

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 ss. 120.80, 215.5601,
13 381.6023, 381.90, 395.0163, 395.10972,
14 400.0067, 400.235, 400.4415, 400.967, 408.036,
15 408.05, 408.902, 409.8132, 430.710, 478.44,
16 627.4236, 641.454, 641.60, 641.70, 732.9216, to
17 conform provisions to changes made by the act;
18 repealing s. 408.001, F.S., relating to the
19 Florida Health Care Purchasing Cooperative;
20 providing for repeal on a date certain or upon
21 the occurrence of a contingency; transferring
22 all powers, duties, and functions and funds of
23 the Agency for Health Care Administration of
24 the Department of Business and Professional
25 Regulation to the new department; creating the
26 Public Cord Blood Tissue Bank as a statewide
27 consortium; providing purposes, membership, and
28 duties of the consortium; providing duties of
29 the Agency for Health Care Administration and
30 the Department of Health; providing an
31 exception from provisions of the act; requiring

1 specified written disclosure by certain health
2 care facilities and providers; specifying that
3 donation under the act is voluntary;
4 authorizing the consortium to charge fees;
5 providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Section 20.42, Florida Statutes, is amended
10 to read:

11 20.42 Agency for Health Care Administration.--

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

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

29 (3)(2) ORGANIZATION OF THE AGENCY.--The department
30 agency shall be the chief health policy and planning entity
31 for the state. The department is responsible for health

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

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

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

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

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

27 ~~(3) DEPUTY DIRECTOR FOR HEALTH QUALITY ASSURANCE.--The~~
28 ~~director shall appoint a Deputy Director for Health Quality~~
29 ~~Assurance who shall serve at the pleasure of, and be directly~~
30 ~~responsible to, the director. The Deputy Director for Health~~
31

1 ~~Quality Assurance shall be responsible for the Division of~~
2 ~~Health Quality Assurance.~~

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

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

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

21 Section 2. Subsection (15) of section 120.80, Florida
22 Statutes, is amended to read:

23 120.80 Exceptions and special requirements;
24 agencies.--

25 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.
26 120.57(1)(a), formal hearings may not be conducted by the
27 Secretary of Health, the Secretary of ~~director of the Agency~~
28 ~~for~~ Health Care Administration, or a board or member of a
29 board within the Department of Health or the Agency for Health
30 Care Administration for matters relating to the regulation of
31 professions, as defined by part II of chapter 455.

1 Notwithstanding s. 120.57(1)(a), hearings conducted within the
2 Department of Health in execution of the Special Supplemental
3 Nutrition Program for Women, Infants, and Children; Child Care
4 Food Program; Children's Medical Services Program; and the
5 exemption from disqualification reviews for certified nurse
6 assistants program need not be conducted by an administrative
7 law judge assigned by the division. The Department of Health
8 may contract with the Department of Children and Family
9 Services for a hearing officer in these matters.

10 Section 3. Paragraph (d) of subsection (4) of section
11 215.5601, Florida Statutes, is amended to read:

12 215.5601 Lawton Chiles Endowment Fund.--

13 (4) LAWTON CHILES ENDOWMENT FUND; CREATION; PURPOSES
14 AND USES.--

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

25 Section 4. Subsections (2), (3), and (7) of section
26 381.0602, Florida Statutes, are amended to read:

27 381.0602 Organ Transplant Advisory Council;
28 membership; responsibilities.--

29 (2) The Secretary ~~Director~~ of Health Care
30 Administration shall appoint all members of the council to
31 serve a term of 2 years.

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

10 (7) The council shall meet at least annually or upon
11 the call of the chairperson or the Secretary ~~Director~~ of
12 Health Care Administration.

13 Section 5. Subsection (1) of section 381.6023, Florida
14 Statutes, is amended to read:

15 381.6023 Organ and Tissue Procurement and
16 Transplantation Advisory Board; creation; duties.--

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

22 (a) Two representatives who have expertise in vascular
23 organ transplant surgery;

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

26 (c) Two representatives who have expertise in
27 musculoskeletal tissue transplant surgery;

28 (d) Two representatives who have expertise in
29 musculoskeletal tissue procurement, processing, and
30 distribution;

31

1 (e) A representative who has expertise in eye and
2 cornea transplant surgery;

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

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

7 (h) A representative from the Florida Pediatric
8 Society;

9 (i) A representative from the Florida Society of
10 Pathologists; and

11 (j) A representative from the Florida Medical
12 Examiners Commission.

13 Section 6. Subsection (3) of section 381.90, Florida
14 Statutes, is amended to read:

15 381.90 Health Information Systems Council; legislative
16 intent; creation, appointment, duties.--

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

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

20 (b) The secretary of the Department of Business and
21 Professional Regulation;

22 (c) The secretary of the Department of Children and
23 Family Services;

24 (d) The secretary of ~~director of the Agency for~~ Health
25 Care Administration;

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

27 (f) The Attorney General;

28 (g) The executive director of the Correctional Medical
29 Authority;

30

31

1 (h) Two members representing county health
2 departments, one from a small county and one from a large
3 county, appointed by the Governor;

4 (i) A representative from the Florida Association of
5 Counties;

6 (j) The State Treasurer and Insurance Commissioner;

7 (k) A representative from the Florida Healthy Kids
8 Corporation;

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

11 (m) The Commissioner of Education;

12 (n) The secretary of the Department of Elderly
13 Affairs; and

14 (o) The secretary of the Department of Juvenile
15 Justice.

16

17 Representatives of the Federal Government may serve without
18 voting rights.

19 Section 7. Paragraph (a) of subsection (1) of section
20 395.0163, Florida Statutes, is amended to read:

21 395.0163 Construction inspections; plan submission and
22 approval; fees.--

23 (1)(a) The agency shall make, or cause to be made,
24 such construction inspections and investigations as it deems
25 necessary. The agency may prescribe by rule that any licensee
26 or applicant desiring to make specified types of alterations
27 or additions to its facilities or to construct new facilities
28 shall, before commencing such alteration, addition, or new
29 construction, submit plans and specifications therefor to the
30 agency for preliminary inspection and approval or
31 recommendation with respect to compliance with agency rules

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

12 Section 8. Section 395.10972, Florida Statutes, is
13 amended to read:

14 395.10972 Health Care Risk Manager Advisory
15 Council.--The Secretary ~~Director~~ of Health Care Administration
16 may appoint a five-member advisory council to advise the
17 agency on matters pertaining to health care risk managers. The
18 members of the council shall serve at the pleasure of the
19 secretary ~~director~~. The council shall designate a chair. The
20 council shall meet at the call of the secretary ~~director~~ or at
21 those times as may be required by rule of the agency. The
22 members of the advisory council shall receive no compensation
23 for their services, but shall be reimbursed for travel
24 expenses as provided in s. 112.061. The council shall consist
25 of individuals representing the following areas:

- 26 (1) Two shall be active health care risk managers.
- 27 (2) One shall be an active hospital administrator.
- 28 (3) One shall be an employee of an insurer or
29 self-insurer of medical malpractice coverage.
- 30 (4) One shall be a representative of the
31 health-care-consuming public.

1 Section 9. Paragraph (h) of subsection (2) of section
2 400.0067, Florida Statutes, is amended to read:

3 400.0067 Establishment of State Long-Term Care
4 Ombudsman Council; duties; membership.--

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

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

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

22 2. Evaluate the problems experienced by residents of
23 long-term care facilities.

24 3. Contain recommendations for improving the quality
25 of life of the residents and for protecting the health,
26 safety, welfare, and rights of the residents.

27 4. Analyze the success of the ombudsman program during
28 the preceding year and identify the barriers that prevent the
29 optimal operation of the program. The report of the program's
30 successes shall also address the relationship between the
31 state long-term care ombudsman program, the Department of

1 Elderly Affairs, the Agency for Health Care Administration,
2 and the Department of Children and Family Services, and an
3 assessment of how successfully the state long-term care
4 ombudsman program has carried out its responsibilities under
5 the Older Americans Act.

6 5. Provide policy and regulatory and legislative
7 recommendations to solve identified problems; resolve
8 residents' complaints; improve the quality of care and life of
9 the residents; protect the health, safety, welfare, and rights
10 of the residents; and remove the barriers to the optimal
11 operation of the state long-term care ombudsman program.

12 6. Contain recommendations from the district ombudsman
13 councils regarding program functions and activities.

14 7. Include a report on the activities of the legal
15 advocate and other legal advocates acting on behalf of the
16 district and state councils.

17 Section 10. Paragraph (a) of subsection (3) of section
18 400.235, Florida Statutes, is amended to read:

19 400.235 Nursing home quality and licensure status;
20 Gold Seal Program.--

21 (3)(a) The Gold Seal Program shall be developed and
22 implemented by the Governor's Panel on Excellence in Long-Term
23 Care which shall operate under the authority of the Executive
24 Office of the Governor. The panel shall be composed of three
25 persons appointed by the Governor, to include a consumer
26 advocate for senior citizens and two persons with expertise in
27 the fields of quality management, service delivery excellence,
28 or public sector accountability; three persons appointed by
29 the Secretary of Elderly Affairs, to include an active member
30 of a nursing facility family and resident care council and a
31 member of the University Consortium on Aging; the State

1 Long-Term Care Ombudsman; one person appointed by the Florida
2 Life Care Residents Association; one person appointed by the
3 Secretary of Health; two persons appointed by the Secretary
4 ~~Director~~ of Health Care Administration, ~~to include the Deputy~~
5 ~~Director for State Health Purchasing~~; one person appointed by
6 the Florida Association of Homes for the Aging; and one person
7 appointed by the Florida Health Care Association. ~~All members~~
8 ~~of the panel shall be appointed by October 1, 1999, and the~~
9 ~~panel shall hold its organizational meeting no later than~~
10 ~~December 10, 1999.~~ Vacancies on the panel shall be filled in
11 the same manner as the original appointments. No member shall
12 serve for more than 4 consecutive years from the date of
13 appointment.

14 Section 11. Subsection (1) of section 400.4415,
15 Florida Statutes, is amended to read:

16 400.4415 Assisted living facilities advisory
17 committee.--

18 (1) There is created the assisted living facilities
19 advisory committee, which shall assist the agency in
20 developing and implementing a pilot rating system for
21 facilities. The committee shall consist of nine members who
22 are to be appointed by, and report directly to, the secretary
23 ~~director~~ of the agency. The membership is to include:

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

25 (b) One representative from the Florida Health Care
26 Association.

27 (c) One representative from the Florida Assisted
28 Living Association.

29 (d) One representative from the Florida Association of
30 Homes for the Aging.

31

1 (e) One representative from the Agency for Health Care
2 Administration.

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

5 (g) One representative from the alcohol, drug abuse,
6 and mental health program of the Department of Children and
7 Family Services.

8 (h) One representative from the Department of Elderly
9 Affairs.

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

12 Section 12. Subsection (5) of section 400.967, Florida
13 Statutes, is amended to read:

14 400.967 Rules and classification of deficiencies.--

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

25 Section 13. Subsection (3) of section 408.036, Florida
26 Statutes, is amended to read:

27 408.036 Projects subject to review.--

28 (3) EXEMPTIONS.--Upon request, supported by such
29 documentation as the agency requires, the agency shall grant
30 an exemption from the provisions of subsection (1):
31

1 (a) For the initiation or expansion of obstetric
2 services.

3 (b) For any expenditure to replace or renovate any
4 part of a licensed health care facility, provided that the
5 number of licensed beds will not increase and, in the case of
6 a replacement facility, the project site is the same as the
7 facility being replaced.

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

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

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

30 (f) For the addition of nursing home beds at a skilled
31 nursing facility that is part of a retirement community that

1 provides a variety of residential settings and supportive
2 services and that has been incorporated and operated in this
3 state for at least 65 years on or before July 1, 1994. All
4 nursing home beds must not be available to the public but must
5 be for the exclusive use of the community residents.

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

14 (h) For the establishment of a Medicare-certified home
15 health agency by a facility certified under chapter 651; a
16 retirement community, as defined in s. 400.404(2)(g); or a
17 residential facility that serves only retired military
18 personnel, their dependents, and the surviving dependents of
19 deceased military personnel. Medicare-reimbursed home health
20 services provided through such agency shall be offered
21 exclusively to residents of the facility or retirement
22 community or to residents of facilities or retirement
23 communities owned, operated, or managed by the same corporate
24 entity. Each visit made to deliver Medicare-reimbursable home
25 health services to a home health patient who, at the time of
26 service, is not a resident of the facility or retirement
27 community shall be a deceptive and unfair trade practice and
28 constitutes a violation of ss. 501.201-501.213.

29 (i) For the establishment of a Medicare-certified home
30 health agency. This paragraph shall take effect 90 days after
31 the adjournment sine die of the next regular session of the

1 Legislature occurring after the legislative session in which
2 the Legislature receives a report from the Secretary ~~Director~~
3 of Health Care Administration certifying that the federal
4 Health Care Financing Administration has implemented a
5 per-episode prospective pay system for Medicare-certified home
6 health agencies.

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

11 (k) For an expenditure by or on behalf of a health
12 care facility to provide a health service exclusively on an
13 outpatient basis.

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

15 (m) For the delicensure of beds. An application
16 submitted under this paragraph must identify the number, the
17 classification, and the name of the facility in which the beds
18 to be delicensed are located.

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

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

24 a. The applicant must certify it will not provide
25 therapeutic cardiac catheterization pursuant to the grant of
26 the exemption.

27 b. The applicant must certify it will meet and
28 continuously maintain the minimum licensure requirements
29 adopted by the agency governing such programs pursuant to
30 subparagraph 2.

31

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

4 2. The agency shall adopt licensure requirements by
5 rule which govern the operation of adult inpatient diagnostic
6 cardiac catheterization programs established pursuant to the
7 exemption provided in this paragraph. The rules shall ensure
8 that such programs:

9 a. Perform only adult inpatient diagnostic cardiac
10 catheterization services authorized by the exemption and will
11 not provide therapeutic cardiac catheterization or any other
12 services not authorized by the exemption.

13 b. Maintain sufficient appropriate equipment and
14 health personnel to ensure quality and safety.

15 c. Maintain appropriate times of operation and
16 protocols to ensure availability and appropriate referrals in
17 the event of emergencies.

18 d. Maintain appropriate program volumes to ensure
19 quality and safety.

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

22 3.a. The exemption provided by this paragraph shall
23 not apply unless the agency determines that the program is in
24 compliance with the requirements of subparagraph 1. and that
25 the program will, after beginning operation, continuously
26 comply with the rules adopted pursuant to subparagraph 2. The
27 agency shall monitor such programs to ensure compliance with
28 the requirements of subparagraph 2.

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

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

5 (III) If the exemption for a program expires pursuant
6 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
7 agency shall not grant an exemption pursuant to this paragraph
8 for an adult inpatient diagnostic cardiac catheterization
9 program located at the same hospital until 2 years following
10 the date of the determination by the agency that the program
11 failed to comply with the rules adopted pursuant to
12 subparagraph 2.

13 4. The agency shall not grant any exemption under this
14 paragraph until the adoption of the rules required under this
15 paragraph, or until March 1, 1998, whichever comes first.
16 However, if final rules have not been adopted by March 1,
17 1998, the proposed rules governing the exemptions shall be
18 used by the agency to grant exemptions under the provisions of
19 this paragraph until final rules become effective.

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

24 (p) For state veterans' nursing homes operated by or
25 on behalf of the Florida Department of Veterans' Affairs in
26 accordance with part II of chapter 296 for which at least 50
27 percent of the construction cost is federally funded and for
28 which the Federal Government pays a per diem rate not to
29 exceed one-half of the cost of the veterans' care in such
30 state nursing homes. These beds shall not be included in the
31 nursing home bed inventory.

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

5 Section 14. Paragraph (a) of subsection (8) of section
6 408.05, Florida Statutes, is amended to read:

7 408.05 State Center for Health Statistics.--

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

10 (a) There is established in the agency the State
11 Comprehensive Health Information System Advisory Council to
12 assist the center in reviewing the comprehensive health
13 information system and to recommend improvements for such
14 system. The council shall consist of the following members:

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

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

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

21 4. Ten persons, to be appointed by the Secretary
22 ~~Director~~ of Health Care Administration, representing other
23 state and local agencies, state universities, the Florida
24 Association of Business/Health Coalitions, local health
25 councils, professional health-care-related associations,
26 consumers, and purchasers.

27 Section 15. Subsection (1) of section 408.902, Florida
28 Statutes, is amended to read:

29 408.902 MedAccess program; creation; program title.--

30 (1) Effective July 1, 1994, there is hereby created
31 the MedAccess program to be administered by the Agency for

1 Health Care Administration. The MedAccess program shall not
2 be subject to the requirements of the Department of Insurance
3 or chapter 627. The secretary ~~director~~ of the agency shall
4 appoint an administrator of the MedAccess program ~~which shall~~
5 ~~be located in the Division of State Health Purchasing.~~

6 Section 16. Subsection (2) of section 409.8132,
7 Florida Statutes, is amended to read:

8 409.8132 Medikids program component.--

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

20 Section 17. Subsection (1) of section 430.710, Florida
21 Statutes, is amended to read:

22 430.710 Long-term care interagency advisory council.--

23 (1) The long-term care interagency advisory council is
24 created within the Department of Elderly Affairs to advise the
25 secretary of the department on matters related to the
26 long-term care community diversion pilot projects. The
27 department and the agency shall provide staff support to the
28 council, as determined by the secretary of the department and
29 the secretary ~~director~~ of the agency.

30
31

1 (a) The Secretary of the Department of Children and
2 Family Services shall appoint four members, one each to
3 represent the following:

4 1. Consumers, or family or guardians of consumers, of
5 optional state supplementation, adult protective services,
6 developmental services, or mental health services from the
7 department.

8 2. Providers of community-based services.

9 3. Consumer advocacy organizations.

10 4. Consumers, or representatives of consumers, who
11 have nonage related physical disabilities.

12 (b) The Secretary of the Department of Elderly Affairs
13 shall appoint five members, one each to represent the
14 following:

15 1. The nursing home industry.

16 2. The assisted living industry.

17 3. Consumers of long-term care services.

18 4. Providers of community-based services.

19 5. Area Agencies on Aging.

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

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

25 1. The hospital industry.

26 2. The home health industry.

27 3. Health maintenance organizations.

28 Section 18. Paragraph (c) of subsection (4) of section
29 478.44, Florida Statutes, is amended to read:

30 478.44 Electrolysis Council; creation; function;
31 powers and duties.--

1 (4)

2 (c) Unless otherwise provided by law, a council member
3 shall be compensated \$50 for each day the member attends an
4 official meeting of the council or participates in official
5 council business. A council member is also entitled to
6 reimbursement for expenses pursuant to s. 112.061. Travel out
7 of state requires the prior approval of the Secretary ~~Director~~
8 of Health ~~Care Administration~~.

9 Section 19. Subsection (3) of section 627.4236,
10 Florida Statutes, is amended to read:

11 627.4236 Coverage for bone marrow transplant
12 procedures.--

13 (3)(a) The Agency for Health Care Administration shall
14 adopt rules specifying the bone marrow transplant procedures
15 that are accepted within the appropriate oncological specialty
16 and are not experimental for purposes of this section. The
17 rules must be based upon recommendations of an advisory panel
18 appointed by the secretary ~~director~~ of the agency, composed
19 of:

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

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

24 3. One representative of the J. Hillis Miller Health
25 Center at the University of Florida;

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

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

30 6. One representative of the Health Insurance
31 Association of America;

1 7. Two representatives of health insurers, one of whom
2 represents the insurer with the largest Florida health
3 insurance premium volume and one of whom represents the
4 insurer with the second largest Florida health insurance
5 premium volume; and

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

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

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

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

15 1. Take into account findings, studies, or research of
16 the federal Agency for Health Care Policy, National Cancer
17 Institute, National Academy of Sciences, Health Care Financing
18 Administration, and Congressional Office of Technology
19 Assessment, and any other relevant information.

20 2. Consider whether the federal Food and Drug
21 Administration or National Cancer Institute are conducting or
22 sponsoring assessment procedures to determine the safety and
23 efficacy of the procedure or substantially similar procedures,
24 or of any part of such procedures.

25 3. Consider practices of providers with respect to
26 requesting or requiring patients to sign a written
27 acknowledgment that a bone marrow transplant procedure is
28 experimental.

29 (e) The advisory panel shall conduct, at least
30 biennially, a review of scientific evidence to ensure that its
31 recommendations are based on current research findings and

1 that insurance policies offer coverage for the latest
2 medically acceptable bone marrow transplant procedures.

3 Section 20. Section 641.454, Florida Statutes, is
4 amended to read:

5 641.454 Civil action to enforce prepaid health clinic
6 contract; attorney's fees; court costs.--In any civil action
7 brought to enforce the terms and conditions of a prepaid
8 health clinic contract, the prevailing party is entitled to
9 recover reasonable attorney's fees and court costs. This
10 section shall not be construed to authorize a civil action
11 against the department, its employees, or the Insurance
12 Commissioner and Treasurer or against the Agency for Health
13 Care Administration, the employees of the Agency for Health
14 Care Administration, or the Secretary ~~Director~~ of Health Care
15 Administration.

16 Section 21. Paragraph (f) of subsection (6) of section
17 641.60, Florida Statutes, is amended to read:

18 641.60 Statewide Managed Care Ombudsman Committee.--

19 (6) The statewide committee or a member of the
20 committee:

21 (f) Shall conduct meetings at least two times a year
22 at the call of the chairperson and at other times at the call
23 of the secretary of the agency ~~director~~ or by written request
24 of three members.

25 Section 22. Subsection (3) of section 641.70, Florida
26 Statutes, is amended to read:

27 641.70 Agency duties relating to the Statewide Managed
28 Care Ombudsman Committee and the district managed care
29 ombudsman committees.--

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31

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

4 Section 23. Subsections (3) and (5) of section
5 732.9216, Florida Statutes, are amended to read:

6 732.9216 Organ and tissue donor education panel.--

7 (3) All members of the panel shall be appointed by the
8 Secretary ~~Director~~ of Health Care Administration to serve a
9 term of 2 years, except that, initially, six members shall be
10 appointed for 1-year terms and six members shall be appointed
11 for 2-year terms.

12 (5) The panel shall meet at least semiannually or upon
13 the call of the chairperson or the Secretary ~~Director~~ of
14 Health Care Administration.

15 Section 24. Section 408.001, Florida Statutes, is
16 repealed effective December 31, 2000, or upon dissolution of
17 the Florida Health Care Purchasing Cooperative, whichever
18 occurs first.

19 Section 25. All powers, duties, and functions and
20 rules, records, personnel, property, and unexpended balances
21 of appropriations, allocations, or other funds of the Agency
22 for Health Care Administration within the Department of
23 Business and Professional Regulation are transferred by a type
24 one transfer, as defined in s. 20.06(1), Florida Statutes, to
25 the Agency for Health Care Administration, as created by this
26 act.

27 Section 26. PUBLIC CORD BLOOD TISSUE BANK.--

28 (1) There is established a statewide consortium to be
29 known as the Public Cord Blood Tissue Bank. The Public Cord
30 Blood Tissue Bank is established as a nonprofit legal entity
31 to collect, screen for infectious and genetic diseases,

1 perform tissue typing, cryopreserve, and store umbilical cord
2 blood as a resource to the public. The University of Florida,
3 the University of South Florida, the University of Miami, and
4 the Mayo Clinic, Jacksonville shall jointly form the
5 collaborative consortium, each working with community
6 resources such as regional blood banks, hospitals, and other
7 health care providers to develop local and regional coalitions
8 for the purposes set forth in this act. The consortium
9 participants shall align their outreach programs and
10 activities to all geographic areas of the state, covering the
11 entire state. The consortium is encouraged to conduct
12 outreach and research for Hispanics, African Americans, Native
13 Americans, and other ethnic and racial minorities.

14 (2) The Agency for Health Care Administration and the
15 Department of Health shall encourage health care providers,
16 including, but not limited to, hospitals, birthing facilities,
17 county health departments, physicians, midwives, and nurses,
18 to disseminate information about the Public Cord Blood Tissue
19 Bank.

20 (3) Nothing in this section creates a requirement of
21 any health care or services program that is directly
22 affiliated with a bona fide religious denomination that
23 includes as an integral part of its beliefs and practices the
24 tenet that blood transfer is contrary to the moral principles
25 the denomination considers to be an essential part of its
26 beliefs.

27 (4) Any health care facility or health care provider
28 receiving financial remuneration for the collection of
29 umbilical cord blood shall provide written disclosure of this
30 information to any woman postpartum or parent of a newborn
31

1 from whom the umbilical cord blood is collected prior to the
2 harvesting of the umbilical cord blood.

3 (5) A woman admitted to a hospital or birthing
4 facility for obstetrical services may be offered the
5 opportunity to donate umbilical cord blood to the Public Cord
6 Blood Tissue Bank. A woman may not be required to make such a
7 donation.

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

10 (7) In order to fund the provisions of this section
11 the consortium participants, the Agency for Health Care
12 Administration, and the Department of Health shall seek
13 private or federal funds to initiate program actions for
14 fiscal year 2000-2001.

15 Section 27. This act shall take effect October 1,
16 2000.

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