

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

317-1967-00

1 A bill to be entitled
 2 An act relating to health care; creating the
 3 Florida Commission on Excellence in Health
 4 Care; providing legislative findings and
 5 intent; providing definitions; providing duties
 6 and responsibilities; providing for membership,
 7 organization, meetings, procedures, and staff;
 8 providing for reimbursement of travel and
 9 related expenses of certain members; providing
 10 certain evidentiary prohibitions; requiring a
 11 report to the Governor, the President of the
 12 Senate, and the Speaker of the House of
 13 Representatives; providing for termination of
 14 the commission; providing an appropriation;
 15 providing an effective date.

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

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 19 Section 1. Florida Commission on Excellence in Health
 20 Care.--

21 (1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature
 22 finds that the health care delivery industry is one of the
 23 largest and most complex industries in Florida. The
 24 Legislature finds that additional focus on strengthening
 25 health care delivery systems by eliminating avoidable mistakes
 26 in the diagnosis and treatment of Floridians holds tremendous
 27 promise to increase the quality of health care services
 28 available to Floridians. To achieve this enhanced focus, it is
 29 the intent of the Legislature to create the Florida Commission
 30 on Excellence in Health Care to facilitate the development of
 31 a comprehensive statewide strategy for improving health care

1 delivery systems through meaningful reporting standards, data
2 collection and review, and quality measurement.

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

4 (a) "Agency" means the Agency for Health Care
5 Administration.

6 (b) "Commission" means the Florida Commission on
7 Excellence in Health Care.

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

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

11 (e) "Health care practitioner" means any person
12 licensed under chapter 457; chapter 458; chapter 459; chapter
13 460; chapter 461; chapter 462; chapter 463; chapter 464;
14 chapter 465; chapter 466; chapter 467; part I, part II, part
15 III, part V, part X, part XIII, or part XIV of chapter 468;
16 chapter 478; chapter 480; part III or part IV of chapter 483;
17 chapter 484; chapter 486; chapter 490; or chapter 491, Florida
18 Statutes.

19 (f) "Health care provider" means any health care
20 facility or other health care organization licensed or
21 certified to provide approved medical and allied health
22 services in this state, or any entity licensed by the
23 Department of Insurance as a prepaid health care plan or
24 health maintenance organization or as an insurer to provide
25 coverage for health care services through a network of
26 providers.

27 (3) COMMISSION; DUTIES AND RESPONSIBILITIES.--There is
28 created the Florida Commission on Excellence in Health Care.
29 The commission shall:

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1 (a) Identify existing data sources that evaluate
2 quality of care in Florida and collect, analyze, and evaluate
3 this data.

4 (b) Establish guidelines for data sharing and
5 coordination.

6 (c) Identify core sets of quality measures for
7 standardized reporting by appropriate components of the health
8 care continuum.

9 (d) Recommend a framework for quality measurement and
10 outcome reporting.

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

13 (f) Make recommendations regarding research and
14 development needed to advance quality measurement and
15 reporting.

16 (g) Evaluate regulatory issues relating to the
17 pharmacy profession and recommend changes necessary to
18 optimize patient safety.

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

23 (i) Sponsor public hearings to share information and
24 expertise, identify "best practices," and recommend methods to
25 promote their acceptance.

26 (j) Evaluate current regulatory programs to determine
27 what changes, if any, need to be made to facilitate patient
28 safety.

29 (k) Review public and private health care purchasing
30 systems to determine if there are sufficient mandates and
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1 incentives to facilitate continuous improvement in patient
2 safety.
3 (l) Analyze how effective existing regulatory systems
4 are in ensuring continuous competence and knowledge of
5 effective safety practices.
6 (m) Develop a framework for organizations that
7 license, accredit, or credential health care practitioners and
8 health care providers to more quickly and effectively identify
9 unsafe providers and practitioners and to take action
10 necessary to remove the unsafe provider or practitioner from
11 practice or operation until such time as the practitioner or
12 provider has proven safe to practice or operate.
13 (n) Recommend procedures for development of a
14 curriculum on patient safety and methods of incorporating such
15 curriculum into training, licensure, and certification
16 requirements.
17 (o) Develop a framework for regulatory bodies to
18 disseminate information on patient safety to health care
19 practitioners, health care providers, and consumers through
20 conferences, journal articles and editorials, newsletters,
21 publications, and Internet websites.
22 (p) Recommend procedures to incorporate recognized
23 patient safety considerations into practice guidelines and
24 into standards related to the introduction and diffusion of
25 new technologies, therapies, and drugs.
26 (q) Recommend a framework for development of
27 community-based collaborative initiatives for error reporting
28 and analysis and implementation of patient safety
29 improvements.
30 (r) Evaluate the role of advertising in promoting or
31 adversely affecting patient safety.

1 (4) MEMBERSHIP, ORGANIZATION, MEETINGS, PROCEDURES,
2 STAFF.--

3 (a) The commission shall consist of:

4 1. The Secretary of Health and the Director of Health
5 Care Administration;

6 2. One representative each from the following agencies
7 or organizations: the Board of Medicine, the Board of
8 Osteopathic Medicine, the Board of Pharmacy, the Board of
9 Dentistry, the Board of Nursing, the Florida Dental
10 Association, the Florida Medical Association, the Florida
11 Osteopathic Medical Association, the Florida Chiropractic
12 Association, the Florida Podiatric Medical Association, the
13 Florida Nurses Association, the Florida Organization of
14 Nursing Executives, the Florida Pharmacy Association, the
15 Florida Society of Health System Pharmacists, Inc., the
16 Florida Hospital Association, the Association of Community
17 Hospitals and Health Systems of Florida, Inc., the Florida
18 League of Health Systems, the Florida Health Care Risk
19 Management Advisory Council, the Florida Health Care
20 Association, the Florida Statutory Teaching Hospital Council,
21 Inc., the Florida Statutory Rural Hospital Council, and the
22 Florida Association of Homes for the Aging;

23 3. Two health lawyers, appointed by the Secretary of
24 Health, one of whom must be a member of the Health Law Section
25 of The Florida Bar who defends physicians and one of whom must
26 be a member of the Academy of Florida Trial Lawyers;

27 4. Two representatives of the health insurance
28 industry, appointed by the Director of Health Care
29 Administration, one of whom shall represent indemnity plans
30 and one of whom shall represent managed care;

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1 5. Five consumer advocates, consisting of one from the
2 Association for Responsible Medicine, two appointed by the
3 Governor, one appointed by the President of the Senate, and
4 one appointed by the Speaker of the House of Representatives;

5 6. Two legislators, one appointed by the President of
6 the Senate and one appointed by the Speaker of the House of
7 Representatives; and

8 7. One representative of a Florida medical school
9 appointed by the Secretary of Health.

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11 Commission membership shall reflect the geographic and
12 demographic diversity of the state.

13 (b) The Secretary of Health and the Director of Health
14 Care Administration shall jointly chair the commission.
15 Subcommittees shall be formed by the joint chairs, as needed,
16 to make recommendations to the full commission on the subjects
17 assigned. However, all votes on work products of the
18 commission shall be at the full commission level, and all
19 recommendations to the Governor, the President of the Senate,
20 and the Speaker of the House of Representatives must pass by a
21 two-thirds vote of the full commission. Sponsoring agencies
22 and organizations may designate an alternative member who may
23 attend and vote on behalf of the sponsoring agency or
24 organization in the event the appointed member is unable to
25 attend a meeting of the commission or any subcommittee. The
26 commission shall be staffed by employees of the Department of
27 Health and the Agency for Health Care Administration.
28 Sponsoring agencies or organizations must fund the travel and
29 related expenses of their appointed members on the commission.
30 Travel and related expenses for the consumer members of the
31 commission shall be reimbursed by the state pursuant to

1 section 112.061, Florida Statutes. The commission shall hold
2 its first meeting no later than July 15, 2000.

3 (5) EVIDENTIARY PROHIBITIONS.--

4 (a) The findings, recommendations, evaluations,
5 opinions, investigations, proceedings, records, reports,
6 minutes, testimony, correspondence, work product, and actions
7 of the commission shall be available to the public, but may
8 not be introduced into evidence at any civil, criminal,
9 special, or administrative proceeding against a health care
10 practitioner or health care provider arising out of the
11 matters which are the subject of the findings of the
12 commission. Moreover, no member of the commission shall be
13 examined in any civil, criminal, special, or administrative
14 proceeding against a health care practitioner or health care
15 provider as to any evidence or other matters produced or
16 presented during the proceedings of this commission or as to
17 any findings, recommendations, evaluations, opinions,
18 investigations, proceedings, records, reports, minutes,
19 testimony, correspondence, work product, or other actions of
20 the commission or any members thereof. However, nothing in
21 this section shall be construed to mean that information,
22 documents, or records otherwise available and obtained from
23 original sources are immune from discovery or use in any
24 civil, criminal, special, or administrative proceeding merely
25 because they were presented during proceedings of the
26 commission. Nor shall any person who testifies before the
27 commission or who is a member of the commission be prevented
28 from testifying as to matters within his or her knowledge in a
29 subsequent civil, criminal, special, or administrative
30 proceeding merely because such person testified in front of
31 the commission.

1 (b) The findings, recommendations, evaluations,
2 opinions, investigations, proceedings, records, reports,
3 minutes, testimony, correspondence, work product, and actions
4 of the commission shall be used as a guide and resource and
5 shall not be construed as establishing or advocating the
6 standard of care for health care practitioners or health care
7 providers unless subsequently enacted into law or adopted in
8 rule. Nor shall any findings, recommendations, evaluations,
9 opinions, investigations, proceedings, records, reports,
10 minutes, testimony, correspondence, work product, or actions
11 of the commission be admissible as evidence in any way,
12 directly or indirectly, by introduction of documents or as a
13 basis of an expert opinion as to the standard of care
14 applicable to health care practitioners or health care
15 providers in any civil, criminal, special, or administrative
16 proceeding unless subsequently enacted into law or adopted in
17 rule.

18 (c) No person who testifies before the commission or
19 who is a member of the commission may specifically identify
20 any patient, health care practitioner, or health care provider
21 by name. Moreover, the findings, recommendations, evaluations,
22 opinions, investigations, proceedings, records, reports,
23 minutes, testimony, correspondence, work product, and actions
24 of the commission may not specifically identify any patient,
25 health care practitioner, or health care provider by name.

26 (6) REPORT; TERMINATION.--The commission shall provide
27 a report of its findings and recommendations to the Governor,
28 the President of the Senate, and the Speaker of the House of
29 Representatives no later than February 1, 2001. After
30 submission of the report, the commission shall continue to
31 exist for the purpose of assisting the Department of Health,

1 the Agency for Health Care Administration, and the regulatory
2 boards in their drafting of proposed legislation and rules to
3 implement its recommendations and for the purpose of providing
4 information to the health care industry on its
5 recommendations. The commission shall be terminated June 1,
6 2001.

7 Section 2. The sum of \$91,000 in nonrecurring general
8 revenue is hereby appropriated from the General Revenue Fund
9 to the Department of Health to cover costs of the Florida
10 Commission on Excellence in Health Care relating to the travel
11 and related expenses of staff and consumer members and the
12 reproduction and dissemination of documents.

13 Section 3. This act shall take effect upon becoming a
14 law.

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16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 Senate Bill 2344

19 Creates the Florida Commission on Excellence in Health Care.
20 Provides legislative findings and intent and defines terms
21 used in the act. Specifies the duties and responsibilities of
22 the commission. Specifies commission membership. Prohibits use
23 of certain information, activities, testimony, or actions of
24 the commission for evidentiary purposes and prohibits
25 commission members from providing certain specified
26 information in legal or administrative proceedings. Requires
27 the commission to submit a report to the Governor, the
28 President of the Senate, and the Speaker of the House of
29 Representatives by February 1, 2001. Provides for the
30 continued existence of the commission to assist with drafting
31 proposed legislation and rules and to provide information to
the health care industry about its recommendations. Terminates
the commission June 1, 2001.