

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

317-1936B-00

1 A bill to be entitled
2 An act relating to the Agency for Health Care
3 Administration; amending s. 20.42, F.S.;
4 designating the agency as a department;
5 reorganizing the agency and removing it from
6 under the Department of Business and
7 Professional Regulation; providing for
8 appointment of the Secretary of Health Care
9 Administration by the Governor, subject to
10 confirmation by the Senate; providing for
11 responsibilities and administration of the
12 department; amending s. 440.134, F.S.;
13 providing exclusive jurisdiction of the Agency
14 for Health Care Administration over workers'
15 compensation managed care arrangements and
16 exclusive authority to investigate medical
17 services provided under such arrangements;
18 amending ss. 120.80, 215.5601, 381.6023,
19 381.90, 395.0163, 395.10972, 400.0067, 400.235,
20 400.4415, 400.967, 408.036, 408.05, 408.902,
21 409.8132, 430.710, 478.44, 627.4236, 641.454,
22 641.60, 641.70, 732.9216, to conform provisions
23 to changes made by the act; repealing s.
24 408.001, F.S., relating to the Florida Health
25 Care Purchasing Cooperative; providing for
26 repeal on a date certain or upon the occurrence
27 of a contingency; transferring all powers,
28 duties, and functions and funds of the Agency
29 for Health Care Administration of the
30 Department of Business and Professional
31 Regulation to the new department; providing for

1 certain transfer of positions and funds from
2 the Department of Labor and Employment
3 Security; providing an effective date.
4

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

6
7 Section 1. Section 20.42, Florida Statutes, is amended
8 to read:

9 20.42 Agency for Health Care Administration.--

10 (1) There is created a department that,
11 notwithstanding the provisions of subsection 20.04(1), shall
12 be called the Agency for Health Care Administration ~~within the~~
13 ~~Department of Business and Professional Regulation. The agency~~
14 ~~shall be a separate budget entity, and the director of the~~
15 ~~agency shall be the agency head for all purposes. The agency~~
16 ~~shall not be subject to control, supervision, or direction by~~
17 ~~the Department of Business and Professional Regulation in any~~
18 ~~manner, including, but not limited to, personnel, purchasing,~~
19 ~~transactions involving real or personal property, and~~
20 ~~budgetary matters.~~

21 ~~(2)(1) DIRECTOR OF HEALTH CARE ADMINISTRATION.--~~The
22 head of the department ~~agency~~ is the Secretary ~~Director~~ of
23 Health Care Administration, who shall be appointed by the
24 Governor, subject to confirmation by the Senate. The secretary
25 ~~director~~ shall serve at the pleasure of and report to the
26 Governor.

27 ~~(3)(2) ORGANIZATION OF THE AGENCY.--~~The department
28 agency shall be the chief health policy and planning entity
29 for the state. The department is responsible for health
30 facility licensure, inspection, and regulatory enforcement;
31 investigation of consumer complaints related to health care

1 facilities and managed care plans; the implementation of the
2 certificate-of-need program; the operation of the State Center
3 for Health Statistics; the administration of the Medicaid
4 program; the administration of the contracts with the Florida
5 Healthy Kids Corporation; the certification of health
6 maintenance organizations and prepaid health clinics as set
7 forth in part III of chapter 641; and any other duties
8 prescribed by law or agreement.~~organized as follows:~~

9 ~~(a) The Division of Health Quality Assurance, which~~
10 ~~shall be responsible for health facility licensure and~~
11 ~~inspection.~~

12 ~~(b) The Division of Health Policy and Cost Control,~~
13 ~~which shall be responsible for health policy, the State Center~~
14 ~~for Health Statistics, the development of The Florida Health~~
15 ~~Plan, certificate of need, state and local health planning~~
16 ~~under s. 408.033, and research and analysis.~~

17 ~~(c) The Division of State Health Purchasing shall be~~
18 ~~responsible for the Medicaid program. The division shall also~~
19 ~~administer the contracts with the Florida Health Access~~
20 ~~Corporation program and the Florida Health Care Purchasing~~
21 ~~Cooperative and the Florida Healthy Kids Corporation.~~

22 ~~(d) The Division of Administrative Services, which~~
23 ~~shall be responsible for revenue management, budget,~~
24 ~~personnel, and general services.~~

25 ~~(3) DEPUTY DIRECTOR FOR HEALTH QUALITY ASSURANCE. -- The~~
26 ~~director shall appoint a Deputy Director for Health Quality~~
27 ~~Assurance who shall serve at the pleasure of, and be directly~~
28 ~~responsible to, the director. The Deputy Director for Health~~
29 ~~Quality Assurance shall be responsible for the Division of~~
30 ~~Health Quality Assurance.~~

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1 ~~(4) DEPUTY DIRECTOR FOR HEALTH POLICY AND COST~~
2 ~~CONTROL.--The director shall appoint a Deputy Director for~~
3 ~~Health Policy and Cost Control who shall serve at the pleasure~~
4 ~~of, and be directly responsible to, the director. The Deputy~~
5 ~~Director for Health Policy and Cost Control shall be~~
6 ~~responsible for the Division of Health Policy and Cost~~
7 ~~Control.~~

8 ~~(5) DEPUTY DIRECTOR FOR STATE HEALTH PURCHASING.--The~~
9 ~~director shall appoint a Deputy Director for State Health~~
10 ~~Purchasing who shall serve at the pleasure of, and be directly~~
11 ~~responsible to, the director. The Deputy Director for State~~
12 ~~Health Purchasing shall be responsible for the Division of~~
13 ~~State Health Purchasing.~~

14 ~~(6) DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES.-- The~~
15 ~~director shall appoint a Deputy Director of Administrative~~
16 ~~Services who shall serve at the pleasure of, and be directly~~
17 ~~responsible to, the director. The deputy director shall be~~
18 ~~responsible for the Division of Administrative Services.~~

19 Section 2. Paragraph (a) of subsection (2) of section
20 440.134, Florida Statutes, is amended to read:

21 440.134 Workers' compensation managed care
22 arrangement.--

23 (2)(a) The agency shall, ~~beginning April 1, 1994,~~
24 authorize an insurer to offer or utilize a workers'
25 compensation managed care arrangement after the insurer files
26 a completed application along with the payment of a \$1,000
27 application fee, and upon the agency's being satisfied that
28 the applicant has the ability to provide quality of care
29 consistent with the prevailing professional standards of care
30 and the insurer and its workers' compensation managed care
31 arrangement otherwise meets the requirements of this section.

1 ~~Effective April 1, 1994,~~No insurer may offer or utilize a
2 managed care arrangement without such authorization. The
3 authorization, unless sooner suspended or revoked, shall
4 automatically expire 2 years after the date of issuance unless
5 renewed by the insurer. The authorization shall be renewed
6 upon application for renewal and payment of a renewal fee of
7 \$1,000, provided that the insurer is in compliance with the
8 requirements of this section and any rules adopted hereunder.
9 An application for renewal of the authorization shall be made
10 90 days prior to expiration of the authorization, on forms
11 provided by the agency. The renewal application shall not
12 require the resubmission of any documents previously filed
13 with the agency if such documents have remained valid and
14 unchanged since their original filing. The agency shall have
15 exclusive jurisdiction over workers' compensation managed care
16 arrangements and shall have exclusive authority to investigate
17 the quality of medical services provided by a workers'
18 compensation managed care arrangement. When reviewing the
19 quality of medical services offered by or provided through a
20 workers' compensation managed care arrangement, the agency
21 shall review only issues related to the managed care
22 arrangement as a whole which pertain to the ability of the
23 managed care arrangement to provide quality of care as
24 required in this section. The agency shall not interpret
25 managed care arrangements as they pertain to an individual
26 employee.

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

29 120.80 Exceptions and special requirements;
30 agencies.--

31

1 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.
2 120.57(1)(a), formal hearings may not be conducted by the
3 Secretary of Health, the Secretary of ~~director of the Agency~~
4 ~~for~~ Health Care Administration, or a board or member of a
5 board within the Department of Health or the Agency for Health
6 Care Administration for matters relating to the regulation of
7 professions, as defined by part II of chapter 455.
8 Notwithstanding s. 120.57(1)(a), hearings conducted within the
9 Department of Health in execution of the Special Supplemental
10 Nutrition Program for Women, Infants, and Children; Child Care
11 Food Program; Children's Medical Services Program; and the
12 exemption from disqualification reviews for certified nurse
13 assistants program need not be conducted by an administrative
14 law judge assigned by the division. The Department of Health
15 may contract with the Department of Children and Family
16 Services for a hearing officer in these matters.

17 Section 4. Paragraph (d) of subsection (4) of section
18 215.5601, Florida Statutes, is amended to read:

19 215.5601 Lawton Chiles Endowment Fund.--

20 (4) LAWTON CHILES ENDOWMENT FUND; CREATION; PURPOSES
21 AND USES.--

22 (d) The Secretary of Health, the Secretary of Children
23 and Family Services, the Secretary of Elderly Affairs, and the
24 Secretary ~~Director~~ of Health Care Administration shall conduct
25 meetings to discuss program priorities for endowment funding
26 prior to submitting their budget requests to the Executive
27 Office of the Governor and the Legislature. The purpose of the
28 meetings shall be to gain consensus for priority requests and
29 recommended endowment funding levels for those priority
30 requests. An agency head may not designate a proxy for these
31 meetings.

1 Section 5. Subsections (2), (3), and (7) of section
2 381.0602, Florida Statutes, are amended to read:

3 381.0602 Organ Transplant Advisory Council;
4 membership; responsibilities.--

5 (2) The Secretary ~~Director~~ of Health Care
6 Administration shall appoint all members of the council to
7 serve a term of 2 years.

8 (3) The Secretary ~~Director~~ of Health Care
9 Administration shall fill each vacancy on the council for the
10 balance of the unexpired term. Priority consideration must be
11 given to the appointment of an individual whose primary
12 interest, experience, or expertise lies with clients of the
13 Department of Health and the agency. If an appointment is not
14 made within 120 days after a vacancy occurs on the council,
15 the vacancy must be filled by the majority vote of the
16 council.

17 (7) The council shall meet at least annually or upon
18 the call of the chairperson or the Secretary ~~Director~~ of
19 Health Care Administration.

20 Section 6. Subsection (1) of section 381.6023, Florida
21 Statutes, is amended to read:

22 381.6023 Organ and Tissue Procurement and
23 Transplantation Advisory Board; creation; duties.--

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

29 (a) Two representatives who have expertise in vascular
30 organ transplant surgery;

31

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

3 (c) Two representatives who have expertise in
4 musculoskeletal tissue transplant surgery;

5 (d) Two representatives who have expertise in
6 musculoskeletal tissue procurement, processing, and
7 distribution;

8 (e) A representative who has expertise in eye and
9 cornea transplant surgery;

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

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

14 (h) A representative from the Florida Pediatric
15 Society;

16 (i) A representative from the Florida Society of
17 Pathologists; and

18 (j) A representative from the Florida Medical
19 Examiners Commission.

20 Section 7. Subsection (3) of section 381.90, Florida
21 Statutes, is amended to read:

22 381.90 Health Information Systems Council; legislative
23 intent; creation, appointment, duties.--

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

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

27 (b) The secretary of the Department of Business and
28 Professional Regulation;

29 (c) The secretary of the Department of Children and
30 Family Services;

31

1 (d) The secretary of ~~director of the Agency for~~ Health
2 Care Administration;

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

4 (f) The Attorney General;

5 (g) The executive director of the Correctional Medical
6 Authority;

7 (h) Two members representing county health
8 departments, one from a small county and one from a large
9 county, appointed by the Governor;

10 (i) A representative from the Florida Association of
11 Counties;

12 (j) The State Treasurer and Insurance Commissioner;

13 (k) A representative from the Florida Healthy Kids
14 Corporation;

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

17 (m) The Commissioner of Education;

18 (n) The secretary of the Department of Elderly
19 Affairs; and

20 (o) The secretary of the Department of Juvenile
21 Justice.

22

23 Representatives of the Federal Government may serve without
24 voting rights.

25 Section 8. Paragraph (a) of subsection (1) of section
26 395.0163, Florida Statutes, is amended to read:

27 395.0163 Construction inspections; plan submission and
28 approval; fees.--

29 (1)(a) The agency shall make, or cause to be made,
30 such construction inspections and investigations as it deems
31 necessary. The agency may prescribe by rule that any licensee

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

18 Section 9. Section 395.10972, Florida Statutes, is
19 amended to read:

20 395.10972 Health Care Risk Manager Advisory
21 Council.--The Secretary ~~Director~~ of Health Care Administration
22 may appoint a five-member advisory council to advise the
23 agency on matters pertaining to health care risk managers. The
24 members of the council shall serve at the pleasure of the
25 secretary ~~director~~. The council shall designate a chair. The
26 council shall meet at the call of the secretary ~~director~~ or at
27 those times as may be required by rule of the agency. The
28 members of the advisory council shall receive no compensation
29 for their services, but shall be reimbursed for travel
30 expenses as provided in s. 112.061. The council shall consist
31 of individuals representing the following areas:

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

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

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

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

7 Section 10. Paragraph (h) of subsection (2) of section
8 400.0067, Florida Statutes, is amended to read:

9 400.0067 Establishment of State Long-Term Care
10 Ombudsman Council; duties; membership.--

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

12 (h) Prepare an annual report describing the activities
13 carried out by the ombudsman and the State Long-Term Care
14 Ombudsman Council in the year for which the report is
15 prepared. The State Long-Term Care Ombudsman Council shall
16 submit the report to the Commissioner of the United States
17 Administration on Aging, the Governor, the President of the
18 Senate, the Speaker of the House of Representatives, the
19 minority leaders of the House and Senate, the chairpersons of
20 appropriate House and Senate committees, the Secretaries of
21 Elderly Affairs and Children and Family Services, and the
22 Secretary ~~Director~~ of Health Care Administration. The report
23 shall be submitted at least 30 days before the convening of
24 the regular session of the Legislature and shall, at a
25 minimum:

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

28 2. Evaluate the problems experienced by residents of
29 long-term care facilities.

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1 3. Contain recommendations for improving the quality
2 of life of the residents and for protecting the health,
3 safety, welfare, and rights of the residents.

4 4. Analyze the success of the ombudsman program during
5 the preceding year and identify the barriers that prevent the
6 optimal operation of the program. The report of the program's
7 successes shall also address the relationship between the
8 state long-term care ombudsman program, the Department of
9 Elderly Affairs, the Agency for Health Care Administration,
10 and the Department of Children and Family Services, and an
11 assessment of how successfully the state long-term care
12 ombudsman program has carried out its responsibilities under
13 the Older Americans Act.

14 5. Provide policy and regulatory and legislative
15 recommendations to solve identified problems; resolve
16 residents' complaints; improve the quality of care and life of
17 the residents; protect the health, safety, welfare, and rights
18 of the residents; and remove the barriers to the optimal
19 operation of the state long-term care ombudsman program.

20 6. Contain recommendations from the district ombudsman
21 councils regarding program functions and activities.

22 7. Include a report on the activities of the legal
23 advocate and other legal advocates acting on behalf of the
24 district and state councils.

25 Section 11. Paragraph (a) of subsection (3) of section
26 400.235, Florida Statutes, is amended to read:

27 400.235 Nursing home quality and licensure status;
28 Gold Seal Program.--

29 (3)(a) The Gold Seal Program shall be developed and
30 implemented by the Governor's Panel on Excellence in Long-Term
31 Care which shall operate under the authority of the Executive

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

22 Section 12. Subsection (1) of section 400.4415,
23 Florida Statutes, is amended to read:

24 400.4415 Assisted living facilities advisory
25 committee.--

26 (1) There is created the assisted living facilities
27 advisory committee, which shall assist the agency in
28 developing and implementing a pilot rating system for
29 facilities. The committee shall consist of nine members who
30 are to be appointed by, and report directly to, the secretary
31 ~~director~~ of the agency. The membership is to include:

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

2 (b) One representative from the Florida Health Care
3 Association.

4 (c) One representative from the Florida Assisted
5 Living Association.

6 (d) One representative from the Florida Association of
7 Homes for the Aging.

8 (e) One representative from the Agency for Health Care
9 Administration.

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

12 (g) One representative from the alcohol, drug abuse,
13 and mental health program of the Department of Children and
14 Family Services.

15 (h) One representative from the Department of Elderly
16 Affairs.

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

19 Section 13. Subsection (5) of section 400.967, Florida
20 Statutes, is amended to read:

21 400.967 Rules and classification of deficiencies.--

22 (5) The agency shall approve or disapprove the plans
23 and specifications within 60 days after receipt of the final
24 plans and specifications. The agency may be granted one 15-day
25 extension for the review period, if the secretary ~~director~~ of
26 the agency so approves. If the agency fails to act within the
27 specified time, it is deemed to have approved the plans and
28 specifications. When the agency disapproves plans and
29 specifications, it must set forth in writing the reasons for
30 disapproval. Conferences and consultations may be provided as
31 necessary.

1 Section 14. Subsection (3) of section 408.036, Florida
2 Statutes, is amended to read:

3 408.036 Projects subject to review.--

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

7 (a) For the initiation or expansion of obstetric
8 services.

9 (b) For any expenditure to replace or renovate any
10 part of a licensed health care facility, provided that the
11 number of licensed beds will not increase and, in the case of
12 a replacement facility, the project site is the same as the
13 facility being replaced.

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

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

22 (e) For the conversion of licensed acute care hospital
23 beds to Medicare and Medicaid certified skilled nursing beds
24 in a rural hospital as defined in s. 395.602, so long as the
25 conversion of the beds does not involve the construction of
26 new facilities. The total number of skilled nursing beds,
27 including swing beds, may not exceed one-half of the total
28 number of licensed beds in the rural hospital as of July 1,
29 1993. Certified skilled nursing beds designated under this
30 paragraph, excluding swing beds, shall be included in the
31 community nursing home bed inventory. A rural hospital which

1 subsequently decertifies any acute care beds exempted under
2 this paragraph shall notify the agency of the decertification,
3 and the agency shall adjust the community nursing home bed
4 inventory accordingly.

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

12 (g) For an increase in the bed capacity of a nursing
13 facility licensed for at least 50 beds as of January 1, 1994,
14 under part II of chapter 400 which is not part of a continuing
15 care facility if, after the increase, the total licensed bed
16 capacity of that facility is not more than 60 beds and if the
17 facility has been continuously licensed since 1950 and has
18 received a superior rating on each of its two most recent
19 licensure surveys.

20 (h) For the establishment of a Medicare-certified home
21 health agency by a facility certified under chapter 651; a
22 retirement community, as defined in s. 400.404(2)(g); or a
23 residential facility that serves only retired military
24 personnel, their dependents, and the surviving dependents of
25 deceased military personnel. Medicare-reimbursed home health
26 services provided through such agency shall be offered
27 exclusively to residents of the facility or retirement
28 community or to residents of facilities or retirement
29 communities owned, operated, or managed by the same corporate
30 entity. Each visit made to deliver Medicare-reimbursable home
31 health services to a home health patient who, at the time of

1 service, is not a resident of the facility or retirement
2 community shall be a deceptive and unfair trade practice and
3 constitutes a violation of ss. 501.201-501.213.

4 (i) For the establishment of a Medicare-certified home
5 health agency. This paragraph shall take effect 90 days after
6 the adjournment sine die of the next regular session of the
7 Legislature occurring after the legislative session in which
8 the Legislature receives a report from the Secretary ~~Director~~
9 of Health Care Administration certifying that the federal
10 Health Care Financing Administration has implemented a
11 per-episode prospective pay system for Medicare-certified home
12 health agencies.

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

17 (k) For an expenditure by or on behalf of a health
18 care facility to provide a health service exclusively on an
19 outpatient basis.

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

21 (m) For the delicensure of beds. An application
22 submitted under this paragraph must identify the number, the
23 classification, and the name of the facility in which the beds
24 to be delicensed are located.

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

27 1. In addition to any other documentation otherwise
28 required by the agency, a request for an exemption submitted
29 under this paragraph must comply with the following criteria:
30

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1 a. The applicant must certify it will not provide
2 therapeutic cardiac catheterization pursuant to the grant of
3 the exemption.

4 b. The applicant must certify it will meet and
5 continuously maintain the minimum licensure requirements
6 adopted by the agency governing such programs pursuant to
7 subparagraph 2.

8 c. The applicant must certify it will provide a
9 minimum of 2 percent of its services to charity and Medicaid
10 patients.

11 2. The agency shall adopt licensure requirements by
12 rule which govern the operation of adult inpatient diagnostic
13 cardiac catheterization programs established pursuant to the
14 exemption provided in this paragraph. The rules shall ensure
15 that such programs:

16 a. Perform only adult inpatient diagnostic cardiac
17 catheterization services authorized by the exemption and will
18 not provide therapeutic cardiac catheterization or any other
19 services not authorized by the exemption.

20 b. Maintain sufficient appropriate equipment and
21 health personnel to ensure quality and safety.

22 c. Maintain appropriate times of operation and
23 protocols to ensure availability and appropriate referrals in
24 the event of emergencies.

25 d. Maintain appropriate program volumes to ensure
26 quality and safety.

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

29 3.a. The exemption provided by this paragraph shall
30 not apply unless the agency determines that the program is in
31 compliance with the requirements of subparagraph 1. and that

1 the program will, after beginning operation, continuously
2 comply with the rules adopted pursuant to subparagraph 2. The
3 agency shall monitor such programs to ensure compliance with
4 the requirements of subparagraph 2.

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

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

12 (III) If the exemption for a program expires pursuant
13 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
14 agency shall not grant an exemption pursuant to this paragraph
15 for an adult inpatient diagnostic cardiac catheterization
16 program located at the same hospital until 2 years following
17 the date of the determination by the agency that the program
18 failed to comply with the rules adopted pursuant to
19 subparagraph 2.

20 4. The agency shall not grant any exemption under this
21 paragraph until the adoption of the rules required under this
22 paragraph, or until March 1, 1998, whichever comes first.
23 However, if final rules have not been adopted by March 1,
24 1998, the proposed rules governing the exemptions shall be
25 used by the agency to grant exemptions under the provisions of
26 this paragraph until final rules become effective.

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

31

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

9
10 A request for exemption under this subsection may be made at
11 any time and is not subject to the batching requirements of
12 this section.

13 Section 15. Paragraph (a) of subsection (8) of section
14 408.05, Florida Statutes, is amended to read:

15 408.05 State Center for Health Statistics.--

16 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
17 ADVISORY COUNCIL.--

18 (a) There is established in the agency the State
19 Comprehensive Health Information System Advisory Council to
20 assist the center in reviewing the comprehensive health
21 information system and to recommend improvements for such
22 system. The council shall consist of the following members:

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

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

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

29 4. Ten persons, to be appointed by the Secretary
30 ~~Director~~ of Health Care Administration, representing other
31 state and local agencies, state universities, the Florida

1 Association of Business/Health Coalitions, local health
2 councils, professional health-care-related associations,
3 consumers, and purchasers.

4 Section 16. Subsection (1) of section 408.902, Florida
5 Statutes, is amended to read:

6 408.902 MedAccess program; creation; program title.--

7 (1) Effective July 1, 1994, there is hereby created
8 the MedAccess program to be administered by the Agency for
9 Health Care Administration. The MedAccess program shall not
10 be subject to the requirements of the Department of Insurance
11 or chapter 627. The secretary ~~director~~ of the agency shall
12 appoint an administrator of the MedAccess program ~~which shall~~
13 ~~be located in the Division of State Health Purchasing.~~

14 Section 17. Subsection (2) of section 409.8132,
15 Florida Statutes, is amended to read:

16 409.8132 Medikids program component.--

17 (2) ADMINISTRATION.--The secretary ~~director~~ of the
18 agency shall appoint an administrator of the Medikids program
19 component, ~~which shall be located in the Division of State~~
20 ~~Health Purchasing.~~ The Agency for Health Care Administration
21 is designated as the state agency authorized to make payments
22 for medical assistance and related services for the Medikids
23 program component of the Florida Kidcare program. Payments
24 shall be made, subject to any limitations or directions in the
25 General Appropriations Act, only for covered services provided
26 to eligible children by qualified health care providers under
27 the Florida Kidcare program.

28 Section 18. Subsection (1) of section 430.710, Florida
29 Statutes, is amended to read:

30 430.710 Long-term care interagency advisory council.--

31

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

8 (a) The Secretary of the Department of Children and
9 Family Services shall appoint four members, one each to
10 represent the following:

11 1. Consumers, or family or guardians of consumers, of
12 optional state supplementation, adult protective services,
13 developmental services, or mental health services from the
14 department.

15 2. Providers of community-based services.

16 3. Consumer advocacy organizations.

17 4. Consumers, or representatives of consumers, who
18 have nonage related physical disabilities.

19 (b) The Secretary of the Department of Elderly Affairs
20 shall appoint five members, one each to represent the
21 following:

22 1. The nursing home industry.

23 2. The assisted living industry.

24 3. Consumers of long-term care services.

25 4. Providers of community-based services.

26 5. Area Agencies on Aging.

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

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

1 1. The hospital industry.

2 2. The home health industry.

3 3. Health maintenance organizations.

4 Section 19. Paragraph (c) of subsection (4) of section
5 478.44, Florida Statutes, is amended to read:

6 478.44 Electrolysis Council; creation; function;
7 powers and duties.--

8 (4)

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

16 Section 20. Subsection (3) of section 627.4236,
17 Florida Statutes, is amended to read:

18 627.4236 Coverage for bone marrow transplant
19 procedures.--

20 (3)(a) The Agency for Health Care Administration shall
21 adopt rules specifying the bone marrow transplant procedures
22 that are accepted within the appropriate oncological specialty
23 and are not experimental for purposes of this section. The
24 rules must be based upon recommendations of an advisory panel
25 appointed by the secretary ~~director~~ of the agency, composed
26 of:

27 1. One adult oncologist, selected from a list of three
28 names recommended by the Florida Medical Association;

29 2. One pediatric oncologist, selected from a list of
30 three names recommended by the Florida Pediatric Society;

31

1 3. One representative of the J. Hillis Miller Health
2 Center at the University of Florida;

3 4. One representative of the H. Lee Moffitt Cancer
4 Center and Research Institute, Inc.;

5 5. One consumer representative, selected from a list
6 of three names recommended by the Insurance Commissioner;

7 6. One representative of the Health Insurance
8 Association of America;

9 7. Two representatives of health insurers, one of whom
10 represents the insurer with the largest Florida health
11 insurance premium volume and one of whom represents the
12 insurer with the second largest Florida health insurance
13 premium volume; and

14 8. One representative of the insurer with the largest
15 Florida small group health insurance premium volume.

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

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

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

23 1. Take into account findings, studies, or research of
24 the federal Agency for Health Care Policy, National Cancer
25 Institute, National Academy of Sciences, Health Care Financing
26 Administration, and Congressional Office of Technology
27 Assessment, and any other relevant information.

28 2. Consider whether the federal Food and Drug
29 Administration or National Cancer Institute are conducting or
30 sponsoring assessment procedures to determine the safety and
31

1 efficacy of the procedure or substantially similar procedures,
2 or of any part of such procedures.

3 3. Consider practices of providers with respect to
4 requesting or requiring patients to sign a written
5 acknowledgment that a bone marrow transplant procedure is
6 experimental.

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

12 Section 21. Section 641.454, Florida Statutes, is
13 amended to read:

14 641.454 Civil action to enforce prepaid health clinic
15 contract; attorney's fees; court costs.--In any civil action
16 brought to enforce the terms and conditions of a prepaid
17 health clinic contract, the prevailing party is entitled to
18 recover reasonable attorney's fees and court costs. This
19 section shall not be construed to authorize a civil action
20 against the department, its employees, or the Insurance
21 Commissioner and Treasurer or against the Agency for Health
22 Care Administration, the employees of the Agency for Health
23 Care Administration, or the Secretary ~~Director~~ of Health Care
24 Administration.

25 Section 22. Paragraph (f) of subsection (6) of section
26 641.60, Florida Statutes, is amended to read:

27 641.60 Statewide Managed Care Ombudsman Committee.--

28 (6) The statewide committee or a member of the
29 committee:

30 (f) Shall conduct meetings at least two times a year
31 at the call of the chairperson and at other times at the call

1 of the secretary of the agency ~~director~~ or by written request
2 of three members.

3 Section 23. Subsection (3) of section 641.70, Florida
4 Statutes, is amended to read:

5 641.70 Agency duties relating to the Statewide Managed
6 Care Ombudsman Committee and the district managed care
7 ombudsman committees.--

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

11 Section 24. Subsections (3) and (5) of section
12 732.9216, Florida Statutes, are amended to read:

13 732.9216 Organ and tissue donor education panel.--

14 (3) All members of the panel shall be appointed by the
15 Secretary ~~Director~~ of Health Care Administration to serve a
16 term of 2 years, except that, initially, six members shall be
17 appointed for 1-year terms and six members shall be appointed
18 for 2-year terms.

19 (5) The panel shall meet at least semiannually or upon
20 the call of the chairperson or the Secretary ~~Director~~ of
21 Health Care Administration.

22 Section 25. Section 408.001, Florida Statutes, is
23 repealed effective December 31, 2000, or upon dissolution of
24 the Florida Health Care Purchasing Cooperative, whichever
25 occurs first.

26 Section 26. All powers, duties, and functions and
27 rules, records, personnel, property, and unexpended balances
28 of appropriations, allocations, or other funds of the Agency
29 for Health Care Administration within the Department of
30 Business and Professional Regulation are transferred by a type
31 one transfer, as defined in s. 20.06(1), Florida Statutes, to

1 the Agency for Health Care Administration, as created by this
2 act.

3 Section 27. Twenty full-time-equivalent positions,
4 \$686,835 in salaries and benefits, and \$135,138 in expenses
5 are transferred by a type two transfer, as defined in section
6 20.06(2), Florida Statutes, from the Department of Labor and
7 Employment Security to the Agency for Health Care
8 Administration to carry out the agency's responsibilities
9 under sections 440.13(1)(m), 440.13(15), and 440.132, and
10 440.134, Florida Statutes, relating to workers' compensation
11 managed care arrangements.

12 Section 28. This act shall take effect October 1,
13 2000.

14
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 Senate Bill 2132

18 Moves the Agency for Health Care Administration from under the
19 Department of Business and Professional Regulation. Designates
20 the Agency for Health Care Administration a department named
21 the "Agency for Health Care Administration" and designates the
22 head of the department as the Secretary of Health Care
23 Administration. Establishes certain programs and activities
24 over which the agency has administrative jurisdiction and
25 deletes language specifying the agency's internal
26 organization. Delegates exclusive jurisdiction over workers'
27 compensation managed care arrangements and over investigations
28 of medical services provided under such arrangements to the
29 agency. Repeals statutory authority for the Florida Health
30 Care Purchasing Cooperative. Provides for the transfer of
31 resources from the Department of Business and Professional
Regulation to the Agency for Health Care Administration, as
created in the bill. Provides for the transfer of resources
from the Division of Workers' Compensation of the Department
of Labor and Employment Security to the Agency for Health Care
Administration to carry out administrative duties and
responsibilities related to workers' compensation managed care
arrangements. Makes changes to pertinent provisions of statute
to conform language to changes made in the bill.