

**STORAGE NAME:** h2349.grr

**DATE:** April 17, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
GOVERNMENTAL RULES AND REGULATIONS  
ANALYSIS**

**BILL #:** HB 2349 (PCB HCS 00-05)

**RELATING TO:** Department of Health

**SPONSOR(S):** Committee on Health Care Services, Rep. Peaden

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH CARE SERVICES YEAS 14 NAYS 0
  - (2) GOVERNMENTAL RULES AND REGULATIONS
  - (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

HB 2349 amends various sections of the Florida Statutes to better reflect the Department of Health's public health mission and functions. Several of these issues are "clean-up" items, and several others are more substantive in nature. The bill:

- Consolidates certain planning functions into the department's Agency Strategic Plan.
- Updates language relating to primary care services.
- Specifies that prevention be an element of research conducted under the Florida Biomedical Research Program.
- Requires the establishment of an immunization registry.
- Ensures that the department has access to medical and related records for cases of reported diseases of public health significance for investigative purposes.
- Incorporates HIV-related amendments relating to the sharing of a pregnant woman's preliminary HIV test results and HIV testing relative to a significant exposure.
- Exempts from school health background screening requirements those who render group lectures.
- Clarifies provisions relating to environmental health personnel certification requirements.
- Updates provisions relating to chronic disease programs, community intervention programs, and related functions.
- Incorporates various other technical and conforming revisions.

The bill's effective date is July 1, 2000.

The Department of Health indicates that there is no fiscal impact associated with these proposed revisions.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**General Background**

Since its creation on January 1, 1997, via ch. 96-403, L.O.F., the Department of Health has had as one of its goals the "clean up" of public health related statutory provisions to ensure that the statutes reflect the priorities and public health mission and functions of the department. Obviously, such a goal is not achieved in a single step. The department is proposing another round of revisions to further refine its statutory basis. The following is a topical summary of issues and concerns to be addressed currently.

**Public Health Planning Functions**

Various references in the Florida Statutes require the department to develop public health planning documents. These requirements include: s. 20.43(1)(l), F.S., which directs the department to biennially publish, and annually update, a state health plan; s. 381.0011(3), F.S., which requires the department to develop a comprehensive public health plan; and s. 381.731, F.S., which requires the department to develop a biennial Healthy Communities, Healthy People plan.

In addition to these separate internal planning requirements, s. 186.021, F.S., requires all state agencies to develop an Agency Strategic Plan. The Agency Strategic Plan for the Department of Health presents the mission statement of the department, and the goals the department is striving to achieve. The plan identifies the department's highest priority issues, goals, and strategies. The department has indicated that its Agency Strategic Plan is a guide to what the department intends to do to meet its mission.

**Primary Care Services**

Section 154.011, F.S., is specific to county health department primary care services. When county health department services were funded in the early 1980s, supporting staff positions were established at headquarters. In 1990, the staff responsible for providing oversight and monitoring of county health department primary care programs was eliminated due to budget reductions. Because the department lacks resources to provide oversight to primary care programs, county health department contracts specific to primary care services no longer exist, but rather, such services are part of county health

department master contracts. Funds for primary care are now allocated to county health departments by formula. The department's quality assurance process now reviews the quality of programs administered by county health departments, including primary care services.

The department is authorized to adopt rules to govern the operation of primary care programs, specific to quality of care, case management, and Medicaid participation.

### **Florida Biomedical Research Program**

Section 215.5602, F.S., as created in 1999, authorizes funds from the Lawton Chiles Endowment Fund to be appropriated to the Department of Health for operation of the Florida Biomedical Research Program. The statute allows the department to fund research grants only on the diagnosis and treatment of certain smoking-related diseases. As currently written, this section does not allow research on better ways to help people stop using tobacco, nor on screening methodologies, neither of which is "diagnosis and treatment."

### **Immunization Registry**

Section 381.003(1)(e), F.S. authorizes the department to conduct a vaccine-preventable disease program but does not provide specific authority for electronic transfer of immunization data through a centralized, computerized immunization registry. There is substantial need for such a system and the current national initiative to establish immunization registries in each state has resulted in 21 states with laws or rules authorizing registries. Thirty-four states and the District of Columbia have operating registries at this time. The federal government, through the Centers for Disease Control and Prevention and other funding avenues, have committed considerable federal resources to assist states in the establishment of immunization registries.

Recent statistics indicate that, in Florida, over 60 percent of childhood immunizations are administered by private health care practitioners. Both the public and private sectors continue to experience high mobility of patients between health care providers, which results in fragmented immunization records. Currently, there is no way to consolidate these records. Health care providers must rely on parental recall, parental records, or attempt to contact with previous health care providers to collect the information. There is no way for schools and child care centers to verify the information provided by parents except through contact with a health care provider. An immunization registry would import birth records from Vital Statistics, thereby allowing authorized providers access to all children born in Florida and allowing entry of children who move to Florida. The registry would merge records and make records available to health care providers. Current immunization registry plans have scheduled full implementation of the immunization registry in both the public and private sectors by 2001.

### **Reports of Diseases of Public Health Significance to the Department**

Section 381.0031, F.S., requires health practitioners, hospitals and laboratories to report a diagnosis or suspicion of a disease of public health significance to the Department of Health, and declares such information to be confidential. This section authorizes the adoption of rules to address disease reporting, including what actions the department will take to follow-up on a report and protect the public health. Section 395.3025(5) gives the Department of Health access to medical records in a licensed facility for the purpose of epidemiological investigation, such as, following-up on reported diseases of public health

significance. The statutes have not provided clear access to medical records that are in the possession of other medical providers or laboratories, for the same purpose of following-up cases of reportable diseases. Review of these records by the Department of Health would save time for the practitioner who is the custodian of the records. Authority to access these records would allow public health workers to get timely access to information about public health aspects of cases, in terms of date of onset, possible sources of infection or exposure, likely date of exposure, period of infectiousness, and so on. This information may be critical to taking effective disease control measures.

### **Testing for Human Immunodeficiency Virus (HIV)**

Section 381.004(3)(d) prohibits the release of a preliminary HIV test result, without a confirmatory test, except in specified circumstances. One of those circumstances occurs when decisions about the care and treatment of the "person tested" cannot await the results of confirmatory testing. When a pregnant women presents for childbirth without having had the HIV test as a part of prenatal care, there is no authority to use the preliminary HIV test results of the mother in labor in order to make decisions on the care and treatment of the infant. Most women in Florida are receiving an HIV test as a standard practice of prenatal care. Pregnant women who test HIV positive are given the opportunity to begin drug treatment that will greatly decrease the chance of transmitting the virus to the fetus. Drug therapy can be initiated immediately to the newborn of an infected mother, thereby increasing the effectiveness of the drug therapy.

Section 381.004(3)(h)10., F.S., provides a definition of "medical personnel" who have experienced a significant exposure to HIV in medical treatment situations. Chapter 64D-2, F.A.C., relating to human immunodeficiency virus, also provides a definition for "medical personnel" that is used to describe people who have experienced a significant exposure. The rule expands the definition beyond the statute to include an employee of a health care provider or plasma center and a medical or other student receiving training as a health care professional at a health care facility. It also clarifies that paramedics or emergency medical technicians are those "certified by the department to perform life support procedures." The definition in the rule was developed through rule workshops, with the concurrence of the affected parties, and adopted in 1988. The statute needs to be amended to provide adequate basis for current rule provisions.

### **Background Screening Requirements for School Health Services Personnel**

As created in 1999, s. 381.0059, F.S., provides for background screening of all personnel who provide school health services and was intended to promote increased safety for students by including employees of public/private partnerships. Prior to passage of this legislation, the Florida Department of Law Enforcement would not provide screening for these employees. The unexpected consequence of the legislation has been mass confusion about who needs to be screened and who will pay for it. While health department and school district personnel are generally screened already, there are others who have contact with students who may not be screened. This includes speakers and presenters of group lectures relating to school health topics, as well as volunteers.

### **Environmental Health Professionals**

Currently, paragraph 381.0101(5)(a), F.S., requires any person who begins employment in a primary environmental health program after September 21, 1994, to be certified in that program within 6 months of employment. The statute allows grandfathering for individuals already employed in primary environmental health programs prior to the effective date of

the certification rule. However, this existing language will make it difficult to add new, more current grandfathering allowances for individuals when additional programs are added to the certification process. A change in the statute is needed to allow the Department of Health to set new grandfathering dates when new programs are added.

In addition, paragraph 381.0101(5)(d), F.S., requires certified persons to obtain 24 hours of continuing education units (CEUs) every two years for each program in which they are certified. As the department is looking at adding additional programs to the certification process, the number of CEUs required in total could become burdensome for those environmental health professionals who seek certification in multiple areas of specialty.

### **Health Promotion and Chronic Disease Control Activities**

The department currently promotes the establishment of Healthy Communities, Healthy People programs, as specified in the Healthy Communities, Healthy People Act (ss. 381.731-381.734, F.S.), by providing training to county health departments and their community partners in the Planned Approach to Community Health comprehensive planning process developed by the Centers for Disease Control and Prevention. The department also provides periodic statewide conferences for public health professionals and private health care providers to increase the knowledge of participants in the area of chronic disease prevention, focusing on clinical preventive services to reduce clients and patients' risk factors. Comprehensive Health Improvement Projects (CHIP), developed in county health departments to address chronic diseases, are included in the Healthy Communities, Healthy People program. These programs are increasingly focused on behavior change as a means of prevention. In addition to the ch. 381, F.S., provisions cited above, ch. 385, F.S., more specifically addresses chronic disease control topics.

### **Epilepsy Program Funding**

Section 385.207, F.S., specifically directs the department to conduct a program of care and assistance to purposes with epilepsy. These services are, in part, funded with revenue generated as county court civil penalties under s. 318.21(6), F.S., for penalties relating to child restraint requirements (s. 316.613, F.S.) and safety belt usage (s. 316.614, F.S.). Section 318.21, F.S., was formerly s. 318.18, F.S. A conforming cross-reference revision has not been incorporated into s. 385.207, F.S., since this 1996 revision.

### **Tuberculosis/A.G. Holley State Hospital**

Under s. 402.181, F.S., the Departments of Children and Families, Juvenile Justice, and Corrections are covered under the State Institutions Claims Program for damages or injuries caused by children, inmates or escapees of their state institutions. When the statutes were amended for the divestiture of the Department of Health and Rehabilitative Services, the Department of Health was not included in the amended list of eligible state agencies for this program. The Department of Health is therefore unable to file claims bills in the event of property damage or direct medical expenses for injuries caused by patients at A.G. Holley Hospital.

### **Department Rules for Public Swimming and Bathing Places**

Section 514.021, F.S., requires the department to review its rules related to public swimming pools and bathing places as needed, but not less than *biannually*, which means twice per year. This is not practical or necessary. The Division of Environmental Health currently reviews these administrative rules once every two years.

**C. EFFECT OF PROPOSED CHANGES:**

HB 2349 amends various sections of the Florida Statutes to better reflect the Department of Health's public health mission and functions. Several of these issues are "clean-up" items, and several others are more substantive in nature. Background as to the need for these revisions is contained in the PRESENT SITUATION portion of this analysis, and details as to proposed revisions appear in the SECTION-BY-SECTION ANALYSIS which follows.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends s. 20.43(1)(l), F.S., relating to the purposes of the Department of Health, and particularly the department's planning functions, to incorporate a state public health planning requirement into the department's Agency Strategic Plan.

**Section 2.** Amends the introductory language of s. 39.303, F.S., relating to child protection teams, to specify that the Children's Medical Services Program within the Department of Health is responsible for the teams, and to incorporate technical revisions.

**Section 3.** Amends s. 154.011(2) and (5), F.S., relating to county health department primary care services, to delete unnecessary detail as to monitoring and to authorize, in rule, a definition of income used to determine eligibility or sliding fees for services.

**Section 4.** Amends s. 215.5602(1) and (2), F.S., relating to the Florida Biomedical Research Program, to specify that prevention be an element of research conducted under the program, and to make consistent reference to diagnostic activities as part of program functions.

**Section 5.** Amends s. 381.0011(3), F.S., relating to the planning duties of the department, to incorporate a state public health planning requirement into the department's Agency Strategic Plan.

**Section 6.** Amends s. 381.003(1) and (2), F.S., relating to the department's communicable disease and AIDS responsibilities, to indicate that the department is responsible for ensuring that all children in the state are immunized against vaccine-preventable diseases, and to require the development of an immunization registry. Specifically addressed for the registry are: the purpose of the registry, how the registry will operate, parent or legal guardian's ability to opt out of the registry requirement, electronic transfer of immunization records, registry access by participating immunizing practitioners, and the confidentiality of registry data. The department is granted specific rule-making authority for purposes of operation of the registry.

**Section 7.** Amends s. 381.0031, F.S., relating to reports of diseases of public health significance to the department, to add as a new subsection (5) language that authorizes the department to obtain and inspect the medical records, records of laboratory tests, and other medical-related information of those practitioners, hospitals, and laboratories that are currently required to report diseases of public health significance to the department under requirements provided in subsection (2) of this same section of statute. The department is authorized to examine the records of a person who has a disease of public health significance only for purposes of preventing and eliminating outbreaks of disease and making epidemiological investigations of reported cases of diseases of public health significance. Also specifically addressed are access to such records, maintenance of

confidentiality of such records, and protection from liability or criminal action for the sharing of such records by the holder of such records.

**Section 8.** Amends s. 381.004(3), F.S., relating to human immunodeficiency virus (HIV) testing, informed consent, counseling, and confidentiality, to: provide an exception to the prohibition on release of preliminary test results specifically in those instances when a pregnant woman's preliminary test result may be particularly relevant in the care or treatment of, or recommendations to, the person tested, and in the case of an intrapartum or postpartum woman, when care, treatment, or recommendations regarding her newborn, cannot await the results of confirmatory testing; and provide further clarification as to the medical professionals who may experience a significant exposure for which HIV testing without patient consent may be conducted. Included are laboratory, blood bank, and plasma center personnel, and health professional students.

**Section 9.** Amends s. 381.0059, F.S., relating to background screening requirements for school health services personnel, to provide as a new subsection (5) an exclusion from the definition of "person who provides services under a school health services plan" an unpaid volunteer who lectures students in group settings on health education topics.

**Section 10.** Amends s. 381.0101(5), F.S., relating to environmental health professionals' standards for certification, to amend the "grandfather" provisions relating to environmental health personnel, to clarify that the provisions only apply to those persons whose primary functions are in a food protection program or onsite sewage treatment and disposal systems, and to specify a maximum of 48 required training hours for those with a multi-program certification.

**Section 11.** Amends s. 381.731, F.S., relating to the Healthy Communities, Healthy People Plan, to specify that these planning functions and population-based health promotion strategies be incorporated into the department's Agency Strategic Plan, and to delete obsolete language.

**Section 12.** Amends s. 381.734, F.S., relating to the Healthy Communities, Healthy People Program, to: reflect the consolidation of planning functions; reflect internal departmental priorities for planning purposes; refer to the Chronic Disease Community Intervention Program; and add as a new element of program focus the importance of a physically active lifestyle.

**Section 13.** Amends s. 385.103, F.S., relating to the department's Chronic Disease Control Program, to: redesignate the section as Community Intervention Programs; expand the topics to be addressed as part of counseling and service capabilities; redesignate the Comprehensive Health Improvement Project as the Community Intervention Program; and incorporate technical and conforming revisions.

**Section 14.** Amends s. 385.207(3), F.S., relating to Epilepsy Program revenue, to correct a cross-reference to s. 318.21(6), F.S., to conform to revisions previously made to ch. 318, F.S.

**Section 15.** Amends s. 402.181, F.S., relating to the state institutions claims program, to specify that patients of the Department of Health's institutions [namely, A.G. Holley State Hospital], be authorized to participate in the payment of restitution under the program.

**Section 16.** Amends s. 514.021, F.S., relating to the department's rule authority for public swimming pools and bathing places, to specify that rule reviews be conducted *biennially*, not *biannually*.

**Section 17.** Provides for a July 1, 2000, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.



C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

There is some question as to the need for a public records exemption specific to the information to be obtained and retained by the Department of Health for purposes of the immunization registry as required by section 6 of the bill. This issue is being addressed via a separate Department of Health public health public records exemption bill, CS/HB 1479.

There is also a question as to the need for an immunity clause in section 7 to health care practitioners and facilities, and laboratories when being statutorily directed to provide immunization information to the department.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Phil E. Williams

Staff Director:

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AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

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