

1 Legislature finds that additional focus on strengthening
2 health care delivery systems by eliminating avoidable mistakes
3 in the diagnosis and treatment of Floridians holds tremendous
4 promise to increase the quality of health care services
5 available to Floridians, thereby reducing the costs associated
6 with medical mistakes and malpractice and in turn increasing
7 access to health care in the state. To achieve this enhanced
8 focus, it is the intent of the Legislature to create the
9 Florida Commission on Excellence in Health Care to facilitate
10 the development of a comprehensive statewide strategy for
11 improving health care delivery systems through meaningful
12 reporting standards, data collection and review, and quality
13 measurement.

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

15 (a) "Agency" means the Agency for Health Care
16 Administration.

17 (b) "Commission" means the Florida Commission on
18 Excellence in Health Care.

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

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

22 (e) "Health care practitioner" means any person
23 licensed under chapter 457; chapter 458; chapter 459; chapter
24 460; chapter 461; chapter 462; chapter 463; chapter 464;
25 chapter 465; chapter 466; chapter 467; part I, part II, part
26 III, part V, part X, part XIII, or part XIV of chapter 468;
27 chapter 478; chapter 480; part III or part IV of chapter 483;
28 chapter 484; chapter 486; chapter 490; or chapter 491, Florida
29 Statutes.

30 (f) "Health care provider" means any health care
31 facility or other health care organization licensed or

1 certified to provide approved medical and allied health
2 services in this state, or any entity licensed by the
3 Department of Insurance as a prepaid health care plan or
4 health maintenance organization or as an insurer to provide
5 coverage for health care services through a network of
6 providers.

7 (3) COMMISSION; DUTIES AND RESPONSIBILITIES.--There is
8 hereby created the Florida Commission on Excellence in Health
9 Care. The commission shall:

10 (a) Identify existing data sources that evaluate
11 quality of care in Florida and collect, analyze, and evaluate
12 this data.

13 (b) Establish guidelines for data sharing and
14 coordination.

15 (c) Identify core sets of quality measures for
16 standardized reporting by appropriate components of the health
17 care continuum.

18 (d) Recommend a framework for quality measurement and
19 outcome reporting.

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

22 (f) Make recommendations regarding research and
23 development needed to advance quality measurement and
24 reporting.

25 (g) Evaluate regulatory issues relating to the
26 pharmacy profession and recommend changes necessary to
27 optimize patient safety.

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

1 (i) Sponsor public hearings to share information and
2 expertise, identify "best practices," and recommend methods to
3 promote their acceptance.

4 (j) Evaluate current regulatory programs to determine
5 what changes, if any, need to be made to facilitate patient
6 safety.

7 (k) Review public and private health care purchasing
8 systems to determine if there are sufficient mandates and
9 incentives to facilitate continuous improvement in patient
10 safety.

11 (l) Analyze how effective existing regulatory systems
12 are in ensuring continuous competence and knowledge of
13 effective safety practices.

14 (m) Develop a framework for organizations that
15 license, accredit, or credential health care practitioners and
16 health care providers to more quickly and effectively identify
17 unsafe providers and practitioners and to take action
18 necessary to remove the unsafe provider or practitioner from
19 practice or operation until such time as the practitioner or
20 provider has proven safe to practice or operate.

21 (n) Recommend procedures for development of a
22 curriculum on patient safety and methods of incorporating such
23 curriculum into training, licensure, and certification
24 requirements.

25 (o) Develop a framework for regulatory bodies to
26 disseminate information on patient safety to health care
27 practitioners, health care providers, and consumers through
28 conferences, journal articles and editorials, newsletters,
29 publications, and Internet websites.

30 (p) Recommend procedures to incorporate recognized
31 patient safety considerations into practice guidelines and

1 into standards related to the introduction and diffusion of
2 new technologies, therapies, and drugs.

3 (q) Recommend a framework for development of
4 community-based collaborative initiatives for error reporting
5 and analysis and implementation of patient safety
6 improvements.

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

9 (s) Evaluate and make recommendations regarding the
10 need for licensure of additional persons who participate in
11 the delivery of health care to Floridians, including, but not
12 limited to, surgical technologists and pharmacy technicians.

13 (t) Evaluate the benefits and problems of the current
14 medical malpractice and disciplinary systems and make
15 recommendations regarding alternative systems for reimbursing
16 patients for injuries resulting from medical errors which
17 focus on early error identification, personal responsibility,
18 corrective action, and education of other health care
19 practitioners, health care providers, and consumers to avoid
20 similar errors in the future.

21 (4) MEMBERSHIP, ORGANIZATION, MEETINGS, PROCEDURES,
22 STAFF.--

23 (a) The commission shall consist of:

24 1. The Secretary of Health and the Executive Director
25 of the Agency for Health Care Administration.

26 2. One representative each from the following agencies
27 or organizations: the Board of Medicine, the Board of
28 Osteopathic Medicine, the Board of Pharmacy, the Board of
29 Nursing, the Board of Dentistry, the Florida Dental
30 Association, the Florida Medical Association, the Florida
31 Osteopathic Medical Association, the Florida Nurses

1 Association, the Florida Organization of Nursing Executives,
2 the Florida Pharmacy Association, the Florida Society of
3 Health System Pharmacists, Inc., the Florida Hospital
4 Association, the Association of Community Hospitals and Health
5 Systems of Florida, Inc., the Florida League of Health Care
6 Systems, the Florida Health Care Risk Management Advisory
7 Council, the Florida Health Care Association, and the Florida
8 Association of Homes for the Aging;
9 3. One licensed clinical laboratory director,
10 appointed by the Secretary of Health;
11 4. Two health lawyers, appointed by the Secretary of
12 Health, one of whom shall be a member of The Florida Bar
13 Health Law Section who defends physicians and one of whom
14 shall be a member of the Florida Academy of Trial Lawyers;
15 5. One representative of the medical malpractice
16 professional liability insurance industry, appointed by the
17 Secretary of Health;
18 6. Two representatives of the health insurance
19 industry, appointed by the Executive Director of the Agency
20 for Health Care Administration, one of whom shall represent
21 indemnity plans and one of whom shall represent managed care;
22 7. Five consumer advocates, consisting of one from the
23 Association for Responsible Medicine, two appointed by the
24 Governor, one appointed by the President of the Senate, and
25 one appointed by the Speaker of the House of Representatives;
26 and
27 8. Two legislators, one appointed by the President of
28 the Senate and one appointed by the Speaker of the House of
29 Representatives.
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1 Commission membership shall reflect the geographic and
2 demographic diversity of the state.
3 (b) The Secretary of Health and the Executive Director
4 of the Agency for Health Care Administration shall jointly
5 chair the commission. Subcommittees shall be formed by the
6 joint chairs, as needed, to make recommendations to the full
7 commission on the subjects assigned. However, all votes on
8 work products of the commission shall be at the full
9 commission level, and all recommendations to the Governor, the
10 President of the Senate, and the Speaker of the House of
11 Representatives must pass by a two-thirds vote of the full
12 commission. Sponsoring agencies and organizations may
13 designate an alternative member who may attend and vote on
14 behalf of the sponsoring agency or organization in the event
15 the appointed member is unable to attend a meeting of the
16 commission or any subcommittee. The commission shall be
17 staffed by employees of the Department of Health and the
18 Agency for Health Care Administration. Sponsoring agencies or
19 organizations must fund the travel and related expenses of
20 their appointed members on the commission. Travel and related
21 expenses for the consumer members of the commission shall be
22 reimbursed by the state pursuant to s. 112.061, Florida
23 Statutes. The commission shall hold its first meeting no later
24 than July 15, 2000.

25 (5) EVIDENTIARY PROHIBITIONS.--

26 (a) The findings, recommendations, evaluations,
27 opinions, investigations, proceedings, records, reports,
28 minutes, testimony, correspondence, work product, and actions
29 of the commission shall be available to the public, but may
30 not be introduced into evidence at any civil, criminal,
31 special, or administrative proceeding against a health care

1 practitioner or health care provider arising out of the
2 matters which are the subject of the findings of the
3 commission. Moreover, no member of the commission shall be
4 examined in any civil, criminal, special, or administrative
5 proceeding against a health care practitioner or health care
6 provider as to any evidence or other matters produced or
7 presented during the proceedings of this commission or as to
8 any findings, recommendations, evaluations, opinions,
9 investigations, proceedings, records, reports, minutes,
10 testimony, correspondence, work product, or other actions of
11 the commission or any members thereof. However, nothing in
12 this section shall be construed to mean that information,
13 documents, or records otherwise available and obtained from
14 original sources are immune from discovery or use in any
15 civil, criminal, special, or administrative proceeding merely
16 because they were presented during proceedings of the
17 commission. Nor shall any person who testifies before the
18 commission or who is a member of the commission be prevented
19 from testifying as to matters within his or her knowledge in a
20 subsequent civil, criminal, special, or administrative
21 proceeding merely because such person testified in front of
22 the commission.

23 (b) The findings, recommendations, evaluations,
24 opinions, investigations, proceedings, records, reports,
25 minutes, testimony, correspondence, work product, and actions
26 of the commission shall be used as a guide and resource and
27 shall not be construed as establishing or advocating the
28 standard of care for health care practitioners or health care
29 providers unless subsequently enacted into law or adopted in
30 rule. Nor shall any findings, recommendations, evaluations,
31 opinions, investigations, proceedings, records, reports,

1 minutes, testimony, correspondence, work product, or actions
2 of the commission be admissible as evidence in any way,
3 directly or indirectly, by introduction of documents or as a
4 basis of an expert opinion as to the standard of care
5 applicable to health care practitioners or health care
6 providers in any civil, criminal, special, or administrative
7 proceeding unless subsequently enacted into law or adopted in
8 rule.

9 (c) No person who testifies before the commission or
10 who is a member of the commission may specifically identify
11 any patient, health care practitioner, or health care provider
12 by name. Moreover, the findings, recommendations, evaluations,
13 opinions, investigations, proceedings, records, reports,
14 minutes, testimony, correspondence, work product, and actions
15 of the commission may not specifically identify any patient,
16 health care practitioner, or health care provider by name.

17 (6) REPORT; TERMINATION.--The commission shall provide
18 a report of its findings and recommendations to the Governor,
19 the President of the Senate, and the Speaker of the House of
20 Representatives no later than February 1, 2001. After
21 submission of the report, the commission shall continue to
22 exist for the purpose of assisting the Department of Health,
23 the Agency for Health Care Administration, and the regulatory
24 boards in their drafting of proposed legislation and rules to
25 implement its recommendations and for the purpose of providing
26 information to the health care industry on its
27 recommendations. The commission shall be terminated June 1,
28 2001.

29 Section 2. The sum of \$91,000 in nonrecurring general
30 revenue is hereby appropriated from the General Revenue Fund
31 to the Department of Health to cover costs of the Florida

1 Commission on Excellence in Health Care relating to the travel
2 and related expenses of staff, consumer members, and members
3 appointed by the department or agency; the hiring of
4 consultants, if necessary; and the reproduction and
5 dissemination of documents.

6 Section 3. This act shall take effect upon becoming a
7 law.

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HOUSE SUMMARY

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12 Creates the Florida Commission on Excellence in Health
13 Care to help develop a comprehensive statewide strategy
14 for improving health care delivery systems. Provides the
15 duties and responsibilities of the commission and its
16 membership, organization, meetings, and procedures.
17 Provides for staffing by employees of the Department of
18 Health and the Agency for Health Care Administration.
19 Requires sponsoring agencies and organizations to fund
20 the travel and related expenses of their members on the
21 commission. Provides for reimbursement of travel and
22 related expenses of consumer members of the commission.
23 Provides certain evidentiary prohibitions. Requires the
24 commission to submit a report of its findings and
25 recommendations to the Governor, the President of the
26 Senate, and the Speaker of the House of Representatives
27 and to provide subsequent assistance and information with
28 respect to those recommendations. Provides for
29 termination of the commission on a specified date.

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