.

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

31

1 381.90 Health Information Systems Council; legislative
2 intent; creation, appointment, duties.--
3 (3) The council shall be composed of the following
4 members or their senior executive-level designees:
5 (a) The secretary of the Department of Health;
6 (b) The secretary of the Department of Business and
7 Professional Regulation;
8 (c) The secretary of the Department of Children and
9 Family Services;
10 (d) The secretary of ~~director of the Agency for~~ Health
11 Care Administration;
12 (e) The secretary of the Department of Corrections;
13 (f) The Attorney General;
14 (g) The executive director of the Correctional Medical
15 Authority;
16 (h) Two members representing county health
17 departments, one from a small county and one from a large
18 county, appointed by the Governor;
19 (i) A representative from the Florida Association of
20 Counties;
21 (j) The State Treasurer and Insurance Commissioner;
22 (k) A representative from the Florida Healthy Kids
23 Corporation;
24 (l) A representative from a school of public health
25 chosen by the Board of Regents;
26 (m) The Commissioner of Education;
27 (n) The secretary of the Department of Elderly
28 Affairs; and
29 (o) The secretary of the Department of Juvenile
30 Justice.
31

1 Representatives of the Federal Government may serve without
2 voting rights.

3 Section 9. Paragraph (a) of subsection (1) of section
4 395.0163, Florida Statutes, is amended to read:

5 395.0163 Construction inspections; plan submission and
6 approval; fees.--

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

27 Section 10. Section 395.10972, Florida Statutes, is
28 amended to read:

29 395.10972 Health Care Risk Manager Advisory
30 Council.--The Secretary ~~Director~~ of Health Care Administration
31 may appoint a five-member advisory council to advise the

1 agency on matters pertaining to health care risk managers. The
2 members of the council shall serve at the pleasure of the
3 secretary ~~director~~. The council shall designate a chair. The
4 council shall meet at the call of the secretary ~~director~~ or at
5 those times as may be required by rule of the agency. The
6 members of the advisory council shall receive no compensation
7 for their services, but shall be reimbursed for travel
8 expenses as provided in s. 112.061. The council shall consist
9 of individuals representing the following areas:

10 (1) Two shall be active health care risk managers.

11 (2) One shall be an active hospital administrator.

12 (3) One shall be an employee of an insurer or
13 self-insurer of medical malpractice coverage.

14 (4) One shall be a representative of the
15 health-care-consuming public.

16 Section 11. Paragraph (h) of subsection (2) of section
17 400.0067, Florida Statutes, is amended to read:

18 400.0067 Establishment of State Long-Term Care
19 Ombudsman Council; duties; membership.--

20 (2) The State Long-Term Care Ombudsman Council shall:

21 (h) Prepare an annual report describing the activities
22 carried out by the ombudsman and the State Long-Term Care
23 Ombudsman Council in the year for which the report is
24 prepared. The State Long-Term Care Ombudsman Council shall
25 submit the report to the Commissioner of the United States
26 Administration on Aging, the Governor, the President of the
27 Senate, the Speaker of the House of Representatives, the
28 minority leaders of the House and Senate, the chairpersons of
29 appropriate House and Senate committees, the Secretaries of
30 Elderly Affairs and Children and Family Services, and the
31 Secretary ~~Director~~ of Health Care Administration. The report

- 1 shall be submitted at least 30 days before the convening of
2 the regular session of the Legislature and shall, at a
3 minimum:
- 4 1. Contain and analyze data collected concerning
5 complaints about and conditions in long-term care facilities.
 - 6 2. Evaluate the problems experienced by residents of
7 long-term care facilities.
 - 8 3. Contain recommendations for improving the quality
9 of life of the residents and for protecting the health,
10 safety, welfare, and rights of the residents.
 - 11 4. Analyze the success of the ombudsman program during
12 the preceding year and identify the barriers that prevent the
13 optimal operation of the program. The report of the program's
14 successes shall also address the relationship between the
15 state long-term care ombudsman program, the Department of
16 Elderly Affairs, the Agency for Health Care Administration,
17 and the Department of Children and Family Services, and an
18 assessment of how successfully the state long-term care
19 ombudsman program has carried out its responsibilities under
20 the Older Americans Act.
 - 21 5. Provide policy and regulatory and legislative
22 recommendations to solve identified problems; resolve
23 residents' complaints; improve the quality of care and life of
24 the residents; protect the health, safety, welfare, and rights
25 of the residents; and remove the barriers to the optimal
26 operation of the state long-term care ombudsman program.
 - 27 6. Contain recommendations from the district ombudsman
28 councils regarding program functions and activities.
 - 29 7. Include a report on the activities of the legal
30 advocate and other legal advocates acting on behalf of the
31 district and state councils.

1 Section 12. Paragraph (a) of subsection (3) of section
2 400.235, Florida Statutes, is amended to read:

3 400.235 Nursing home quality and licensure status;
4 Gold Seal Program.--

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

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

31

1 400.4415 Assisted living facilities advisory
2 committee.--

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

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

10 (b) One representative from the Florida Health Care
11 Association.

12 (c) One representative from the Florida Assisted
13 Living Association.

14 (d) One representative from the Florida Association of
15 Homes for the Aging.

16 (e) One representative from the Agency for Health Care
17 Administration.

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

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

23 (h) One representative from the Department of Elderly
24 Affairs.

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

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

29 400.967 Rules and classification of deficiencies.--

30 (5) The agency shall approve or disapprove the plans
31 and specifications within 60 days after receipt of the final

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

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

11 408.036 Projects subject to review.--

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

15 (a) For the initiation or expansion of obstetric
16 services.

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

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

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

30 (e) For the conversion of licensed acute care hospital
31 beds to Medicare and Medicaid certified skilled nursing beds

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

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

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

28 (h) For the establishment of a Medicare-certified home
29 health agency by a facility certified under chapter 651; a
30 retirement community, as defined in s. 400.404(2)(g); or a
31 residential facility that serves only retired military

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

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

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

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

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

29 (m) For the delicensure of beds. An application
30 submitted under this paragraph must identify the number, the
31

1 classification, and the name of the facility in which the beds
2 to be delicensed are located.

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

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

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

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

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

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

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

27 b. Maintain sufficient appropriate equipment and
28 health personnel to ensure quality and safety.

29 c. Maintain appropriate times of operation and
30 protocols to ensure availability and appropriate referrals in
31 the event of emergencies.

1 d. Maintain appropriate program volumes to ensure
2 quality and safety.

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

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

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

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

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

27 4. The agency shall not grant any exemption under this
28 paragraph until the adoption of the rules required under this
29 paragraph, or until March 1, 1998, whichever comes first.
30 However, if final rules have not been adopted by March 1,
31 1998, the proposed rules governing the exemptions shall be

1 used by the agency to grant exemptions under the provisions of
2 this paragraph until final rules become effective.

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

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

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

19 Section 16. Paragraph (a) of subsection (8) of section
20 408.05, Florida Statutes, is amended to read:

21 408.05 State Center for Health Statistics.--

22 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
23 ADVISORY COUNCIL.--

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

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

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

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

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

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

13 408.902 MedAccess program; creation; program title.--

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

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

23 409.8132 Medikids program component.--

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

1 General Appropriations Act, only for covered services provided
2 to eligible children by qualified health care providers under
3 the Florida Kidcare program.

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

6 430.710 Long-term care interagency advisory council.--

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

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

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

21 2. Providers of community-based services.

22 3. Consumer advocacy organizations.

23 4. Consumers, or representatives of consumers, who
24 have nonage related physical disabilities.

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

28 1. The nursing home industry.

29 2. The assisted living industry.

30 3. Consumers of long-term care services.

31 4. Providers of community-based services.

1 5. Area Agencies on Aging.

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

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

7 1. The hospital industry.

8 2. The home health industry.

9 3. Health maintenance organizations.

10 Section 20. Paragraph (c) of subsection (4) of section
11 478.44, Florida Statutes, is amended to read:

12 478.44 Electrolysis Council; creation; function;
13 powers and duties.--

14 (4)

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

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

24 627.4236 Coverage for bone marrow transplant
25 procedures.--

26 (3)(a) The Agency for Health Care Administration shall
27 adopt rules specifying the bone marrow transplant procedures
28 that are accepted within the appropriate oncological specialty
29 and are not experimental for purposes of this section. The
30 rules must be based upon recommendations of an advisory panel

31

1 appointed by the secretary ~~director~~ of the agency, composed
2 of:

- 3 1. One adult oncologist, selected from a list of three
4 names recommended by the Florida Medical Association;
 - 5 2. One pediatric oncologist, selected from a list of
6 three names recommended by the Florida Pediatric Society;
 - 7 3. One representative of the J. Hillis Miller Health
8 Center at the University of Florida;
 - 9 4. One representative of the H. Lee Moffitt Cancer
10 Center and Research Institute, Inc.;
 - 11 5. One consumer representative, selected from a list
12 of three names recommended by the Insurance Commissioner;
 - 13 6. One representative of the Health Insurance
14 Association of America;
 - 15 7. Two representatives of health insurers, one of whom
16 represents the insurer with the largest Florida health
17 insurance premium volume and one of whom represents the
18 insurer with the second largest Florida health insurance
19 premium volume; and
 - 20 8. One representative of the insurer with the largest
21 Florida small group health insurance premium volume.
- 22 (b) The director shall also appoint a member of the
23 advisory panel to serve as chairperson.
- 24 (c) The agency shall provide, within existing
25 resources, staff support to enable the panel to carry out its
26 responsibilities under this section.
- 27 (d) In making recommendations and adopting rules under
28 this section, the advisory panel and the director shall:
- 29 1. Take into account findings, studies, or research of
30 the federal Agency for Health Care Policy, National Cancer
31 Institute, National Academy of Sciences, Health Care Financing

1 Administration, and Congressional Office of Technology
2 Assessment, and any other relevant information.

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

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

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

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

19 641.454 Civil action to enforce prepaid health clinic
20 contract; attorney's fees; court costs.--In any civil action
21 brought to enforce the terms and conditions of a prepaid
22 health clinic contract, the prevailing party is entitled to
23 recover reasonable attorney's fees and court costs. This
24 section shall not be construed to authorize a civil action
25 against the department, its employees, or the Insurance
26 Commissioner and Treasurer or against the Agency for Health
27 Care Administration, the employees of the Agency for Health
28 Care Administration, or the Secretary ~~Director~~ of Health Care
29 Administration.

30 Section 23. Paragraph (f) of subsection (6) of section
31 641.60, Florida Statutes, is amended to read:

1 641.60 Statewide Managed Care Ombudsman Committee.--

2 (6) The statewide committee or a member of the
3 committee:

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

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

10 641.70 Agency duties relating to the Statewide Managed
11 Care Ombudsman Committee and the district managed care
12 ombudsman committees.--

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

16 Section 25. Subsections (3) and (5) of section
17 732.9216, Florida Statutes, are amended to read:

18 732.9216 Organ and tissue donor education panel.--

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

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

27 Section 26. Section 408.001, Florida Statutes, is
28 repealed effective December 31, 2000, or upon dissolution of
29 the Florida Health Care Purchasing Cooperative, whichever
30 occurs first.

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

9 Section 28. This act shall take effect October 1,
10 2000.

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