

By Senator McKay

rb2000-3

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes;
3 amending ss. 370.025, 370.12, 370.13, 373.461,
4 376.30714, 376.86, 381.0406, 381.734, 381.76,
5 381.78, 381.79, 393.064, 393.505, 395.1027,
6 395.404, 395.701, 400.464, 400.471, 400.491,
7 400.506, 400.805, 400.914, 402.310, 403.086,
8 403.0872, 403.088, 403.42, 403.518, 403.703,
9 403.705, 403.706, 403.708, 403.715, 403.718,
10 403.7191, 403.7199, 403.726, 403.788, 403.9415,
11 404.056, 408.05, 408.061, 408.062, 408.07,
12 408.08, 408.704, 408.7042, 408.904, 409.145,
13 409.166, 409.1685, 409.1757, 409.2355,
14 409.2564, 409.2673, 409.821, 409.905, 409.908,
15 409.910, 409.9116, 409.912, 409.913, 411.202,
16 411.232, 411.242, 413.46, 414.065, 414.28,
17 414.39, 415.102, 415.1055, 415.107, 420.0004,
18 420.102, 420.37, 420.507, 420.508, 420.524,
19 420.525, 420.602, 420.609, 420.9072, 420.9073,
20 421.10, 421.33, 430.502, 435.03, 435.04,
21 440.02, 440.021, 440.14, 440.15, 440.185,
22 440.25, 440.38, 440.385, 440.49, 440.51,
23 442.20, 443.036, 443.041, 443.111, 443.141,
24 443.151, 443.171, 443.191, 446.22, 446.25,
25 455.01, 455.557, 455.5651, 455.5653, 455.5654,
26 455.621, 458.311, 458.320, 459.0085, 459.018,
27 460.406, 462.09, 462.14, 466.014, 467.0135,
28 468.1655, 468.1695, 468.307, 468.505, 468.605,
29 and 468.828, F.S.; and reenacting ss.
30 372.72(1), 415.1102, and 440.191(1), F.S.,
31 pursuant to s. 11.242, F.S.; deleting

1 provisions which have expired, have become
2 obsolete, have had their effect, have served
3 their purpose, or have been impliedly repealed
4 or superseded; replacing incorrect
5 cross-references and citations; correcting
6 grammatical, typographical, and like errors;
7 removing inconsistencies, redundancies, and
8 unnecessary repetition in the statutes;
9 improving the clarity of the statutes and
10 facilitating their correct interpretation; and
11 confirming the restoration of provisions
12 unintentionally omitted from republication in
13 the acts of the Legislature during the
14 amendatory process.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (c) of subsection (4) of section
19 370.025, Florida Statutes, is amended to read:

20 370.025 Marine fisheries; policy and standards.--

21 (4) Pursuant to s. 9, Art. IV of the State
22 Constitution, the commission has full constitutional
23 rulemaking authority over marine life, and listed species as
24 defined in s. 372.072(3), except for:

25 (c) Marine aquaculture products produced by an
26 individual certified under s. 597.004. This exception does not
27 apply to snook, prohibited and restricted marine species
28 identified by rule of the commission, and rulemaking authority
29 granted pursuant to s. 370.027 ~~370.027(4)~~.

30
31

1 Reviser's note.--Amended to conform to the
2 deletion of the subunit designation of the
3 material remaining in s. 370.027 following the
4 repeal of s. 370.027(1), (2), and (3) by s. 40,
5 ch. 99-245, Laws of Florida.

6
7 Section 2. Paragraph (r) of subsection (2) of section
8 370.12, Florida Statutes, is amended to read:

9 370.12 Marine animals; regulation.--

10 (2) PROTECTION OF MANATEES OR SEA COWS.--

11 (r) Except as otherwise provided in this paragraph,
12 any person violating the provisions of this subsection or any
13 rule or ordinance adopted pursuant to this subsection shall be
14 guilty of a misdemeanor, punishable as provided in s.
15 370.021(1)(a) or (b)~~370.021(2)(a) or (b)~~.

16 1. Any person operating a vessel in excess of a posted
17 speed limit shall be guilty of a civil infraction, punishable
18 as provided in s. 327.73, except as provided in subparagraph
19 2.

20 2. This paragraph does not apply to persons violating
21 restrictions governing "No Entry" zones or "Motorboat
22 Prohibited" zones, who, if convicted, shall be guilty of a
23 misdemeanor, punishable as provided in s. 370.021(1)(a) or (b)
24 ~~370.021(2)(a) or (b)~~, or, if such violation demonstrates
25 blatant or willful action, may be found guilty of harassment
26 as described in paragraph (d).

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 370.021(2) as s. 370.021(1)
30 by s. 95, ch. 99-245, Laws of Florida.

31

1 Section 3. Subsection (7) of section 370.13, Florida
2 Statutes, is amended to read:

3 370.13 Stone crab; regulation.--

4 (7) ~~Beginning October 1995,~~ Stone crabs shall be
5 designated as a restricted species pursuant to s. 370.01(21)
6 ~~370.01(20)~~.

7
8 Reviser's note.--Amended to delete a provision
9 that has served its purpose and to conform to
10 the redesignation of s. 370.01(20) as s.
11 370.01(21) by s. 94, ch. 99-245, Laws of
12 Florida.

13
14 Section 4. Subsection (1) of section 372.72, Florida
15 Statutes, is reenacted to read:

16 372.72 Disposition of fines, penalties, and
17 forfeitures.--

18 (1) All moneys collected from fines, penalties, or
19 forfeitures of bail of persons convicted under this chapter
20 shall be deposited in the fine and forfeiture fund of the
21 county where such convictions are had, except for the
22 disposition of moneys as provided in subsection (2).

23
24 Reviser's note.--Section 156, ch. 99-245, Laws
25 of Florida, purported to amend entire s.
26 372.72, but failed to publish subsection (1).
27 In the absence of affirmative evidence that the
28 Legislature intended to repeal subsection (1),
29 coupled with the fact that the amendment by s.
30 156, ch. 99-245, affirmatively evidences an
31 intent to preserve the existing subsection

1 structure of s. 372.72, subsection (1) is
2 reenacted to confirm that the omission was not
3 intended.

4
5 Section 5. Paragraph (f) of subsection (5) of section
6 373.461, Florida Statutes, is amended to read:

7 373.461 Lake Apopka improvement and management.--

8 (5) PURCHASE OF AGRICULTURAL LANDS.--

9 (f)1. Tangible personal property acquired by the
10 district as part of related facilities pursuant to this
11 section, and classified as surplus by the district, shall be
12 sold by the Department of Management Services. The Department
13 of Management Services shall deposit the proceeds of such sale
14 in the Economic Development Trust Fund in the Executive Office
15 of the Governor. The proceeds shall be used for the purpose of
16 providing economic and infrastructure development in portions
17 of northwestern Orange County and east central Lake County
18 which will be adversely affected economically due to the
19 acquisition of lands pursuant to this subsection.

20 2. The Office of Tourism, Trade, and Economic
21 Development shall, upon presentation of the appropriate
22 documentation justifying expenditure of the funds deposited
23 pursuant to this paragraph, pay any obligation for which it
24 has sufficient funds from the proceeds of the sale of tangible
25 personal property and which meets the limitations specified in
26 paragraph (g)~~(h)~~. The authority of the Office of Tourism,
27 Trade, and Economic Development to expend such funds shall
28 expire 5 years from the effective date of this paragraph. Such
29 expenditures may occur without future appropriation from the
30 Legislature.

31

1 3. Funds deposited under this paragraph may not be
2 used for any purpose other than those enumerated in paragraph
3 (g)~~(h)~~.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of paragraph (5)(h) as paragraph
7 (5)(g) following the deletion of proposed
8 paragraph (5)(g) from 1997 Committee Substitute
9 for Senate Bill 1486, which became ch. 97-81,
10 Laws of Florida, by House Amendment 1; see
11 Journal of the House of Representatives 1997,
12 p. 1048.

13
14 Section 6. Paragraph (b) of subsection (1) of section
15 376.30714, Florida Statutes, is amended to read:

16 376.30714 Site rehabilitation agreements.--

17 (1) In addition to the legislative findings provided
18 in s. 376.3071, the Legislature finds and declares:

19 (b) While compliance with the department's rules
20 pertaining to storage tank systems is expected to
21 significantly diminish the occurrence and extent of discharges
22 of petroleum products from petroleum storage systems,
23 discharges from these systems and discharges at sites with
24 existing contamination which have been determined to be
25 eligible for state-funded cleanup may still occur. In some
26 cases, it may be difficult to distinguish between discharges
27 that have been determined to be eligible for state funding and
28 ~~from~~ those discharges reported after December 31, 1998, which
29 are not eligible for state funding.

30
31 Reviser's note.--Amended to improve clarity.

1 Section 7. Subsection (2) of section 376.86, Florida
2 Statutes, is amended to read:

3 376.86 Brownfield Areas Loan Guarantee Program.--

4 (2) The council shall consist of the secretary of the
5 Department of Environmental Protection or the secretary's
6 designee, the secretary of the Department of Community Affairs
7 or the secretary's designee, the Executive Director of the
8 State Board of Administration or the executive director's
9 designee, the Executive Director of the Florida Housing
10 Finance Corporation ~~Agency~~ or the executive director's
11 designee, and the Director of the Governor's Office of
12 Tourism, Trade, and Economic Development or the director's
13 designee. The chairperson of the council shall be the Director
14 of the Governor's Office of Tourism, Trade, and Economic
15 Development. Staff services for activities of the council
16 shall be provided as needed by the member agencies.

17
18 Reviser's note.--Amended to conform to the
19 replacement of the Florida Housing Finance
20 Agency by the Florida Housing Finance
21 Corporation pursuant to s. 7, ch. 97-167, Laws
22 of Florida.

23
24 Section 8. Subsection (13) of section 381.0406,
25 Florida Statutes, is amended to read:

26 381.0406 Rural health networks.--

27 (13) TRAUMA SERVICES.--In those network areas which
28 have an established trauma agency approved by the Department
29 of Health, that trauma agency must be a participant in the
30 network. Trauma services provided within the network area must
31 comply with s. 395.405 ~~395.037~~.

1 Reviser's note.--Amended to conform to the
2 transfer of s. 395.037 to s. 395.405 by s. 43,
3 ch. 92-289, Laws of Florida.

4
5 Section 9. Subsection (2) of section 381.734, Florida
6 Statutes, is amended to read:

7 381.734 Healthy Communities, Healthy People Program.--
8 (2) The department shall consolidate and use existing
9 resources, programs, and program data to develop this program,
10 to avoid duplication of efforts or services. Such resources,
11 programs, and program data shall include, but not be limited
12 to, ~~s. 381.103~~, the comprehensive health improvement project
13 under s. 385.103, and the comprehensive public health plan,
14 public information, and statewide injury control plan under s.
15 381.0011(3), (8), and (12).

16
17 Reviser's note.--Amended to facilitate correct
18 interpretation. At the time the reference to s.
19 381.103 was enacted by s. 109, ch. 92-33, Laws
20 of Florida, no such section existed.
21 Subsequently, a s. 381.103 was created by s.
22 12, ch. 99-356, Laws of Florida.

23
24 Section 10. Paragraph (a) of subsection (1) of section
25 381.76, Florida Statutes, is amended to read:

26 381.76 Eligibility for the brain and spinal cord
27 injury program.--

28 (1) An individual shall be accepted as eligible for
29 the brain and spinal cord injury program following
30 certification by the department that the individual:

31

1 (a) Has been referred to the central registry pursuant
2 to s. 381.74 ~~413.48~~.

3
4 Reviser's note.--Amended to conform to the
5 transfer of s. 413.48 to s. 381.74 by s. 18,
6 ch. 99-240, Laws of Florida.

7
8 Section 11. Subsection (4) of section 381.78, Florida
9 Statutes, is amended to read:

10 381.78 Advisory council on brain and spinal cord
11 injuries.--

12 (4) The council shall:

13 (a) Provide advice and expertise to the division in
14 the preparation, implementation, and periodic review of the
15 brain and spinal cord injury program as referenced in s.
16 381.75 ~~413.49~~.

17 (b) Annually appoint a five-member committee composed
18 of one person who has a brain injury or has a family member
19 with a brain injury, one person who has a spinal cord injury
20 or has a family member with a spinal cord injury, and three
21 members who shall be chosen from among these representative
22 groups: physicians, other allied health professionals,
23 administrators of brain and spinal cord injury programs, and
24 representatives from support groups with expertise in areas
25 related to the rehabilitation of persons who have brain or
26 spinal cord injuries, except that one and only one member of
27 the committee shall be an administrator of a transitional
28 living facility. Membership on the council is not a
29 prerequisite for membership on this committee.

30 1. The committee shall perform onsite visits to those
31 transitional living facilities identified by the Agency for

1 Health Care Administration as being in possible violation of
2 the statutes and rules regulating such facilities. The
3 committee members have the same rights of entry and inspection
4 granted under s. 400.805(8)~~400.805(7)~~ to designated
5 representatives of the agency.

6 2. Factual findings of the committee resulting from an
7 onsite investigation of a facility pursuant to subparagraph 1.
8 shall be adopted by the agency in developing its
9 administrative response regarding enforcement of statutes and
10 rules regulating the operation of the facility.

11 3. Onsite investigations by the committee shall be
12 funded by the Health Care Trust Fund.

13 4. Travel expenses for committee members shall be
14 reimbursed in accordance with s. 112.061. Members of the
15 committee shall recuse themselves from participating in any
16 investigation that would create a conflict of interest under
17 state law, and the council shall replace the member, either
18 temporarily or permanently.

19
20 Reviser's note.--Paragraph (4)(a) is amended to
21 conform to the transfer of s. 413.49 to s.

22 381.75 by s. 19, ch. 99-240, Laws of Florida.

23 Paragraph (4)(b) is amended to conform to the
24 redesignation of s. 400.805(7) as s. 400.805(8)
25 by the reviser incident to compiling the 1998
26 Supplement to the Florida Statutes 1997.

27
28 Section 12. Subsection (1) of section 381.79, Florida
29 Statutes, is amended to read:

30 381.79 Brain and Spinal Cord Injury Rehabilitation
31 Trust Fund.--

1 (1) There is created in the State Treasury the Brain
2 and Spinal Cord Injury Rehabilitation Trust Fund. Moneys in
3 the fund shall be appropriated to the department for the
4 purpose of providing the cost of care for brain or spinal cord
5 injuries as a payor of last resort to residents of this state,
6 for multilevel programs of care established pursuant to s.
7 381.75 ~~413.49~~.

8 (a) Authorization of expenditures for brain or spinal
9 cord injury care shall be made only by the department.

10 (b) Authorized expenditures include acute care,
11 rehabilitation, transitional living, equipment, and supplies
12 necessary for activities of daily living, public information,
13 prevention, education, and research.

14
15 Reviser's note.--Amended to conform to the
16 transfer of s. 413.49 to s. 381.75 by s. 19,
17 ch. 99-240, Laws of Florida.

18
19 Section 13. Subsection (2) of section 393.064, Florida
20 Statutes, is amended to read:

21 393.064 Prevention.--

22 (2) Prevention services provided by the developmental
23 services program include services to high-risk and
24 developmentally disabled children from birth to 5 years of
25 age, and their families, to meet the intent of chapter 411.
26 Such services shall include individual evaluations or
27 assessments necessary to diagnose a developmental disability
28 or high-risk condition and to determine appropriate individual
29 family and support services, unless evaluations or assessments
30 are the responsibility of the Division of Children's Medical
31 Services Prevention and Intervention for children ages birth

1 to 3 years eligible for services under this chapter or part H
2 of the Individuals with Disabilities Education Act, and may
3 include:

4 (a) Early intervention services, including
5 developmental training and specialized therapies. Early
6 intervention services, which are the responsibility of the
7 Division of Children's Medical Services Prevention and
8 Intervention for children ages birth to 3 years who are
9 eligible for services under this chapter or under part H of
10 the Individuals with Disabilities Education Act, shall not be
11 provided through the developmental services program unless
12 funding is specifically appropriated to the developmental
13 services program for this purpose.

14 (b) Support services, such as respite care, parent
15 education and training, parent-to-parent counseling, homemaker
16 services, and other services which allow families to maintain
17 and provide quality care to children in their homes. The
18 Division of Children's Medical Services Prevention and
19 Intervention is responsible for the provision of services to
20 children from birth to 3 years who are eligible for services
21 under this chapter.

22
23 Reviser's note.--Amended to conform to the
24 reorganization of divisions of the Department
25 of Health by ch. 99-397, Laws of Florida.

26
27 Section 14. Section 393.505, Florida Statutes, is
28 amended to read:

29 393.505 Comprehensive day treatment services;
30 demonstration projects.--The Department of Children and Family
31 Services ~~Families~~ is authorized to initiate projects to

1 demonstrate the effectiveness of comprehensive day treatment
2 service to the developmentally disabled to remain in their
3 homes and/or communities.

4

5 Reviser's note.--Amended to conform to the
6 official title of the department pursuant to s.
7 20.19.

8

9 Section 15. Subsections (1) and (3) of section
10 395.1027, Florida Statutes, are amended to read:

11 395.1027 Regional poison control centers.--

12 (1) There shall be created three accredited regional
13 poison control centers, one each in the north, central, and
14 southern regions of the state. Each regional poison control
15 center shall be affiliated with and physically located in a
16 certified Level I trauma center. Each regional poison control
17 center shall be affiliated with an accredited medical school
18 or college of pharmacy. The regional poison control centers
19 shall be coordinated under the aegis of the Division of
20 Children's Medical Services Prevention and Intervention in the
21 department.

22 (3) The Legislature hereby finds and declares that it
23 is in the public interest to shorten the time required for a
24 citizen to request and receive directly from designated
25 regional poison control centers telephonic management advice
26 for acute poisoning emergencies. To facilitate rapid and
27 direct access, telephone numbers for designated regional
28 poison control centers shall be given special prominence. The
29 local exchange telecommunications companies shall print
30 immediately below "911" or other emergency calling
31 instructions on the inside front cover of the telephone

1 directory the words "Poison Information Center," the logo of
2 the American Association of Poison Control Centers, and the
3 telephone number of the local, if applicable, or, if not
4 local, other toll-free telephone number of the Florida Poison
5 Information Center Network. This information shall be outlined
6 and be no less than 1 inch in height by 2 inches in width.
7 Only those facilities satisfying criteria established in the
8 current "Criteria for Certification of a Regional Poison
9 Center" set by the American Association of Poison Control
10 Centers, and the "Standards of the Poison Information Center
11 Program" initiated by the Division of Children's Medical
12 Services Prevention and Intervention of the Department of
13 Health shall be permitted to list such facility as a poison
14 information center, poison control center, or poison center.
15 Those centers under a developmental phase-in plan shall be
16 given 2 years from the date of initial 24-hour service
17 implementation to comply with the aforementioned criteria and,
18 as such, will be permitted to be listed as a poison
19 information center, poison control center, or poison center
20 during that allotted time period.

21

22 Reviser's note.--Amended to conform to the
23 reorganization of divisions of the Department
24 of Health by ch. 99-397, Laws of Florida.

25

26 Section 16. Subsection (2) of section 395.404, Florida
27 Statutes, is amended to read:

28 395.404 Review of trauma registry data;
29 confidentiality and limited release.--

30 (2) Notwithstanding the provisions of s. 381.74
31 ~~413.48~~, each trauma center and acute care hospital shall

1 submit severe disability and head-injury registry data to the
2 department as provided by rule in lieu of submitting such
3 registry information to the Department of Labor and Employment
4 Security. Each trauma center and acute care hospital shall
5 continue to provide initial notification of persons who have
6 severe disabilities and head injuries to the Department of
7 Labor and Employment Security within timeframes provided in
8 chapter 413. Such initial notification shall be made in the
9 manner prescribed by the Department of Labor and Employment
10 Security for the purpose of providing timely vocational
11 rehabilitation services to the severely disabled or
12 head-injured person.

13

14 Reviser's note.--Amended to conform to the
15 transfer of s. 413.48 to s. 381.74 by s. 18,
16 ch. 99-240, Laws of Florida.

17

18 Section 17. Paragraph (c) of subsection (1) of section
19 395.701, Florida Statutes, is amended to read:

20 395.701 Annual assessments on net operating revenues
21 to fund public medical assistance; administrative fines for
22 failure to pay assessments when due; exemption.--

23 (1) For the purposes of this section, the term:

24 (c) "Hospital" means a health care institution as
25 defined in s. 395.002(13)~~395.002(11)~~, but does not include
26 any hospital operated by the agency or the Department of
27 Corrections.

28

29 Reviser's note.--Amended to conform to the fact
30 that the term "hospital" was defined in s.
31 395.002(12) in the Florida Statutes 1997 and

1 the redesignation of s. 395.002(12) as s.
2 395.002(13) by the reviser incident to the
3 compilation of the 1998 Supplement to the
4 Florida Statutes 1997.

5
6 Section 18. Paragraph (b) of subsection (6) of section
7 400.464, Florida Statutes, is amended to read:

8 400.464 Home health agencies to be licensed;
9 expiration of license; exemptions; unlawful acts; penalties.--

10 (6) The following are exempt from the licensure
11 requirements of this part:

12 (b) Home health services provided by a state agency,
13 either directly or through a contractor with:

14 1. The Department of Elderly Affairs.

15 2. The Department of Health, a community health
16 center, or a rural health network that furnishes home visits
17 for the purpose of providing environmental assessments, case
18 management, health education, personal care services, family
19 planning, or followup treatment, or for the purpose of
20 monitoring and tracking disease.

21 3. Services provided to persons who have developmental
22 disabilities, as defined in s. 393.063(11).

23 4. Companion and sitter organizations that were
24 registered under s. 400.509(1)~~440.509(1)~~ on January 1, 1999,
25 and were authorized to provide personal services under s.
26 393.063(35) under a developmental services provider
27 certificate on January 1, 1999, may continue to provide such
28 services to past, present, and future clients of the
29 organization who need such services, notwithstanding the
30 provisions of this act.

31 5. The Department of Children and Family Services.

1 Reviser's note.--Amended to facilitate correct
2 interpretation. The referenced s. 440.509(1)
3 does not exist; s. 400.509(1) relates to
4 registration of companion and sitter
5 organizations.

6
7 Section 19. Subsection (2) of section 400.471, Florida
8 Statutes, is amended to read:

9 400.471 Application for license; fee; provisional
10 license; temporary permit.--

11 (2) The applicant must file with the application
12 satisfactory proof that the home health agency is in
13 compliance with this part and applicable rules, including:

14 (a) A listing of services to be provided, either
15 directly by the applicant or through contractual arrangements
16 with existing providers;

17 (b) The number and discipline of professional staff to
18 be employed; and

19 (c) Proof of financial ability to operate.

20
21 If the applicant has applied for a certificate of need under
22 ss. 408.031-408.045 ~~408.0331-408.045~~ within the preceding 12
23 months, the applicant may submit the proof required during the
24 certificate-of-need process along with an attestation that
25 there has been no substantial change in the facts and
26 circumstances underlying the original submission.

27
28 Reviser's note.--Amended to facilitate correct
29 interpretation. The referenced s. 408.0331 does
30 not exist; ss. 408.031-408.045 comprise the
31 Health Facility and Services Development Act.

1 Section 20. Subsection (1) of section 400.491, Florida
2 Statutes, is amended to read:

3 400.491 Clinical records.--

4 (1) The home health agency must maintain for each
5 patient who receives skilled care a clinical record that
6 includes pertinent past and current medical, nursing, social
7 and other therapeutic information, the treatment orders, and
8 other such information as is necessary for the safe and
9 adequate care of the patient. When home health services are
10 terminated, the record must show the date and reason for
11 termination. Such records are considered patient records
12 under s. 455.667 ~~455.241~~, and must be maintained by the home
13 health agency for 5 years following termination of services.
14 If a patient transfers to another home health agency, a copy
15 of his or her record must be provided to the other home health
16 agency upon request.

17
18 Reviser's note.--Amended to conform to the
19 transfer of s. 455.241 to s. 455.667 by s. 82,
20 ch. 97-261, Laws of Florida.

21
22 Section 21. Subsection (13) of section 400.506,
23 Florida Statutes, is amended to read:

24 400.506 Licensure of nurse registries; requirements;
25 penalties.--

26 (13) Each nurse registry must comply with the
27 procedures set forth in s. 400.497(2) ~~400.497(3)~~ for
28 maintaining records of the employment history of all persons
29 referred for contract and is subject to the standards and
30 conditions set forth in s. 400.512. However, an initial
31 screening may not be required for persons who have been

1 continuously registered with the nurse registry since
2 September 30, 1990.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of s. 400.497(3) as s. 400.497(2)
6 by s. 9, ch. 99-332, Laws of Florida.

7

8 Section 22. Paragraph (c) of subsection (2) and
9 paragraph (b) of subsection (6) of section 400.805, Florida
10 Statutes, are amended to read:

11 400.805 Transitional living facilities.--

12 (2)

13 (c) The agency may not issue a license to an applicant
14 until the agency receives notice from the department as
15 provided in paragraph (6)(b) ~~(5)(b)~~.

16 (6)

17 (b) The department shall adopt rules in consultation
18 with the agency governing the services provided to clients of
19 transitional living facilities. The department shall enforce
20 all requirements for providing services to the facility's
21 clients. The department must notify the agency when it
22 determines that an applicant for licensure meets the service
23 requirements adopted by the department ~~division~~.

24

25 Reviser's note.--Paragraph (2)(c) is amended to
26 conform to the redesignation of paragraph
27 (5)(b) as paragraph (6)(b) by s. 60, ch.
28 98-171, Laws of Florida. Paragraph (6)(b) is
29 amended to conform to the substitution by s.
30 16, ch. 99-240, Laws of Florida, of the term
31 "department" for the term "division" in all

1 other locations within s. 400.805, including
2 the definition of "division."
3

4 Section 23. Subsection (1) of section 400.914, Florida
5 Statutes, is amended to read:

6 400.914 Rules establishing standards.--

7 (1) Pursuant to the intention of the Legislature to
8 provide safe and sanitary facilities and healthful programs,
9 the agency in conjunction with the Division of Children's
10 Medical Services Prevention and Intervention of the Department
11 of Health shall adopt and publish rules to implement the
12 provisions of this part, which shall include reasonable and
13 fair standards. Any conflict between these standards and those
14 that may be set forth in local, county, or city ordinances
15 shall be resolved in favor of those having statewide effect.
16 Such standards shall relate to:

17 (a) The assurance that PPEC services are family
18 centered and provide individualized medical, developmental,
19 and family training services.

20 (b) The maintenance of PPEC centers, not in conflict
21 with the provisions of chapter 553 and based upon the size of
22 the structure and number of children, relating to plumbing,
23 heating, lighting, ventilation, and other building conditions,
24 including adequate space, which will ensure the health,
25 safety, comfort, and protection from fire of the children
26 served.

27 (c) The appropriate provisions of the most recent
28 edition of the "Life Safety Code" (NFPA-101) shall be applied.

29 (d) The number and qualifications of all personnel who
30 have responsibility for the care of the children served.
31

1 (e) All sanitary conditions within the PPEC center and
2 its surroundings, including water supply, sewage disposal,
3 food handling, and general hygiene, and maintenance thereof,
4 which will ensure the health and comfort of children served.

5 (f) Programs and basic services promoting and
6 maintaining the health and development of the children served
7 and meeting the training needs of the children's legal
8 guardians.

9 (g) Supportive, contracted, other operational, and
10 transportation services.

11 (h) Maintenance of appropriate medical records, data,
12 and information relative to the children and programs. Such
13 records shall be maintained in the facility for inspection by
14 the agency.

15
16 Reviser's note.--Amended to conform to the
17 reorganization of divisions of the Department
18 of Health by ch. 99-397, Laws of Florida.

19
20 Section 24. Paragraph (b) of subsection (1) of section
21 402.310, Florida Statutes, is amended to read:

22 402.310 Disciplinary actions; hearings upon denial,
23 suspension, or revocation of license; administrative fines.--

24 (1)

25 (b) In determining the appropriate disciplinary action
26 to be taken for a violation as provided in paragraph (a), the
27 following factors shall be considered:

28 1. The severity of the violation, including the
29 probability that death or serious harm to the health or safety
30 of any person will result or has resulted, the severity of the
31 actual or potential harm, and the extent to which the

1 provisions of ss. 402.301-402.319 ~~this part~~ have been
2 violated.

3 2. Actions taken by the licensee to correct the
4 violation or to remedy complaints.

5 3. Any previous violations of the licensee.
6

7 Reviser's note.--Amended to improve clarity and
8 facilitate correct interpretation. Chapter 402
9 is not divided into parts; s. 402.310(1)(a)
10 indicates that the section relates to
11 violations of ss. 402.301-402.319.
12

13 Section 25. Subsection (6) of section 403.086, Florida
14 Statutes, is amended to read:

15 403.086 Sewage disposal facilities; advanced and
16 secondary waste treatment.--

17 (6) ~~As of July 10, 1987,~~Any facility covered in
18 paragraph (1)(c) shall be permitted to discharge if it meets
19 the standards set forth in subsections (4) and (5). ~~Facilities~~
20 ~~that do not meet the standards in subsections (4) and (5) as~~
21 ~~of July 10, 1987, may be permitted to discharge under existing~~
22 ~~law until October 1, 1990. On and after October 1, 1990,~~All
23 of the facilities covered in paragraph (1)(c) shall be
24 required to meet the standards set forth in subsections (4)
25 and (5).
26

27 Reviser's note.--Amended to delete provisions
28 that have served their purpose.
29

30 Section 26. Subsection (11) of section 403.0872,
31 Florida Statutes, is amended to read:

1 403.0872 Operation permits for major sources of air
2 pollution; annual operation license fee.--Provided that
3 program approval pursuant to 42 U.S.C. s. 7661a has been
4 received from the United States Environmental Protection
5 Agency, beginning January 2, 1995, each major source of air
6 pollution, including electrical power plants certified under
7 s. 403.511, must obtain from the department an operation
8 permit for a major source of air pollution under this section,
9 which is the only department operation permit for a major
10 source of air pollution required for such source. Operation
11 permits for major sources of air pollution, except general
12 permits issued pursuant to s. 403.814, must be issued in
13 accordance with the following procedures and in accordance
14 with chapter 120; however, to the extent that chapter 120 is
15 inconsistent with the provisions of this section, the
16 procedures contained in this section prevail:

17 (11) ~~Commencing in 1993,~~Each major source of air
18 pollution permitted to operate in this state must pay between
19 January 15 and March 1 of each year, upon written notice from
20 the department, an annual operation license fee in an amount
21 determined by department rule. The annual operation license
22 fee shall be terminated immediately in the event the United
23 States Environmental Protection Agency imposes annual fees
24 solely to implement and administer the major source
25 air-operation permit program in Florida under 40 C.F.R. s.
26 70.10(d).

27 (a) The annual fee must be assessed based upon the
28 source's previous year's emissions and must be calculated by
29 multiplying the applicable annual operation license fee factor
30 times the tons of each regulated air pollutant (except carbon
31 monoxide) allowed to be emitted per hour by specific condition

1 of the source's most recent construction or operation permit,
2 times the annual hours of operation allowed by permit
3 condition; provided, however, that:

4 1. ~~For 1993 and 1994, the license fee factor is \$10.~~
5 ~~For 1995, the license fee factor is \$25. In succeeding years,~~
6 The license fee factor is \$25 or another amount determined by
7 department rule which ensures that the revenue provided by
8 each year's operation license fees is sufficient to cover all
9 reasonable direct and indirect costs of the major stationary
10 source air-operation permit program established by this
11 section. The license fee factor may be increased beyond \$25
12 only if the secretary of the department affirmatively finds
13 that a shortage of revenue for support of the major stationary
14 source air-operation permit program will occur in the absence
15 of a fee factor adjustment. The annual license fee factor may
16 never exceed \$35. ~~The department shall retain a nationally~~
17 ~~recognized accounting firm to conduct a study to determine the~~
18 ~~reasonable revenue requirements necessary to support the~~
19 ~~development and administration of the major source~~
20 ~~air-operation permit program as prescribed in paragraph (b).~~
21 ~~The results of that determination must be considered in~~
22 ~~assessing whether a \$25-per-ton fee factor is sufficient to~~
23 ~~adequately fund the major source air-operation permit program.~~
24 ~~The results of the study must be presented to the Governor,~~
25 ~~the President of the Senate, the Speaker of the House of~~
26 ~~Representatives, and the Public Service Commission, including~~
27 ~~the Public Counsel's Office, by no later than October 31,~~
28 ~~1994.~~

29 2. For any source that operates for fewer hours during
30 the calendar year than allowed under its permit, the annual
31 fee calculation must be based upon actual hours of operation

1 rather than allowable hours if the owner or operator of the
2 source documents the source's actual hours of operation for
3 the calendar year. For any source that has an emissions limit
4 that is dependent upon the type of fuel burned, the annual fee
5 calculation must be based on the emissions limit applicable
6 during actual hours of operation.

7 3. For any source whose allowable emission limitation
8 is specified by permit per units of material input or heat
9 input or product output, the applicable input or production
10 amount may be used to calculate the allowable emissions if the
11 owner or operator of the source documents the actual input or
12 production amount. If the input or production amount is not
13 documented, the maximum allowable input or production amount
14 specified in the permit must be used to calculate the
15 allowable emissions.

16 4. For any new source that does not receive its first
17 operation permit until after the beginning of a calendar year,
18 the annual fee for the year must be reduced pro rata to
19 reflect the period during which the source was not allowed to
20 operate.

21 5. For any source that emits less of any regulated air
22 pollutant than allowed by permit condition, the annual fee
23 calculation for such pollutant must be based upon actual
24 emissions rather than allowable emissions if the owner or
25 operator documents the source's actual emissions by means of
26 data from a department-approved certified continuous emissions
27 monitor or from an emissions monitoring method which has been
28 approved by the United States Environmental Protection Agency
29 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,
30 or from a method approved by the department for purposes of
31 this section.

1 6. The amount of each regulated air pollutant in
2 excess of 4,000 tons per year allowed to be emitted by any
3 source, or group of sources belonging to the same Major Group
4 as described in the Standard Industrial Classification Manual,
5 1987, may not be included in the calculation of the fee. Any
6 source, or group of sources, which does not emit any regulated
7 air pollutant in excess of 4,000 tons per year, is allowed a
8 one-time credit not to exceed 25 percent of the first annual
9 licensing fee for the prorated portion of existing
10 air-operation permit application fees remaining upon
11 commencement of the annual licensing fees.

12 7. If the department has not received the fee by
13 February 15 of the calendar year, the permittee must be sent a
14 written warning of the consequences for failing to pay the fee
15 by March 1. If the fee is not postmarked by March 1 of the
16 calendar year, ~~commencing with calendar year 1997,~~the
17 department shall impose, in addition to the fee, a penalty of
18 50 percent of the amount of the fee, plus interest on such
19 amount computed in accordance with s. 220.807. The department
20 may not impose such penalty or interest on any amount
21 underpaid, provided that the permittee has timely remitted
22 payment of at least 90 percent of the amount determined to be
23 due and remits full payment within 60 days after receipt of
24 notice of the amount underpaid. The department may waive the
25 collection of underpayment and shall not be required to refund
26 overpayment of the fee, if the amount due is less than 1
27 percent of the fee, up to \$50. The department may revoke any
28 major air pollution source operation permit if it finds that
29 the permitholder has failed to timely pay any required annual
30 operation license fee, penalty, or interest.

31

1 8. During the years 1993 through 1999, inclusive, no
2 fee shall be required to be paid under this section with
3 respect to emissions from any unit which is an affected unit
4 under 42 U.S.C. s. 7651c.

5 9. Notwithstanding the computational provisions of
6 this subsection, the annual operation license fee for any
7 source subject to this section shall not be less than \$250,
8 except that the annual operation license fee for sources
9 permitted solely through general permits issued under s.
10 403.814 shall not exceed \$50 per year.

11 10. Notwithstanding the provisions of s.
12 403.087(6)(a)4.a., authorizing air pollution construction
13 permit fees, the department may not require such fees for
14 changes or additions to a major source of air pollution
15 permitted pursuant to this section, unless the activity
16 triggers permitting requirements under Title I, Part C or Part
17 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.
18 Costs to issue and administer such permits shall be considered
19 direct and indirect costs of the major stationary source
20 air-operation permit program under s. 403.0873. The department
21 shall, however, require fees pursuant to the provisions of s.
22 403.087(6)(a)4.a. for the construction of a new major source
23 of air pollution that will be subject to the permitting
24 requirements of this section once constructed and for
25 activities triggering permitting requirements under Title I,
26 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
27 7470-7514a.

28 (b) Annual operation license fees collected by the
29 department must be sufficient to cover all reasonable direct
30 and indirect costs required to develop and administer the
31 major stationary source air-operation permit program, which

1 shall consist of the following elements to the extent that
2 they are reasonably related to the regulation of major
3 stationary air pollution sources, in accordance with United
4 States Environmental Protection Agency regulations and
5 guidelines:

- 6 1. Reviewing and acting upon any application for such
7 a permit.
- 8 2. Implementing and enforcing the terms and conditions
9 of any such permit, excluding court costs or other costs
10 associated with any enforcement action.
- 11 3. Emissions and ambient monitoring.
- 12 4. Preparing generally applicable regulations or
13 guidance.
- 14 5. Modeling, analyses, and demonstrations.
- 15 6. Preparing inventories and tracking emissions.
- 16 7. Implementing the Small Business Stationary Source
17 Technical and Environmental Compliance Assistance Program.
- 18 8. ~~The study conducted under subparagraph (a)1. and~~
19 Any audits conducted under paragraph (c).

20 (c) An audit of the major stationary source
21 air-operation permit program must be conducted 2 years after
22 the United States Environmental Protection Agency has given
23 full approval of the program, or by the end of 1996, whichever
24 comes later, to ascertain whether the annual operation license
25 fees collected by the department are used solely to support
26 any reasonable direct and indirect costs as listed in
27 paragraph (b). A program audit must be performed biennially
28 after the first audit.

29
30 Reviser's note.--Amended to delete language
31 that has served its purpose.

1 Section 27. Subsection (1) of section 403.088, Florida
2 Statutes, is amended to read:

3 403.088 Water pollution operation permits;
4 conditions.--

5 (1) No person, without written authorization of the
6 department, shall discharge into waters within the state any
7 waste which, by itself or in combination with the wastes of
8 other sources, reduces the quality of the receiving waters
9 below the classification established for them. However, this
10 section shall not be deemed to prohibit the application of
11 pesticides to waters in the state for the control of insects,
12 aquatic weeds, or algae, provided the application is performed
13 pursuant to a program approved by the Department of Health, in
14 the case of insect control, or the department, in the case of
15 aquatic weed or algae control. The department is directed to
16 enter into interagency agreements to establish the procedures
17 for program approval. Such agreements shall provide for public
18 health, welfare, and safety, as well as environmental factors.
19 Approved programs must provide that only chemicals approved
20 for the particular use by the United States Environmental
21 Protection Agency or by the Department of Agriculture and
22 Consumer Services may be employed and that they be applied in
23 accordance with registered label instructions, state standards
24 for such application, and the provisions of the Florida
25 Pesticide Law, ~~part I of~~ chapter 487.

26
27 Reviser's note.--Amended to conform to the fact
28 that chapter 487 is no longer divided into
29 parts following the repeal of the provisions of
30 former part II by s. 21, ch. 99-4, Laws of
31 Florida.

1 Section 28. Paragraph (b) of subsection (3) of section
2 403.42, Florida Statutes, is amended to read:

3 403.42 Florida Clean Fuel Act.--

4 (3) CLEAN FUEL FLORIDA ADVISORY BOARD ESTABLISHED;
5 MEMBERSHIP; DUTIES AND RESPONSIBILITIES.--

6 (b)1. The advisory board shall consist of the
7 Secretary of Community Affairs, or a designee from that
8 department, the Secretary of Environmental Protection, or a
9 designee from that department, the Commissioner ~~Secretary~~ of
10 Education, or a designee from that department, the Secretary
11 of Transportation, or a designee from that department, the
12 Commissioner of Agriculture, or a designee from the Department
13 of Agriculture and Consumer Services, the Secretary of
14 Management Services, or a designee from that department, and a
15 representative of each of the following, who shall be
16 appointed by the Secretary of Community Affairs within 30 days
17 after the effective date of this act:

- 18 a. The Florida biodiesel industry.
19 b. The Florida electric utility industry.
20 c. The Florida natural gas industry.
21 d. The Florida propane gas industry.
22 e. An automobile manufacturers' association.
23 f. A Florida Clean Cities Coalition designated by the
24 United States Department of Energy.
25 g. Enterprise Florida, Inc.
26 h. EV Ready Broward.
27 i. The Florida petroleum industry.
28 j. The Florida League of Cities.
29 k. The Florida Association of Counties.
30 l. Floridians for Better Transportation.
31 m. A motor vehicle manufacturer.

1 n. Florida Local Environment Resource Agencies.
2 o. Project for an Energy Efficient Florida.
3 p. Florida Transportation Builders Association.
4 2. The purpose of the advisory board is to serve as a
5 resource for the department and to provide the Governor, the
6 Legislature, and the Secretary of Community Affairs with
7 private sector and other public agency perspectives on
8 achieving the goal of increasing the use of alternative fuel
9 vehicles in this state.

10 3. Members shall be appointed to serve terms of 1 year
11 each, with reappointment at the discretion of the Secretary of
12 Community Affairs. Vacancies shall be filled for the remainder
13 of the unexpired term in the same manner as the original
14 appointment.

15 4. The board shall annually select a chairperson.

16 5.a. The board shall meet at least once each quarter
17 or more often at the call of the chairperson or the Secretary
18 of Community Affairs.

19 b. Meetings are exempt from the notice requirements of
20 chapter 120, and sufficient notice shall be given to afford
21 interested persons reasonable notice under the circumstances.

22 6. Members of the board are entitled to travel
23 expenses while engaged in the performance of board duties.

24 7. The board shall terminate 5 years after the
25 effective date of this act.

26
27 Reviser's note.--Amended to conform to the
28 title of the head of the Department of
29 Education as provided in s. 20.15.
30
31

1 Section 29. Paragraph (a) of subsection (1) of section
2 403.518, Florida Statutes, is amended to read:

3 403.518 Fees; disposition.--

4 (1) The department shall charge the applicant the
5 following fees, as appropriate, which shall be paid into the
6 Florida Permit Fee Trust Fund:

7 (a) A fee for a notice of intent pursuant to s.
8 403.5063 ~~403.5065~~, in the amount of \$2,500, to be submitted to
9 the department at the time of filing of a notice of intent.
10 The notice-of-intent fee shall be used and disbursed in the
11 same manner as the application fee.

12
13 Reviser's note.--Amended to improve clarity and
14 facilitate correct interpretation. Section
15 403.5065 does not reference a notice of intent;
16 notice of intent is covered in s. 403.5063.

17
18 Section 30. Paragraph (b) of subsection (17) of
19 section 403.703, Florida Statutes, is amended to read:

20 403.703 Definitions.--As used in this act, unless the
21 context clearly indicates otherwise, the term:

22 (17) "Construction and demolition debris" means
23 discarded materials generally considered to be not
24 water-soluble and nonhazardous in nature, including, but not
25 limited to, steel, glass, brick, concrete, asphalt roofing
26 material, pipe, gypsum wallboard, and lumber, from the
27 construction or destruction of a structure as part of a
28 construction or demolition project or from the renovation of a
29 structure, and including rocks, soils, tree remains, trees,
30 and other vegetative matter that normally results from land
31 clearing or land development operations for a construction

1 project, including such debris from construction of structures
2 at a site remote from the construction or demolition project
3 site. Mixing of construction and demolition debris with other
4 types of solid waste will cause it to be classified as other
5 than construction and demolition debris. The term also
6 includes:

7 (b) ~~Effective January 1, 1997,~~ Except as provided in
8 s. 403.707(12)(j)~~403.707(13)(j)~~, unpainted, nontreated wood
9 scraps from facilities manufacturing materials used for
10 construction of structures or their components and unpainted,
11 nontreated wood pallets provided the wood scraps and pallets
12 are separated from other solid waste where generated and the
13 generator of such wood scraps or pallets implements reasonable
14 practices of the generating industry to minimize the
15 commingling of wood scraps or pallets with other solid waste;
16 and

17
18 Reviser's note.--Amended to delete language
19 that has served its purpose and to conform to
20 the redesignation of s. 403.707(13)(j) as s.
21 403.707(12)(j) necessitated by the repeal of
22 former s. 403.707(8) by s. 4, ch. 96-284, Laws
23 of Florida.

24
25 Section 31. Paragraph (f) of subsection (3) of section
26 403.705, Florida Statutes, is amended to read:

27 403.705 State solid waste management program.--

28 (3) The state solid waste management program shall
29 include, at a minimum:

30 (f) Planning guidelines and technical assistance to
31 counties and municipalities to develop and implement programs

1 for alternative disposal or processing or recycling of the
2 solid wastes prohibited from disposal in landfills under s.
3 403.708(13)~~403.708(15)~~and for special wastes.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of s. 403.708(15) as s.
7 403.708(13) necessitated by the deletion of
8 former subsection (10) by s. 18, ch. 93-207,
9 Laws of Florida, and the further redesignation
10 of subunits necessitated by the deletion of
11 former subsection (3) by s. 1, ch. 97-23, Laws
12 of Florida.

13
14 Section 32. Subsection (1) and paragraph (b) of
15 subsection (4) of section 403.706, Florida Statutes, are
16 amended to read:

17 403.706 Local government solid waste
18 responsibilities.--

19 (1) The governing body of a county has the
20 responsibility and power to provide for the operation of solid
21 waste disposal facilities to meet the needs of all
22 incorporated and unincorporated areas of the county. Unless
23 otherwise approved by an interlocal agreement or special act,
24 municipalities may not operate solid waste disposal facilities
25 unless a municipality demonstrates by a preponderance of the
26 evidence that the use of a county designated facility, when
27 compared to alternatives proposed by the municipality, places
28 a significantly higher and disproportionate financial burden
29 on the citizens of the municipality when compared to the
30 financial burden placed on persons residing within the county
31 but outside of the municipality. However, a municipality may

1 construct and operate a resource recovery facility and related
2 onsite solid waste disposal facilities without an interlocal
3 agreement with the county if the municipality can demonstrate
4 by a preponderance of the evidence that the operation of such
5 facility will not significantly impair financial commitments
6 made by the county with respect to solid waste management
7 services and facilities or result in significantly increased
8 solid waste management costs to the remaining persons residing
9 within the county but not served by the municipality's
10 facility. This section shall not prevent a municipality from
11 continuing to operate or use an existing disposal facility
12 permitted on or prior to October 1, 1988. Any municipality
13 which establishes a solid waste disposal facility under this
14 subsection and subsequently abandons such facility shall be
15 responsible for the payment of any capital expansion necessary
16 to accommodate the municipality's solid waste for the
17 remaining projected useful life of the county disposal
18 facility. Pursuant to this section and notwithstanding any
19 other provision of this chapter, counties shall have the power
20 and authority to adopt ordinances governing the disposal of
21 solid waste generated outside of the county at the county's
22 solid waste disposal facility. In accordance with this
23 section, municipalities are responsible for collecting and
24 transporting solid waste from their jurisdictions to a solid
25 waste disposal facility operated by a county or operated under
26 a contract with a county. Counties may charge reasonable fees
27 for the handling and disposal of solid waste at their
28 facilities. The fees charged to municipalities at a solid
29 waste management facility specified by the county shall not be
30 greater than the fees charged to other users of the facility
31 except as provided in s. 403.7049(5)~~403.7049(4)~~. Solid waste

1 management fees collected on a countywide basis shall be used
2 to fund solid waste management services provided countywide.

3 (4)

4 (b) Notwithstanding the limitation on the waste
5 reduction goal in paragraph (a), a county may receive credit
6 for one-half of the goal for waste reduction from one or a
7 combination of the following:

8 1. The use of pelletized paper waste as a supplemental
9 fuel in permitted boilers other than waste-to-energy
10 facilities.

11 2. The use of yard trash, or other clean wood waste or
12 paper waste, in innovative programs including, but not limited
13 to, programs that produce alternative clean-burning fuels such
14 as ethanol or that provide for the conversion of yard trash or
15 other clean wood waste or paper waste to clean-burning fuel
16 for the production of energy for use at facilities other than
17 a waste-to-energy facility as defined in s. 403.7061 ~~403.7895~~.
18 The provisions of this subparagraph only apply if a county can
19 demonstrate that:

20 a. The county has implemented a yard trash mulching or
21 composting program, and

22 b. As part of the program, compost and mulch made from
23 yard trash is available to the general public and in use at
24 county-owned or maintained and municipally owned or maintained
25 facilities in the county and state agencies operating in the
26 county as required by this section.

27
28 Reviser's note.--Subsection (1) is amended to
29 conform to the redesignation of s. 403.7049(4)
30 as s. 403.7049(5) necessitated by the addition
31 of a new subsection (4) by s. 13, ch. 93-207,

1 Laws of Florida. Paragraph (4)(b) is amended to
2 correct an apparent error and facilitate
3 correct interpretation. The term
4 "waste-to-energy facility" is defined in s.
5 403.7061(4); the term does not appear in s.
6 403.7895. The reference to s. 403.7895 was
7 originally cited as "section 57 of this act" by
8 s. 15 of C.S. for H.B. 461, 1993, which became
9 ch. 93-207. Section 57 became s. 403.7895.
10 Section 403.7061 was in s. 57 of the bill as it
11 appeared in a House amendment; a section of
12 that amendment was subsequently deleted without
13 updating the reference to conform.

14
15 Section 33. Subsections (3), (4), (5), and (6) of
16 section 403.708, Florida Statutes, are amended to read:

17 403.708 Prohibition; penalty.--

18 (3) For purposes of subsections (2), (9), and (10)
19 ~~(2), (3), (10), and (11)~~:

20 (a) "Degradable," with respect to any material, means
21 that such material, after being discarded, is capable of
22 decomposing to components other than heavy metals or other
23 toxic substances, after exposure to bacteria, light, or
24 outdoor elements.

25 (b) "Beverage" means soda water, carbonated natural or
26 mineral water, or other nonalcoholic carbonated drinks; soft
27 drinks, whether or not carbonated; beer, ale, or other malt
28 drink of whatever alcoholic content; or a mixed wine drink or
29 a mixed spirit drink.

30 (c) "Beverage container" means an airtight container
31 which at the time of sale contains 1 gallon or less of a

1 beverage, or the metric equivalent of 1 gallon or less, and
2 which is composed of metal, plastic, or glass or a combination
3 thereof.

4 (4) The Division of Alcoholic Beverages and Tobacco of
5 the Department of Business and Professional Regulation may
6 impose a fine of not more than \$100 on any person currently
7 licensed pursuant to s. 561.14 for each violation of the
8 provisions of subsection (2) ~~or subsection (3)~~. If the
9 violation is of a continuing nature, each day during which
10 such violation occurs shall constitute a separate and distinct
11 offense and shall be subject to a separate fine.

12 (5) The Department of Agriculture and Consumer
13 Services may impose a fine of not more than \$100 on any person
14 not currently licensed pursuant to s. 561.14 for each
15 violation of the provisions of subsection (2) ~~or subsection~~
16 ~~(3)~~. If the violation is of a continuing nature, each day
17 during which such violation occurs shall constitute a separate
18 and distinct offense and shall be subject to a separate fine.

19 (6) Fifty percent of each fine collected pursuant to
20 subsections (4) and (5) ~~(5)~~ and ~~(6)~~ shall be deposited into
21 the Solid Waste Management Trust Fund. The balance of fines
22 collected pursuant to subsection (4) ~~(5)~~ shall be deposited
23 into the Alcoholic Beverage and Tobacco Trust Fund for the use
24 of the division for inspection and enforcement of the
25 provisions of this section. The balance of fines collected
26 pursuant to subsection (5) ~~(6)~~ shall be deposited into the
27 General Inspection Trust Fund for the use of the Department of
28 Agriculture and Consumer Services for inspection and
29 enforcement of the provisions of this section.

30
31

1 Reviser's note.--Subsection (3) is amended to
2 conform to the repeal of former s. 403.708(3)
3 by s. 1, ch. 97-23, Laws of Florida, and to
4 conform to the redesignation of subsections
5 (10) and (11) as subsections (9) and (10)
6 necessitated by the repeal of former subsection
7 (3). Subsections (4) and (5) are amended to
8 conform to the repeal of former subsection (3).
9 Subsection (6) is amended to conform to the
10 redesignation of subsections (5) and (6) as
11 subsections (4) and (5), respectively, to
12 conform to the repeal of former subsection (3).
13

14 Section 34. Section 403.715, Florida Statutes, is
15 amended to read:

16 403.715 Certification of resource recovery or
17 recycling equipment.--For purposes of implementing the tax
18 exemption ~~exemptions~~ provided by s. 212.08(7)(p) ~~212.08(5)(e)~~
19 ~~and (7)(p)~~, the department shall establish a system for the
20 examination and certification of resource recovery or
21 recycling equipment. Application for certification of
22 equipment shall be submitted to the department on forms
23 prescribed by it which include such pertinent information as
24 the department may require. The department may require
25 appropriate certification by a certified public accountant or
26 professional engineer that the equipment for which this
27 exemption is ~~these exemptions are~~ being sought complies with
28 the exemption criterion ~~criteria~~ set forth in s. 212.08(7)(p)
29 ~~212.08(5)(e) and (7)(p)~~. Within 30 days after receipt of an
30 application by the department, a representative of the
31 department may inspect the equipment. Within 30 days after

1 such inspection, the department shall issue a written decision
2 granting or denying certification.

3
4 Reviser's note.--Amended to conform to the
5 repeal of former s. 212.08(5)(e) by s. 10, ch.
6 92-173, Laws of Florida.

7
8 Section 35. Subsection (1) of section 403.718, Florida
9 Statutes, is amended to read:

10 403.718 Waste tire fees.--

11 (1) For the privilege of engaging in business, a fee
12 for each new motor vehicle tire sold at retail is imposed on
13 any person engaging in the business of making retail sales of
14 new motor vehicle tires within this state. ~~For the period~~
15 ~~January 1, 1989, through December 31, 1989, such fee shall be~~
16 ~~imposed at the rate of 50 cents for each new tire sold.~~ The
17 fee imposed under this section shall be stated separately on
18 the invoice to the purchaser. ~~Beginning January 1, 1990, and~~
19 ~~thereafter,~~ Such fee shall be imposed at the rate of \$1 for
20 each new tire sold. The fee imposed shall be paid to the
21 Department of Revenue on or before the 20th day of the month
22 following the month in which the sale occurs. For purposes of
23 this section, a motor vehicle tire sold at retail includes
24 such tires when sold as a component part of a motor vehicle.
25 The terms "sold at retail" and "retail sales" do not include
26 the sale of new motor vehicle tires to a person solely for the
27 purpose of resale provided the subsequent retail sale in this
28 state is subject to the fee. This fee does not apply to
29 recapped tires. Such fee shall be subject to all applicable
30 taxes imposed in chapter 212.

31

1 Reviser's note.--Amended to delete language
2 that has served its purpose.

3
4 Section 36. Subsection (5) of section 403.7191,
5 Florida Statutes, is amended to read:

6 403.7191 Toxics in packaging.--

7 (5) CERTIFICATE OF COMPLIANCE.--~~As soon as feasible~~
8 ~~but not later than July 1, 1994,~~Each manufacturer or
9 distributor of a package or packaging component shall provide,
10 if required, to the purchaser of such package or packaging
11 component, a certificate of compliance stating that the
12 package or packaging component is in compliance with the
13 provisions of this section. If compliance is achieved under
14 any of the exemptions provided in paragraph (4)(b) or
15 paragraph (4)(c), the certificate shall state the specific
16 basis upon which the exemption is claimed. The certificate of
17 compliance shall be signed by an authorized official of the
18 manufacturing or distributing company. The manufacturer or
19 distributor shall retain the certificate of compliance for as
20 long as the package or packaging component is in use. A copy
21 of the certificate of compliance shall be kept on file by the
22 manufacturer or distributor of the package or packaging
23 component for at least 3 years from the date of the last sale
24 or distribution by the manufacturer or distributor.
25 Certificates of compliance, or copies thereof, shall be
26 furnished within 60 days to the department upon the
27 department's request. If the manufacturer or distributor of
28 the package or packaging component reformulates or creates a
29 new package or packaging component, including a reformulation
30 or creation to meet the maximum levels set forth in subsection
31 (3)~~paragraph (3)(c)~~, the manufacturer or distributor shall

1 provide an amended or new certificate of compliance for the
2 reformulated or new package or packaging component.

3
4 Reviser's note.--Amended to delete language
5 that has served its purpose and to conform to
6 the elimination of paragraph designations from
7 subsection (3) following the repeal of
8 paragraphs (3)(a) and (b) by s. 41, ch. 99-5,
9 Laws of Florida.

10
11 Section 37. Subsection (3) of section 403.7199,
12 Florida Statutes, is amended to read:

13 403.7199 Florida Packaging Council.--

14 (3) On December 1, 1993, and annually thereafter, the
15 council shall issue a summary to the Governor, the President
16 of the Senate, and the Speaker of the House of
17 Representatives, which summary must contain reports on the
18 aluminum, steel, or other metals, paper, glass, plastic, and
19 plastic-coated paper packaging materials. The summary shall
20 include information for each type of plastic resin identified
21 in s. 403.708(8)~~403.708(9)~~, and may contain information for
22 subclassifications of other packaging materials. The reports
23 must attempt to provide specific recommendations and proposed
24 legislation to develop a comprehensive package reduction and
25 market development program, and must contain the following
26 information for each type of packaging material:

27 (a) A comparison of the recovery rate in this state to
28 the national recovery rate, and an explanation of any
29 variance.

1 (b) A comparison of the recycled content of packaging
2 in this state to the national recycled content of packaging,
3 and an explanation of any variance.

4 (c) A comparison of the source reduction of packaging
5 manufactured from that material in this state to the source
6 reduction of packages manufactured nationally, and an
7 explanation of any variance.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 403.708(9) as s. 403.708(8)
11 necessitated by the repeal of former s.
12 403.708(3) by s. 1, ch. 97-23, Laws of Florida.

13
14 Section 38. Subsection (4) of section 403.726, Florida
15 Statutes, is amended to read:

16 403.726 Abatement of imminent hazard caused by
17 hazardous substance.--

18 (4) The department may implement the provisions of
19 chapter 386 ~~and ss. 387.08 and 387.10~~ in its own name whenever
20 a hazardous substance is being generated, transported,
21 disposed of, stored, or treated in violation of those
22 provisions of law.

23
24 Reviser's note.--Amended to conform to the
25 repeal of ss. 387.08 and 387.10 by s. 125, ch.
26 97-237, Laws of Florida.

27
28 Section 39. Subsection (1) of section 403.788, Florida
29 Statutes, is amended to read:

30 403.788 Final disposition of application.--

31

1 (1) For the purposes of issuing a final order, the
2 board shall serve as the agency head. Within 45 days after
3 receipt of the administrative law judge's recommended order,
4 the board shall issue a final order as provided by s.
5 120.57(1)(1)~~120.57(1)(j)~~, approving the application in whole,
6 approving the application with such modifications or
7 conditions as the board deems appropriate, or denying the
8 issuance of a certification and stating the reasons for
9 issuance or denial.

10
11 Reviser's note.--Amended to conform to the
12 redesignation of s. 120.57(1)(j) as s.
13 120.57(1)(1) by s. 5, ch. 98-200, Laws of
14 Florida.

15
16 Section 40. Subsection (4) of section 403.9415,
17 Florida Statutes, is amended to read:

18 403.9415 Final disposition of application.--

19 (4) In determining whether an application should be
20 approved in whole, approved with modifications or conditions,
21 or denied, the board shall consider whether, and the extent to
22 which, the location of the natural gas transmission pipeline
23 corridor and the construction and maintenance of the natural
24 gas transmission pipeline will effect a reasonable balance
25 between the need for the natural gas transmission pipeline as
26 a means of providing natural gas energy and the impact upon
27 the public and the environment resulting from the location of
28 the natural gas transmission pipeline corridor and the
29 construction, operation, and maintenance of the natural gas
30 transmission pipeline. In effecting this balance, the board
31 shall consider, based on all relevant, competent and

1 substantial evidence in the record, subject to s. 120.57(1)(1)
2 ~~120.57(1)(j)~~, whether and the extent to which the project
3 will:
4 (a) Ensure natural gas delivery reliability and
5 integrity;
6 (b) Meet the natural gas energy needs of the state in
7 an orderly and timely fashion;
8 (c) Comply with the nonprocedural requirements of
9 agencies;
10 (d) Adversely affect historical sites and the natural
11 environment;
12 (e) Adversely affect the health, safety, and welfare
13 of the residents of the affected local government
14 jurisdictions;
15 (f) Be consistent with applicable local government
16 comprehensive plans and land development regulations; and
17 (g) Avoid densely populated areas to the maximum
18 extent feasible. If densely populated areas cannot be
19 avoided, locate, to the maximum extent feasible, within
20 existing utility corridors or rights-of-way.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 120.57(1)(j) as s.
24 120.57(1)(1) by s. 5, ch. 98-200, Laws of
25 Florida.

26
27 Section 41. Paragraph (c) of subsection (2), paragraph
28 (f) of subsection (3), and subsections (4), (5), and (6) of
29 section 404.056, Florida Statutes, are amended to read:
30 404.056 Environmental radiation standards and
31 programs; radon protection.--

1 (2) FLORIDA COORDINATING COUNCIL ON RADON
2 PROTECTION.--

3 (c) Organization.--The council shall be chaired by the
4 Secretary of Community Affairs or his or her authorized
5 designee. A majority of the membership of the council shall
6 constitute a quorum for the conduct of business. The chair
7 shall be responsible for recording and distributing to the
8 members a summary of the proceedings of all council meetings.
9 The council shall meet ~~within 90 days after the effective date~~
10 ~~of this act for the purpose of organizing, and~~ at least
11 semiannually or more frequently as needed. Members of the
12 council shall not receive compensation for their services, but
13 shall be entitled to reimbursement for necessary travel
14 expenses, pursuant to s. 112.061, from the funds derived from
15 surcharges collected pursuant to s. 553.721 ~~subsection (4)~~.
16 The establishment of the council shall not impede the
17 initiation of building code research and development.

18 (3) CERTIFICATION.--

19 (f) The department is authorized to charge and collect
20 nonrefundable fees for the certification and annual
21 recertification of persons who perform radon gas or radon
22 progeny measurements or who perform mitigation of buildings
23 for radon gas or radon progeny. The amount of the initial
24 application fee and certification shall be not less than \$200
25 or more than \$900. The amount of the annual recertification
26 fee shall be not less than \$200 or more than \$900. ~~Effective~~
27 ~~July 1, 1988,~~The fee amounts shall be the minimum fee
28 prescribed in this paragraph, and such fee amounts shall
29 remain in effect until the effective date of a fee schedule
30 promulgated by rule by the department. The fees collected
31 shall be deposited in the Radiation Protection Trust Fund and

1 shall be used only to implement the provisions of this
2 section. The surcharge established pursuant to s. 553.721
3 ~~subsection (3)~~ may be used to supplement the fees established
4 in this paragraph in carrying out the provisions of this
5 subsection.

6 (4) PUBLIC INFORMATION.--The department shall initiate
7 and administer a program designed to educate and inform the
8 public concerning radon gas and radon progeny, which program
9 shall include, but not be limited to, the origin and health
10 effects of radon, how to measure radon, and construction and
11 mitigation techniques to reduce exposure to radon. The
12 surcharge established pursuant to s. 553.721 ~~subsection (4)~~
13 may be used to supplement the fees established in paragraph
14 (3)(f)(5)(e) in carrying out the provisions of this
15 subsection.

16 (5) MANDATORY TESTING.--All public and private school
17 buildings or school sites housing students in kindergarten
18 through grade 12; all state-owned, state-operated,
19 state-regulated, or state-licensed 24-hour care facilities;
20 and all state-licensed day care centers for children or minors
21 which are located in counties designated within the Department
22 of Community Affairs' Florida Radon Protection Map Categories
23 as "Intermediate" or "Elevated Radon Potential" shall be
24 measured to determine the level of indoor radon, using
25 measurement procedures established by the department. Testing
26 shall be completed within the first year of construction in 20
27 percent of the habitable first floor spaces within any of the
28 regulated buildings. Initial measurements shall be completed
29 and reported to the department by July 1 of the year the
30 building is opened for occupancy. Followup testing must be
31 completed in 5 percent of the habitable first floor spaces

1 within any of the regulated buildings after the building has
2 been occupied for 5 years, and results must be reported to the
3 department by July 1 of the 5th year of occupancy. After radon
4 measurements have been made twice, regulated buildings need
5 not undergo further testing unless significant structural
6 changes occur. Where fill soil is required for the
7 construction of a regulated building, initial testing of fill
8 soil must be performed using measurement procedures
9 established by the department, and the results must be
10 reported to the department prior to construction. ~~The~~
11 ~~provisions of paragraph (3)(c) as to confidentiality shall not~~
12 ~~apply to this subsection.~~ No funds collected pursuant to s.
13 553.721 ~~subsection (4)~~ shall be used to carry out the
14 provisions of this subsection.

15 (6) NOTIFICATION ON REAL ESTATE DOCUMENTS.--~~By January~~
16 ~~1, 1989,~~ Notification shall be provided on at least one
17 document, form, or application executed at the time of, or
18 prior to, contract for sale and purchase of any building or
19 execution of a rental agreement for any building. Such
20 notification shall contain the following language:

21
22 "RADON GAS: Radon is a naturally occurring radioactive
23 gas that, when it has accumulated in a building in sufficient
24 quantities, may present health risks to persons who are
25 exposed to it over time. Levels of radon that exceed federal
26 and state guidelines have been found in buildings in Florida.
27 Additional information regarding radon and radon testing may
28 be obtained from your county health department."
29

30 The requirements of this subsection do not apply to any
31 residential transient occupancy, as described in s.

1 509.013(11), provided that such occupancy is 45 days or less
2 in duration.

3
4 Reviser's note.--Paragraph (2)(c) and
5 subsections (4) and (5) are amended to conform
6 to the redesignation of subsection (4) of s.
7 404.056 as subsection (3) necessitated by the
8 repeal of former subsection (2) by s. 28, ch.
9 92-173, Laws of Florida, and the subsequent
10 transfer of subsection (3) to s. 553.721 by s.
11 1, ch. 95-339, Laws of Florida. Paragraph
12 (2)(c) is also amended to delete language that
13 has served its purpose. Paragraph (3)(f) is
14 amended to delete language that has served its
15 purpose and to conform to the transfer of
16 subsection (3) to s. 553.721 by s. 1, ch.
17 95-339. Subsection (4) is also amended to
18 conform to the redesignation of paragraph
19 (5)(e) as paragraph (3)(f) necessitated by the
20 repeal of former subsection (2) by s. 28, ch.
21 92-173, the subsequent transfer of former
22 subsection (3) to s. 553.721 by s. 1, ch.
23 95-339, and the insertion of a new paragraph
24 (3)(e) in s. 404.056 by s. 57, ch. 97-237, Laws
25 of Florida. Subsection (5) is also amended to
26 delete obsolete language referencing
27 confidentiality no longer in the cited
28 provision. Subsection (6) is amended to delete
29 language that has served its purpose.
30
31

1 Section 42. Paragraph (d) of subsection (5) and
2 subsection (9) of section 408.05, Florida Statutes, are
3 amended to read:

4 408.05 State Center for Health Statistics.--

5 (5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.--The
6 center shall provide for the widespread dissemination of data
7 which it collects and analyzes. The center shall have the
8 following publication, reporting, and special study functions:

9 ~~(d) The agency shall prepare and furnish a status~~
10 ~~report on the establishment of the center by April 1, 1993, to~~
11 ~~the Governor, the President of the Senate, and the Speaker of~~
12 ~~the House of Representatives. The report shall include an~~
13 ~~inventory of health data available in this state,~~
14 ~~implementation plans and progress made in implementing the~~
15 ~~functions assigned to the center, and recommendations for~~
16 ~~further legislation or resources needed to fulfill legislative~~
17 ~~intent with regard to the center, particularly with regard to~~
18 ~~establishing a statewide comprehensive health information~~
19 ~~system.~~The center shall thereafter be responsible for
20 publishing and disseminating an annual report on the center's
21 activities.

22 (9) Nothing in this section shall limit, restrict,
23 affect, or control the collection, analysis, release, or
24 publication of data ~~pursuant to the Health Care Cost~~
25 ~~Containment Act of 1988~~ or by any state agency pursuant to its
26 statutory authority, duties, or responsibilities.

27
28 Reviser's note.--Paragraph (5)(d) is amended to
29 delete an obsolete provision. Subsection (9) is
30 amended to conform to the repeal of statutes
31 constituting the Health Care Cost Containment

1 Act of 1988 by s. 82, ch. 92-33, Laws of
2 Florida.

3
4 Section 43. Subsection (9) of section 408.061, Florida
5 Statutes, is amended to read:

6 408.061 Data collection; uniform systems of financial
7 reporting; information relating to physician charges;
8 confidentiality of patient records; immunity.--

9 (9) The identity of any health care provider, health
10 care facility, or health insurer who submits any data which is
11 proprietary business information to the agency pursuant to the
12 provisions of this section shall remain confidential and
13 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
14 I of the State Constitution. As used in this section,
15 "proprietary business information" shall include, but not be
16 limited to, information relating to specific provider contract
17 reimbursement information; information relating to security
18 measures, systems, or procedures; and information concerning
19 bids or other contractual data, the disclosure of which would
20 impair efforts to contract for goods or services on favorable
21 terms or would injure the affected entity's ability to compete
22 in the marketplace. Notwithstanding the provisions of this
23 subsection, any information obtained or generated pursuant to
24 the provisions of former s. 407.61, either by the former
25 Health Care Cost Containment Board or by the Agency for Health
26 Care Administration upon transfer to that agency of the duties
27 and functions of the former Health Care Cost Containment
28 Board, is not confidential and exempt from the provisions of
29 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
30 Such proprietary business information may be used in published
31 analyses and reports or otherwise made available for public

1 disclosure in such manner as to preserve the confidentiality
2 of the identity of the provider. This exemption shall not
3 limit the use of any information used in conjunction with
4 investigation or enforcement purposes under the provisions of
5 s. 455.621.

6
7 Reviser's note.--Amended to improve clarity and
8 facilitate correct interpretation. Section
9 407.61 was repealed by s. 19, ch. 98-89, Laws
10 of Florida. The Health Care Cost Containment
11 Board was abolished by ss. 82 and 83, ch.
12 92-33, Laws of Florida.

13
14 Section 44. Paragraph (g) of subsection (1) and
15 subsection (3) of section 408.062, Florida Statutes, are
16 amended to read:

17 408.062 Research, analyses, studies, and reports.--

18 (1) The agency shall have the authority to conduct
19 research, analyses, and studies relating to health care costs
20 and access to and quality of health care services as access
21 and quality are affected by changes in health care costs.
22 Such research, analyses, and studies shall include, but not be
23 limited to, research and analysis relating to:

24 (g) The development of an alternative uniform system
25 of financial reporting of gross revenues per adjusted
26 admission, based on the American Institute of Certified Public
27 Accounts' Hospital Audit and Accounting Guide, which also
28 measures the services provided by a hospital to charity,
29 medically indigent, and other underinsured patients.

30 ~~Recommendations for the development of an alternative uniform~~
31

1 ~~system of financial reporting shall be submitted to the~~
2 ~~Legislature by July 1, 1993.~~

3 (3) The agency may assess annually the caesarean
4 section rate in Florida hospitals using the analysis
5 methodology that the agency determines most appropriate. To
6 assist the agency in determining the impact of this chapter on
7 Florida hospitals' caesarean section rates, each provider
8 hospital, as defined in s. 383.336, shall notify the agency of
9 the date of implementation of the practice parameters and the
10 date of the first meeting of the hospital peer review board
11 created pursuant to this chapter. The agency shall use these
12 dates in monitoring any change in provider hospital caesarean
13 section rates. An annual report based on this monitoring and
14 assessment shall be submitted to the Governor, the Speaker of
15 the House of Representatives, and the President of the Senate
16 by the agency, ~~with the first annual report due January 1,~~
17 ~~1993.~~

18
19 Reviser's note.--Amended to delete provisions
20 that have served their purpose.

21
22 Section 45. Subsection (11) of section 408.07, Florida
23 Statutes, is amended to read:

24 408.07 Definitions.--As used in this chapter, with the
25 exception of ss. 408.031-408.045, the term:

26 (11) "Clinical laboratory" means a facility licensed
27 under s. 483.091, excluding: any hospital laboratory defined
28 under s. 483.041(6)~~483.041(5)~~; any clinical laboratory
29 operated by the state or a political subdivision of the state;
30 any blood or tissue bank where the majority of revenues are
31 received from the sale of blood or tissue and where blood,

1 plasma, or tissue is procured from volunteer donors and
2 donated, processed, stored, or distributed on a nonprofit
3 basis; and any clinical laboratory which is wholly owned and
4 operated by physicians who are licensed pursuant to chapter
5 458 or chapter 459 and who practice in the same group
6 practice, and at which no clinical laboratory work is
7 performed for patients referred by any health care provider
8 who is not a member of that same group practice.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of s. 483.041(5) as s. 483.041(6)
12 by s. 144, ch. 99-397, Laws of Florida.

13
14 Section 46. Subsection (2) of section 408.08, Florida
15 Statutes, is amended to read:

16 408.08 Inspections and audits; violations; penalties;
17 fines; enforcement.--

18 (2) Any health care facility that refuses to file a
19 report, fails to timely file a report, files a false report,
20 or files an incomplete report and upon notification fails to
21 timely file a complete report required under s. 408.061; that
22 violates this section, s. 408.061, or s. 408.20, or rule
23 adopted thereunder; or that fails to provide documents or
24 records requested by the agency under this chapter shall be
25 punished by a fine not exceeding \$1,000 per day for each day
26 in violation, to be imposed and collected by the agency.
27 Pursuant to rules adopted by the agency, the agency may, upon
28 a showing of good cause, grant a one-time extension of any
29 deadline for a health care facility to timely file a report as
30 required by this section, s. 408.061, ~~s. 408.072~~, or s.
31 408.20.

1 Reviser's note.--Amended to conform to the
2 repeal of s. 408.072 by s. 19, ch. 98-89, Laws
3 of Florida.

4
5 Section 47. Paragraph (b) of subsection (5) of section
6 408.704, Florida Statutes, is amended to read:

7 408.704 Agency duties and responsibilities related to
8 community health purchasing alliances.--The agency shall
9 assist in developing a statewide system of community health
10 purchasing alliances. To this end, the agency is responsible
11 for:

12 (5) Establishing a data system for accountable health
13 partnerships.

14 (b) The advisory data committee shall issue a report
15 and recommendations on each of the following subjects as each
16 is completed. A final report covering all subjects must be
17 included in the final Florida Health Plan to be submitted to
18 the Legislature on December 31, 1993. The report shall
19 include recommendations regarding:

20 1. Types of data to be collected. Careful
21 consideration shall be given to other data collection projects
22 and standards for electronic data interchanges already in
23 process in this state and nationally, to evaluating and
24 recommending the feasibility and cost-effectiveness of various
25 data collection activities, and to ensuring that data
26 reporting is necessary to support the evaluation of providers
27 with respect to cost containment, access, quality, control of
28 expensive technologies, and customer satisfaction analysis.
29 Data elements to be collected from providers include prices,
30 utilization, patient outcomes, quality, and patient
31 satisfaction. The completion of this task is the first

1 priority of the advisory data committee. The agency shall
2 begin implementing these data collection activities
3 immediately upon receipt of the recommendations, but no later
4 than January 1, 1994. The data shall be submitted by
5 hospitals, other licensed health care facilities, pharmacists,
6 and group practices as defined in s. 455.654(3)(h)
7 ~~455.654(3)(f)~~.

8 2. A standard data set, a standard cost-effective
9 format for collecting the data, and a standard methodology for
10 reporting the data to the agency, or its designee, and to the
11 alliances. The reporting mechanisms must be designed to
12 minimize the administrative burden and cost to health care
13 providers and carriers. A methodology shall be developed for
14 aggregating data in a standardized format for making
15 comparisons between accountable health partnerships which
16 takes advantage of national models and activities.

17 3. Methods by which the agency should collect,
18 process, analyze, and distribute the data.

19 4. Standards for data interpretation. The advisory
20 data committee shall actively solicit broad input from the
21 provider community, carriers, the business community, and the
22 general public.

23 5. Structuring the data collection process to:

24 a. Incorporate safeguards to ensure that the health
25 care services utilization data collected is reviewed by
26 experienced, practicing physicians licensed to practice
27 medicine in this state;

28 b. Require that carrier customer satisfaction data
29 conclusions are validated by the agency;

30 c. Protect the confidentiality of medical information
31 to protect the patient's identity and to protect the privacy

1 of individual physicians and patients. Proprietary data
2 submitted by insurers, providers, and purchasers are
3 confidential pursuant to s. 408.061; and

4 d. Afford all interested professional medical and
5 hospital associations and carriers a minimum of 60 days to
6 review and comment before data is released to the public.

7 6. Developing a data collection implementation
8 schedule, based on the data collection capabilities of
9 carriers and providers.

10

11 Reviser's note.--Amended to conform to the
12 redesignation of s. 455.654(3)(f) as s.
13 455.654(3)(h) by s. 1, ch. 99-356, Laws of
14 Florida.

15

16 Section 48. Subsection (2) of section 408.7042,
17 Florida Statutes, is amended to read:

18 408.7042 Purchasing health care for state employees
19 and Medicaid recipients through community health purchasing
20 alliances.--

21 (2) When purchasing health care for Medicaid,
22 MedAccess, and Medicaid buy-in recipients through community
23 health purchasing alliances, the agency shall ensure that the
24 claims experiences, rates, and charges for such recipients are
25 not commingled with those of other alliance members. However,
26 the claims experiences, rates, and charges for Medicaid
27 recipients, participants in the MedAccess program, and
28 participants in the Medicaid buy-in program shall not be
29 commingled with those of other alliance members. Prior to
30 providing medical benefits to Medicaid recipients through a
31 community health purchasing alliance, the agency shall seek

1 consultation with the Legislature pursuant to the provisions
2 of s. 216.177(2). The state shall offer to all Medicaid,
3 MedAccess, and Medicaid buy-in recipients the opportunity to
4 select health plans from all accountable health partnerships,
5 including providers that have a Medicaid managed-care contract
6 or MediPass, that has been approved by the United States
7 Health Care Financing Administration, or from physicians and
8 facilities that participate in MediPass, in the district in
9 which the recipient lives. For purposes of the purchase of
10 health care for such recipients, current Medicaid ~~Medicaid~~
11 providers, including providers participating in the MediPass
12 program and entities with Medicaid managed-care contracts are
13 accountable health partnerships. An entity that provides
14 managed-care for Medicaid recipients pursuant to a contract
15 must obtain a certificate of authority from the agency.
16 Purchase of health care for Medicaid, MedAccess, and Medicaid
17 buy-in recipients by the agency through community health
18 purchasing alliances may not result in a reduction of benefits
19 or any increased costs for such recipients without prior
20 legislative approval.

21
22 Reviser's note.--Amended to provide consistent
23 terminology and to conform to the context.

24
25 Section 49. Paragraph (j) of subsection (2) of section
26 408.904, Florida Statutes, is amended to read:

27 408.904 Benefits.--

28 (2) Covered health services include:

29 (j) Outpatient mental health visits and substance
30 abuse treatment. Outpatient mental health visits provided by
31 community mental health centers as provided in chapter 394 and

1 by a mental health therapist licensed under chapter 490 or
2 chapter 491 and substance abuse treatment provided by a center
3 licensed under ~~chapter 396~~ or chapter 397, up to a total of
4 five visits per calendar year per member.

5
6 Reviser's note.--Amended to conform to the
7 repeal of chapter 396 by s. 48, ch. 93-39, Laws
8 of Florida.

9
10 Section 50. Paragraph (c) of subsection (3) of section
11 409.145, Florida Statutes, is amended to read:

12 409.145 Care of children.--

13 (3)

14 (c)1. The department is authorized to provide the
15 services of the children's foster care program to an
16 individual who is enrolled full-time in a postsecondary
17 vocational-technical education program, full-time in a
18 community college program leading toward a vocational degree
19 or an associate degree, or full-time in a university or
20 college, if the following requirements are met:

21 a. The individual was committed to the legal custody
22 of the department for placement in foster care as a dependent
23 child;

24 b. The permanency planning goal pursuant to part VII
25 ~~part III~~ of chapter 39 for the individual is long-term foster
26 care or independent living;

27 c. The individual has been accepted for admittance to
28 a postsecondary vocational-technical education program, to a
29 community college, or to a university or college;

30
31

1 d. All other resources have been thoroughly explored,
2 and it can be clearly established that there are no
3 alternative resources for placement; and

4 e. A written service agreement which specifies
5 responsibilities and expectations for all parties involved has
6 been signed by a representative of the department, the
7 individual, and the foster parent or licensed child-caring
8 agency providing the placement resources, if the individual is
9 to continue living with the foster parent or placement
10 resource while attending a postsecondary vocational-technical
11 education program, community college, or university or
12 college. An individual who is to be continued in or placed in
13 independent living shall continue to receive services
14 according to the independent living program and agreement of
15 responsibilities signed by the department and the individual.

16 2. Any provision of this chapter or any other law to
17 the contrary notwithstanding, when an individual who meets the
18 requirements of subparagraph 1. is in attendance at a
19 community college, college, or university, the department may
20 make foster care payments to such community college, college,
21 or university in lieu of payment to the foster parents or
22 individual, for the purpose of room and board, if not
23 otherwise provided, but such payments shall not exceed the
24 amount that would have been paid to the foster parents had the
25 individual remained in the foster home.

26 3. The services of the foster care program shall
27 continue only for an individual under this paragraph who is a
28 full-time student but shall continue for not more than:

29 a. Two consecutive years for an individual in a
30 postsecondary vocational-technical education program;

31

1 b. Two consecutive years or four semesters for an
2 individual enrolled in a community college unless the
3 individual is participating in college preparatory instruction
4 or is requiring additional time to complete the college-level
5 communication and computation skills testing program, in which
6 case such services shall continue for not more than 3
7 consecutive years or six semesters; or

8 c. Four consecutive years, 8 semesters, or 12 quarters
9 for an individual enrolled in a college or university unless
10 the individual is participating in college-preparatory
11 instruction or is requiring additional time to complete the
12 college-level communication and computation skills testing
13 programs, in which case such services shall continue for not
14 more than 5 consecutive years, 10 semesters, or 15 quarters.

15 4.a. As a condition for continued foster care
16 services, an individual shall have earned a grade point
17 average of at least 2.0 on a 4.0 scale for the previous term,
18 maintain at least an overall grade point average of 2.0 for
19 only the previous term, and be eligible for continued
20 enrollment in the institution. If the postsecondary
21 vocational-technical school program does not operate on a
22 grade point average as described above, then the individual
23 shall maintain a standing equivalent to the 2.0 grade point
24 average.

25 b. Services shall be terminated upon completion of,
26 graduation from, or withdrawal or permanent expulsion from a
27 postsecondary vocational-technical education program,
28 community college, or university or college. Services shall
29 also be terminated for failure to maintain the required level
30 of academic achievement.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of parts of chapter 39
3 necessitated by the repeal or transfer of
4 sections by ch. 98-403, Laws of Florida.
5 Provisions relating to case planning are in
6 part VII.

7
8 Section 51. Paragraph (c) of subsection (4) of section
9 409.166, Florida Statutes, is amended to read:

10 409.166 Special needs children; subsidized adoption
11 program.--

12 (4) ELIGIBILITY FOR SERVICES.--

13 (c) A child who is handicapped at the time of adoption
14 shall be eligible for services of the Division of Children's
15 Medical Services Network if the child was eligible for such
16 services prior to the adoption.

17
18 Reviser's note.--Amended to conform to the
19 reorganization of divisions of the Department
20 of Health by ch. 99-397, Laws of Florida.

21
22 Section 52. Section 409.1685, Florida Statutes, is
23 amended to read:

24 409.1685 Children in foster care; annual report to
25 Legislature.--The Department of Children and Family Services
26 shall submit a written report to the substantive committees of
27 the Legislature concerning the status of children in foster
28 care and concerning the judicial review mandated by part VIII
29 ~~III~~ of chapter 39. This report shall be submitted by March 1
30 of each year and shall include the following information for
31 the prior calendar year:

1 (1) The number of 6-month and annual judicial reviews
2 completed during that period.

3 (2) The number of children in foster care returned to
4 a parent, guardian, or relative as a result of a 6-month or
5 annual judicial review hearing during that period.

6 (3) The number of termination of parental rights
7 proceedings instituted during that period which shall include:

8 (a) The number of termination of parental rights
9 proceedings initiated pursuant to s. 39.703 ~~part III of~~
10 ~~chapter 39~~; and

11 (b) The total number of terminations of parental
12 rights ordered.

13 (4) The number of foster care children placed for
14 adoption during that period.

15
16 Reviser's note.--Amended to conform to the
17 repeal or transfer of sections of chapter 39 by
18 ch. 98-403, Laws of Florida. Provisions
19 relating to judicial review are located in part
20 VIII of chapter 39, and provisions relating to
21 initiation of termination of parental rights
22 are located at s. 39.703.

23
24 Section 53. Section 409.1757, Florida Statutes, is
25 amended to read:

26 409.1757 Persons not required to be refingerprinted or
27 rescreened.--Any provision of law to the contrary
28 notwithstanding, human resource personnel who have been
29 fingerprinted or screened pursuant to chapters 393, 394, 397,
30 402, and 409, and teachers who have been fingerprinted
31 pursuant to chapter 231, who have not been unemployed for more

1 than 90 days thereafter, and who under the penalty of perjury
2 attest to the completion of such fingerprinting or screening
3 and to compliance with the provisions of this section and the
4 standards for good moral character as contained in such
5 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6),
6 397.451, 402.305(2)~~402.305(1)~~, and 409.175(4), shall not be
7 required to be refingerprinted or rescreened in order to
8 comply with any caretaker screening or fingerprinting
9 requirements.

10
11 Reviser's note.--Amended to conform to the
12 redesignation of s. 402.305(1) as s. 402.305(2)
13 by s. 2, ch. 91-300, Laws of Florida.

14
15 Section 54. Section 409.2355, Florida Statutes, is
16 amended to read:

17 409.2355 Programs for prosecution of males over age 21
18 who commit certain offenses involving girls under age
19 16.--Subject to specific appropriated funds, the Department of
20 Children and Family Services is directed to establish a
21 program by which local communities, through the state
22 attorney's office of each judicial circuit, may apply for
23 grants to fund innovative programs for the prosecution of
24 males over the age of 21 who victimize girls under the age of
25 16 in violation of s. 794.011, s. 794.05, s. 800.04, or s.
26 827.04(3)~~827.04(4)~~.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 827.04(4), as enacted by s.
30 2, ch. 96-215, Laws of Florida, as s. 827.04(3)

1 necessitated by the repeal and redesignation of
2 subunits by s. 10, ch. 96-322, Laws of Florida.

3
4 Section 55. Paragraph (b) of subsection (8) and
5 subsection (11) of section 409.2564, Florida Statutes, are
6 amended to read:

7 409.2564 Actions for support.--

8 (8) The director of the Title IV-D agency, or the
9 director's designee, is authorized to subpoena from any person
10 financial and other information necessary to establish,
11 modify, or enforce a child support order.

12 (b) Subpoenas issued by this or any other state's
13 Title IV-D agency may be challenged in accordance with s.
14 120.569(2)(k)1. While a subpoena is being challenged, the
15 Title IV-D agency may not impose a fine as provided for under
16 paragraph (c) until the challenge is complete and the subpoena
17 has been found to be valid.

18 (11) For the purposes of denial, revocation, or
19 limitation of an individual's United States Passport,
20 consistent with 42 U.S.C. s. 652(k)(1)~~42 U.S.C. s. 452(1)(k)~~,
21 the Title IV-D agency shall have procedures to certify to the
22 Secretary of the United States Department of Health and Human
23 Services, in the format and accompanied by such supporting
24 documentation as the secretary may require, a determination
25 that an individual owes arrearages of child support in an
26 amount exceeding \$5,000. Said procedures shall provide that
27 the individual be given notice of the determination and of the
28 consequence thereof and that the individual shall be given an
29 opportunity to contest the accuracy of the determination.

30
31

1 Reviser's note.--Paragraph (8)(b) is amended to
2 correct a grammatical error. Subsection (11) is
3 amended to improve clarity and facilitate
4 correct interpretation. Section 652(k)(1)
5 references the procedures whereby the Secretary
6 of Health and Human Services certifies child
7 support arrearage information to the Secretary
8 of State to be considered for purposes of
9 passport denial, revocation, or limitation.

10
11 Section 56. Subsection (12) of section 409.2673,
12 Florida Statutes, is amended to read:

13 409.2673 Shared county and state health care program
14 for low-income persons; trust fund.--

15 (12) There is created the Shared County and State
16 Program Trust Fund in the Treasury to be used by the Agency
17 for Health Care Administration ~~Department of Health and~~
18 ~~Rehabilitative Services~~ for the purpose of funding the state's
19 portion of the shared county and state program created
20 pursuant to this section.

21
22 Reviser's note.--Amended pursuant to the
23 directive of the Legislature in s. 1, ch.
24 98-224, Laws of Florida, to make specific
25 changes in terminology and any further changes
26 as necessary to conform the Florida Statutes to
27 the organizational changes of the former
28 Department of Health and Rehabilitative
29 Services effected by previous acts of the
30 Legislature.

31

1 Section 57. Section 409.821, Florida Statutes, is
2 amended to read:

3 409.821 Sections 409.810-409.820; confidential
4 information.--Notwithstanding any other law to the contrary,
5 any information contained in an application for determination
6 of eligibility for the Florida Kidcare ~~Kids Health~~ program
7 which identifies applicants, including medical information and
8 family financial information, and any information obtained
9 through quality assurance activities and patient satisfaction
10 surveys which identifies program participants, obtained by the
11 Florida Kidcare ~~Kids Health~~ program under ss. 409.810-409.820,
12 is confidential and is exempt from s. 119.07(1) and s. 24(a),
13 Art. I of the State Constitution. Except as otherwise provided
14 by law, program staff or staff or agents affiliated with the
15 program may not release, without the written consent of the
16 applicant or the parent or guardian of the applicant, to any
17 state or federal agency, to any private business or person, or
18 to any other entity, any confidential information received
19 under ss. 409.810-409.820. This section is subject to the Open
20 Government Sunset Review Act of 1995 in accordance with s.
21 119.15, and shall stand repealed on October 2, 2003, unless
22 reviewed and saved from repeal through reenactment by the
23 Legislature.

24
25 Reviser's note.--Amended to conform to the
26 creation of ss. 409.810-409.820, constituting
27 the Florida Kidcare program, by ss. 32-47, ch.
28 98-288, Laws of Florida.

1 Section 58. Paragraph (b) of subsection (5) and
2 subsection (8) of section 409.905, Florida Statutes, are
3 amended to read:

4 409.905 Mandatory Medicaid services.--The agency may
5 make payments for the following services, which are required
6 of the state by Title XIX of the Social Security Act,
7 furnished by Medicaid providers to recipients who are
8 determined to be eligible on the dates on which the services
9 were provided. Any service under this section shall be
10 provided only when medically necessary and in accordance with
11 state and federal law. Nothing in this section shall be
12 construed to prevent or limit the agency from adjusting fees,
13 reimbursement rates, lengths of stay, number of visits, number
14 of services, or any other adjustments necessary to comply with
15 the availability of moneys and any limitations or directions
16 provided for in the General Appropriations Act or chapter 216.

17 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay
18 for all covered services provided for the medical care and
19 treatment of a recipient who is admitted as an inpatient by a
20 licensed physician or dentist to a hospital licensed under
21 part I of chapter 395. However, the agency shall limit the
22 payment for inpatient hospital services for a Medicaid
23 recipient 21 years of age or older to 45 days or the number of
24 days necessary to comply with the General Appropriations Act.

25 (b) A licensed hospital maintained primarily for the
26 care and treatment of patients having mental disorders or
27 mental diseases is not eligible to participate in the hospital
28 inpatient portion of the Medicaid program except as provided
29 in federal law. However, the department shall apply for a
30 waiver, within 9 months after June 5, 1991, designed to
31 provide hospitalization services for mental health reasons to

1 children and adults in the most cost-effective and lowest cost
2 setting possible. Such waiver shall include a request for the
3 opportunity to pay for care in hospitals known under federal
4 law as "institutions for mental disease" or "IMD's." The
5 waiver proposal shall propose no additional aggregate cost to
6 the state or Federal Government, and shall be conducted in
7 Hillsborough County, Highlands County, Hardee County, Manatee
8 County, and Polk County. The waiver proposal may incorporate
9 competitive bidding for hospital services, comprehensive
10 brokering, prepaid capitated arrangements, or other mechanisms
11 deemed by the department to show promise in reducing the cost
12 of acute care and increasing the effectiveness of preventive
13 care. When developing the waiver proposal, the department
14 shall take into account price, quality, accessibility,
15 linkages of the hospital to community services and family
16 support programs, plans of the hospital to ensure the earliest
17 discharge possible, and the comprehensiveness of the mental
18 health and other health care services offered by participating
19 providers. ~~The department is directed to monitor and evaluate~~
20 ~~the implementation of this waiver program if it is granted and~~
21 ~~report to the chairs of the appropriations committees of the~~
22 ~~Senate and the House of Representatives by February 1, 1992.~~

23 (8) NURSING FACILITY SERVICES.--The agency shall pay
24 for 24-hour-a-day nursing and rehabilitative services for a
25 recipient in a nursing facility licensed under part II of
26 chapter 400 or in a rural hospital, as defined in s. 395.602,
27 or in a Medicare certified skilled nursing facility operated
28 by a hospital, as defined by s. 395.002(11)~~395.002(9)~~, that
29 is licensed under part I of chapter 395, and in accordance
30 with provisions set forth in s. 409.908(2)(a), which services
31 are ordered by and provided under the direction of a licensed

1 physician. However, if a nursing facility has been destroyed
2 or otherwise made uninhabitable by natural disaster or other
3 emergency and another nursing facility is not available, the
4 agency must pay for similar services temporarily in a hospital
5 licensed under part I of chapter 395 provided federal funding
6 is approved and available.

7
8 Reviser's note.--Paragraph (5)(b) is amended to
9 delete language that has had its effect.

10 Subsection (8) is amended to conform to the
11 redesignation of s. 395.002(9) as s.
12 395.002(11) by the reviser incident to the
13 compilation of the 1998 Supplement to the
14 Florida Statutes 1997.

15
16 Section 59. Paragraph (c) of subsection (12) of
17 section 409.908, Florida Statutes, is amended to read:

18 409.908 Reimbursement of Medicaid providers.--Subject
19 to specific appropriations, the agency shall reimburse
20 Medicaid providers, in accordance with state and federal law,
21 according to methodologies set forth in the rules of the
22 agency and in policy manuals and handbooks incorporated by
23 reference therein. These methodologies may include fee
24 schedules, reimbursement methods based on cost reporting,
25 negotiated fees, competitive bidding pursuant to s. 287.057,
26 and other mechanisms the agency considers efficient and
27 effective for purchasing services or goods on behalf of
28 recipients. Payment for Medicaid compensable services made on
29 behalf of Medicaid eligible persons is subject to the
30 availability of moneys and any limitations or directions
31 provided for in the General Appropriations Act or chapter 216.

1 Further, nothing in this section shall be construed to prevent
2 or limit the agency from adjusting fees, reimbursement rates,
3 lengths of stay, number of visits, or number of services, or
4 making any other adjustments necessary to comply with the
5 availability of moneys and any limitations or directions
6 provided for in the General Appropriations Act, provided the
7 adjustment is consistent with legislative intent.

8 (12)

9 (c) The agency shall monitor closely the utilization
10 rate for physician services and identify any trends which may
11 indicate an effort to increase the volume of services to
12 counteract any losses that might result from the new fee
13 schedule. ~~The agency shall prepare a report to the Legislature~~
14 ~~on the overall effect of the resource-based relative value~~
15 ~~scale fee schedule by December 31, 1996.~~

16

17 Reviser's note.--Amended to delete language
18 that has served its purpose.

19

20 Section 60. Subsection (17) of section 409.910,
21 Florida Statutes, is amended to read:

22 409.910 Responsibility for payments on behalf of
23 Medicaid-eligible persons when other parties are liable.--

24 (17) A recipient or his or her legal representative or
25 any person representing, or acting as agent for, a recipient
26 or the recipient's legal representative, who has notice,
27 excluding notice charged solely by reason of the recording of
28 the lien pursuant to paragraph (6)(c) ~~(6)(d)~~, or who has
29 actual knowledge of the agency's rights to third-party
30 benefits under this section, who receives any third-party
31 benefit or proceeds therefrom for a covered illness or injury,

1 is required either to pay the agency, within 60 days after
2 receipt of settlement proceeds, the full amount of the
3 third-party benefits, but not in excess of the total medical
4 assistance provided by Medicaid, or to place the full amount
5 of the third-party benefits in a trust account for the benefit
6 of the agency pending judicial or administrative determination
7 of the agency's right thereto. Proof that any such person had
8 notice or knowledge that the recipient had received medical
9 assistance from Medicaid, and that third-party benefits or
10 proceeds therefrom were in any way related to a covered
11 illness or injury for which Medicaid had provided medical
12 assistance, and that any such person knowingly obtained
13 possession or control of, or used, third-party benefits or
14 proceeds and failed either to pay the agency the full amount
15 required by this section or to hold the full amount of
16 third-party benefits or proceeds in trust pending judicial or
17 administrative determination, unless adequately explained,
18 gives rise to an inference that such person knowingly failed
19 to credit the state or its agent for payments received from
20 social security, insurance, or other sources, pursuant to s.
21 414.39(4)(b), and acted with the intent set forth in s.
22 812.014(1).

23 (a) In cases of suspected criminal violations or
24 fraudulent activity, the agency may take any civil action
25 permitted at law or equity to recover the greatest possible
26 amount, including, without limitation, treble damages under
27 ss. 772.11 and 812.035(7).

28 (b) The agency is authorized to investigate and to
29 request appropriate officers or agencies of the state to
30 investigate suspected criminal violations or fraudulent
31 activity related to third-party benefits, including, without

1 limitation, ss. 414.39 and 812.014. Such requests may be
2 directed, without limitation, to the Medicaid Fraud Control
3 Unit of the Office of the Attorney General, or to any state
4 attorney. Pursuant to s. 409.913, the Attorney General has
5 primary responsibility to investigate and control Medicaid
6 fraud.

7 (c) In carrying out duties and responsibilities
8 related to Medicaid fraud control, the agency may subpoena
9 witnesses or materials within or outside the state and,
10 through any duly designated employee, administer oaths and
11 affirmations and collect evidence for possible use in either
12 civil or criminal judicial proceedings.

13 (d) All information obtained and documents prepared
14 pursuant to an investigation of a Medicaid recipient, the
15 recipient's legal representative, or any other person relating
16 to an allegation of recipient fraud or theft is confidential
17 and exempt from s. 119.07(1):

18 1. Until such time as the agency takes final agency
19 action;

20 2. Until such time as the Department of Legal Affairs
21 refers the case for criminal prosecution;

22 3. Until such time as an indictment or criminal
23 information is filed by a state attorney in a criminal case;
24 or

25 4. At all times if otherwise protected by law.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of s. 409.910(6)(d) as s.
29 409.910(6)(c) by s. 1, ch. 98-411, Laws of
30 Florida.

31

1 Section 61. Section 409.9116, Florida Statutes, is
2 amended to read:

3 409.9116 Disproportionate share/financial assistance
4 program for rural hospitals.--In addition to the payments made
5 under s. 409.911, the Agency for Health Care Administration
6 shall administer a federally matched disproportionate share
7 program and a state-funded financial assistance program for
8 statutory rural hospitals. The agency shall make
9 disproportionate share payments to statutory rural hospitals
10 that qualify for such payments and financial assistance
11 payments to statutory rural hospitals that do not qualify for
12 disproportionate share payments. The disproportionate share
13 program payments shall be limited by and conform with federal
14 requirements. ~~In fiscal year 1993-1994, available funds shall~~
15 ~~be distributed in one payment, as soon as practicable after~~
16 ~~the effective date of this act. In subsequent fiscal years,~~
17 Funds shall be distributed quarterly in each fiscal year for
18 which an appropriation is made. Notwithstanding the provisions
19 of s. 409.915, counties are exempt from contributing toward
20 the cost of this special reimbursement for hospitals serving a
21 disproportionate share of low-income patients.

22 (1) The following formula shall be used by the agency
23 to calculate the total amount earned for hospitals that
24 participate in the rural hospital disproportionate share
25 program or the financial assistance program:

$$26 \qquad \qquad \qquad \text{TAERH} = (\text{CCD} + \text{MDD})/\text{TPD}$$

27
28
29 Where:

30 CCD = total charity care-other, plus charity care-Hill
31 Burton, minus 50 percent of unrestricted tax revenue from

1 local governments, and restricted funds for indigent care,
2 divided by gross revenue per adjusted patient day; however, if
3 CCD is less than zero, then zero shall be used for CCD.

4 MDD = Medicaid inpatient days plus Medicaid HMO
5 inpatient days.

6 TPD = total inpatient days.

7 TAERH = total amount earned by each rural hospital.
8

9 In computing the total amount earned by each rural hospital,
10 the agency must use the most recent actual data reported in
11 accordance with s. 408.061(4)(a).

12 (2) In determining the payment amount for each rural
13 hospital under this section, the agency shall first allocate
14 all available state funds by the following formula:

15
16
$$DAER = (TAERH \times TARH) / STAERH$$

17

18 Where:

19 DAER = distribution amount for each rural hospital.

20 STAERH = sum of total amount earned by each rural
21 hospital.

22 TAERH = total amount earned by each rural hospital.

23 TARH = total amount appropriated or distributed under
24 this section.
25

26 Federal matching funds for the disproportionate share program
27 shall then be calculated for those hospitals that qualify for
28 disproportionate share payments under this section.

29 (3) The Agency for Health Care Administration may
30 recommend to the Legislature a formula to be used in
31 subsequent fiscal years to distribute funds appropriated for

1 | this section that includes charity care, uncompensated care to
2 | medically indigent patients, and Medicaid inpatient days.

3 | (4) In the event that federal matching funds for the
4 | rural hospital disproportionate share program are not
5 | available, state matching funds appropriated for the program
6 | may be utilized for the Rural Hospital Financial Assistance
7 | Program and shall be allocated to rural hospitals based on the
8 | formulas in subsections (1) and (2).

9 | (5) In order to receive payments under this section, a
10 | hospital must be a rural hospital as defined in s. 395.602 and
11 | must meet the following additional requirements:

12 | (a) Agree to conform to all agency requirements to
13 | ensure high quality in the provision of services, including
14 | criteria adopted by agency rule concerning staffing ratios,
15 | medical records, standards of care, equipment, space, and such
16 | other standards and criteria as the agency deems appropriate
17 | as specified by rule.

18 | (b) Agree to accept all patients, regardless of
19 | ability to pay, on a functional space-available basis.

20 | (c) Agree to provide backup and referral services to
21 | the county public health departments and other low-income
22 | providers within the hospital's service area, including the
23 | development of written agreements between these organizations
24 | and the hospital.

25 | (d) For any hospital owned by a county government
26 | which is leased to a management company, agree to submit on a
27 | quarterly basis a report to the agency, in a format specified
28 | by the agency, which provides a specific accounting of how all
29 | funds dispersed under this act are spent.

30 | (6) For the 1999-2000 fiscal year only, the Agency for
31 | Health Care Administration shall use the following formula for

1 distribution of the funds in Specific Appropriation 236 of the
2 1999-2000 General Appropriations Act for the disproportionate
3 share/financial assistance program for rural hospitals.

4 (a) The agency shall first determine a preliminary
5 payment amount for each rural hospital by allocating all
6 available state funds using the following formula:

7

$$8 \quad \text{PDAER} = (\text{TAERH} \times \text{TARH}) / \text{STAERH}$$

9

10 Where:

11 PDAER = preliminary distribution amount for each rural
12 hospital.

13 TAERH = total amount earned by each rural hospital.

14 TARH = total amount appropriated or distributed under
15 this section.

16 STAERH = sum of total amount earned by each rural
17 hospital.

18 (b) Federal matching funds for the disproportionate
19 share program shall then be calculated for those hospitals
20 that qualify for disproportionate share in paragraph (a).

21 (c) The state-funds-only payment amount is then
22 calculated for each hospital using the formula:

23

$$24 \quad \text{SFOER} = \text{Maximum value of (1) SFOL} - \text{PDAER or (2) 0}$$

25

26 Where:

27 SFOER = state-funds-only payment amount for each rural
28 hospital.

29 SFOL = state-funds-only payment level, which is set at
30 4 percent of TARH.

31

1 (d) The adjusted total amount allocated to the rural
2 disproportionate share program shall then be calculated using
3 the following formula:

$$4 \qquad \qquad \qquad \text{ATARH} = (\text{TARH} - \text{SSFOER})$$

6
7 Where:

8 ATARH = adjusted total amount appropriated or
9 distributed under this section.

10 SSFOER = sum of the state-funds-only payment amount
11 calculated under paragraph (c) for all rural hospitals.

12 (e) The determination of the amount of rural
13 disproportionate share hospital funds is calculated by the
14 following formula:

$$15 \qquad \qquad \qquad \text{TDAERH} = [(\text{TAERH} \times \text{ATARH})/\text{STAERH}]$$

17
18 Where:

19 TDAERH = total distribution amount for each rural
20 hospital.

21 (f) Federal matching funds for the disproportionate
22 share program shall then be calculated for those hospitals
23 that qualify for disproportionate share in paragraph (e).

24 (g) State-funds-only payment amounts calculated under
25 paragraph (c) are then added to the results of paragraph (f)
26 to determine the total distribution amount for each rural
27 hospital.

28 (h) This subsection is repealed on July 1, 2000.

29 (7) This section only applies to hospitals that were
30 defined as statutory rural hospitals, or their
31 successor-in-interest hospital, prior to July 1, 1998. Any

1 additional hospital that is defined as a statutory rural
2 hospital, or its successor-in-interest hospital, on or after
3 July 1, 1998, is not eligible for programs under this section
4 unless additional funds are appropriated each fiscal year
5 specifically to the rural hospital disproportionate share and
6 financial assistance programs in an amount necessary to
7 prevent any hospital, or its successor-in-interest hospital,
8 eligible for the programs prior to July 1, 1998, from
9 incurring a reduction in payments because of the eligibility
10 of an additional hospital to participate in the programs.

11

12 Reviser's note.--Amended to delete language
13 that has served its purpose.

14

15 Section 62. Subsection (26) of section 409.912,
16 Florida Statutes, is amended to read:

17 409.912 Cost-effective purchasing of health care.--The
18 agency shall purchase goods and services for Medicaid
19 recipients in the most cost-effective manner consistent with
20 the delivery of quality medical care. The agency shall
21 maximize the use of prepaid per capita and prepaid aggregate
22 fixed-sum basis services when appropriate and other
23 alternative service delivery and reimbursement methodologies,
24 including competitive bidding pursuant to s. 287.057, designed
25 to facilitate the cost-effective purchase of a case-managed
26 continuum of care. The agency shall also require providers to
27 minimize the exposure of recipients to the need for acute
28 inpatient, custodial, and other institutional care and the
29 inappropriate or unnecessary use of high-cost services.

30 (26) ~~Beginning July 1, 1996,~~The agency shall perform
31 choice counseling, enrollments, and disenrollments for

1 Medicaid recipients who are eligible for MediPass or managed
2 care plans. Notwithstanding the prohibition contained in
3 paragraph (18)(f), managed care plans may perform
4 preenrollments of Medicaid recipients under the supervision of
5 the agency or its agents. For the purposes of this section,
6 "preenrollment" means the provision of marketing and
7 educational materials to a Medicaid recipient and assistance
8 in completing the application forms, but shall not include
9 actual enrollment into a managed care plan. An application
10 for enrollment shall not be deemed complete until the agency
11 or its agent verifies that the recipient made an informed,
12 voluntary choice. The agency, in cooperation with the
13 Department of Children and Family Services, may test new
14 marketing initiatives to inform Medicaid recipients about
15 their managed care options at selected sites. The agency
16 shall report to the Legislature on the effectiveness of such
17 initiatives. The agency may contract with a third party to
18 perform managed care plan and MediPass choice-counseling,
19 enrollment, and disenrollment services for Medicaid recipients
20 and is authorized to adopt rules to implement such services.
21 ~~Until October 1, 1996, or the receipt of necessary federal~~
22 ~~waivers, whichever is earlier, the agency shall adjust the~~
23 ~~capitation rate to cover any implementation, staff, or other~~
24 ~~costs associated with enrollment, disenrollment, and~~
25 ~~choice-counseling activities. Thereafter,~~The agency may
26 adjust the capitation rate only to cover the costs of a
27 third-party choice-counseling, enrollment, and disenrollment
28 contract, and for agency supervision and management of the
29 managed care plan choice-counseling, enrollment, and
30 disenrollment contract.
31

1 Reviser's note.--Amended to delete language
2 that has served its purpose.

3
4 Section 63. Paragraph (d) of subsection (15) of
5 section 409.913, Florida Statutes, is amended to read:
6 409.913 Oversight of the integrity of the Medicaid
7 program.--The agency shall operate a program to oversee the
8 activities of Florida Medicaid recipients, and providers and
9 their representatives, to ensure that fraudulent and abusive
10 behavior and neglect of recipients occur to the minimum extent
11 possible, and to recover overpayments and impose sanctions as
12 appropriate.

13 (15) The agency may impose any of the following
14 sanctions on a provider or a person for any of the acts
15 described in subsection (14):

16 (d) Immediate suspension, if the agency has received
17 information of patient abuse or neglect or of any act
18 prohibited by s. 409.920. Upon suspension, the agency must
19 issue an immediate final order under s. 120.569(2)(n)
20 ~~120.59(3)~~.

21
22 Reviser's note.--Amended to conform to the
23 repeal of s. 120.59(3) by s. 24, ch. 96-159,
24 Laws of Florida, and the enactment of identical
25 language in s. 120.569(2)(1) by s. 18, ch.
26 96-159. Section 120.569(2)(1) was subsequently
27 redesignated as s. 120.569(2)(n) by s. 4, ch.
28 98-200, Laws of Florida.

29
30 Section 64. Paragraph (k) of subsection (9) of section
31 411.202, Florida Statutes, is amended to read:

1 411.202 Definitions.--As used in this chapter, the
2 term:

3 (9) "High-risk child" or "at-risk child" means a
4 preschool child with one or more of the following
5 characteristics:

6 (k) The child is a handicapped child as defined in
7 subsection(8)~~(7)~~.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 411.202(7) as s. 411.202(8)
11 by s. 1, ch. 95-321, Laws of Florida.
12

13 Section 65. Paragraph (a) of subsection (4) of section
14 411.232, Florida Statutes, is amended to read:

15 411.232 Children's Early Investment Program.--

16 (4) IMPLEMENTATION.--

17 (a) The Department of Health and Rehabilitative
18 Services or its designee shall implement the Children's Early
19 Investment Program using the criteria provided in this
20 section. The department or its designee shall evaluate and
21 select the programs and sites to be funded initially. ~~The~~
22 ~~initial contract awards must be made no later than January 15,~~
23 ~~1990.~~ No more than one of each of the following prototypes
24 may be selected among the first sites to be funded:

- 25 1. A program based in a county health department;
26 2. A program based in an office of the Department of
27 Health and Rehabilitative Services;
28 3. A program based in a local school district;
29 4. A program based in a local board or council that is
30 responsible for coordinating and managing community resources
31

1 from revenue sources earmarked for helping children and
2 meeting their needs;

3 5. A program based in a local, public or private,
4 not-for-profit provider of services to children and their
5 families; and

6 6. A program based in a local government.
7

8 Reviser's note.--Amended to delete language
9 that has served its purpose.
10

11 Section 66. Paragraph (a) of subsection (4) of section
12 411.242, Florida Statutes, is amended to read:

13 411.242 Florida Education Now and Babies Later (ENABL)
14 program.--

15 (4) IMPLEMENTATION.--The department must:

16 (a) Implement the ENABL program using the criteria
17 provided in this section. The department must evaluate,
18 select, and monitor the two pilot projects to be funded
19 initially. ~~The initial contract awards must be made no later~~
20 ~~than August 1, 1995.~~The following community-based local
21 contractors may be selected among the first sites to be
22 funded:

23 1. A program based in a local school district, a
24 county health department, or another unit of local government.

25 2. A program based in a local, public or private,
26 not-for-profit provider of services to children and their
27 families.
28

29 Reviser's note.--Amended to delete language
30 that has served its purpose.
31

1 Section 67. Section 413.46, Florida Statutes, is
2 amended to read:

3 413.46 Legislative intent.--It is the intent of the
4 Legislature to ensure the referral of persons who have
5 moderate-to-severe brain or spinal cord injuries to a
6 coordinated rehabilitation program developed and administered
7 by the division. The program shall provide eligible persons,
8 as defined in s. 381.76 ~~413.507~~, the opportunity to obtain the
9 necessary rehabilitative services enabling them to be referred
10 to a vocational rehabilitation program or to return to an
11 appropriate level of functioning in their community. Further,
12 it is intended that permanent disability be avoided, whenever
13 possible, through prevention, early identification, skilled
14 emergency evacuation procedures, and proper medical and
15 rehabilitative treatment.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of s. 413.507 as s. 381.76 by s.
19 20, ch. 99-240, Laws of Florida.

20
21 Section 68. Paragraph (a) of subsection (3) and
22 paragraph (c) of subsection (7) of section 414.065, Florida
23 Statutes, are amended to read:

24 414.065 Work requirements.--

25 (3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.--The
26 following individuals are exempt from work activity
27 requirements:

28 (a) A minor child under age 16, except that a child
29 exempted from this provision shall be subject to the
30 requirements of paragraph (1)(j) ~~(1)(i)~~ and s. 414.125.

31

1 (7) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.--Unless
2 otherwise provided, the situations listed in this subsection
3 shall constitute exceptions to the penalties for noncompliance
4 with participation requirements, except that these situations
5 do not constitute exceptions to the applicable time limit for
6 receipt of temporary cash assistance:

7 (c) Noncompliance related to treatment or remediation
8 of past effects of domestic violence.--An individual who is
9 determined to be unable to comply with the work requirements
10 under this section due to mental or physical impairment
11 related to past incidents of domestic violence may be exempt
12 from work requirements for a specified period pursuant to s.
13 414.028(4)(g), except that such individual shall comply with a
14 plan that specifies alternative requirements that prepare the
15 individual for self-sufficiency while providing for the safety
16 of the individual and the individual's dependents. A
17 participant who is determined to be out of compliance with the
18 alternative requirement plan shall be subject to the penalties
19 under subsection (4). The plan must include counseling or a
20 course of treatment necessary for the individual to resume
21 participation. The need for treatment and the expected
22 duration of such treatment must be verified by a physician
23 licensed under chapter 458 or chapter 459; a psychologist
24 licensed under s. 490.005(1), s. 490.006, or the provision
25 identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of
26 Florida; a therapist as defined in s. 491.003(2) or (6); or a
27 treatment professional who is registered under s. 39.905(1)(g)
28 ~~415.605(1)(g)~~, is authorized to maintain confidentiality under
29 s. 90.5036(1)(d), and has a minimum of 2 years experience at a
30 certified domestic violence center. An exception granted under
31

1 this paragraph does not constitute an exception from the time
2 limitations on benefits specified under s. 414.105.

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Reviser's note.--Paragraph (3)(a) is amended to conform to the redesignation of s. 414.065(1)(i) as s. 414.065(1)(j) by s. 42, ch. 97-246, Laws of Florida. Paragraph (7)(c) is amended to conform to the redesignation of s. 415.605(1)(g) as s. 39.905(1)(g) by s. 117, ch. 98-403, Laws of Florida.

Section 69. Subsection (1) of section 414.28, Florida Statutes, is amended to read:

414.28 Public assistance payments to constitute debt of recipient.--

(1) CLAIMS.--The acceptance of public assistance creates a debt of the person accepting assistance, which debt is enforceable only after the death of the recipient. The debt thereby created is enforceable only by claim filed against the estate of the recipient after his or her death or by suit to set aside a fraudulent conveyance, as defined in subsection (3). After the death of the recipient and within the time prescribed by law, the department may file a claim against the estate of the recipient for the total amount of public assistance paid to or for the benefit of such recipient, reimbursement for which has not been made. Claims so filed shall take priority as class 3 claims as provided by s. 733.707(1)(c)~~733.707(1)(g)~~.

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation. Class 3
3 claims are provided for in s. 733.707(1)(c).
4

5 Section 70. Subsection (9) of section 414.39, Florida
6 Statutes, is amended to read:

7 414.39 Fraud.--

8 (9) All records relating to investigations of public
9 assistance fraud in the custody of the department and the
10 Agency for Health Care Administration are available for
11 examination by the Department of Law Enforcement pursuant to
12 s. 943.401 ~~11.50~~ and are admissible into evidence in
13 proceedings brought under this section as business records
14 within the meaning of s. 90.803(6).
15

16 Reviser's note.--Amended to conform to the
17 redesignation of s. 11.50 as s. 943.401 by s.
18 5, ch. 99-333, Laws of Florida.
19

20 Section 71. Subsection (4) of section 415.102, Florida
21 Statutes, is amended to read:

22 415.102 Definitions of terms used in ss.
23 415.101-415.113.--As used in ss. 415.101-415.113, the term:

24 (4) "Caregiver" means a person who has been entrusted
25 with or has assumed the responsibility for frequent and
26 regular care of or services to a disabled adult or an elderly
27 person on a temporary or permanent basis and who has a
28 commitment, agreement, or understanding with that person or
29 that person's guardian that a caregiver role exists.
30 "Caregiver" includes, but is not limited to, relatives,
31 household members, guardians, neighbors, and employees and

1 volunteers of facilities as defined in subsection (15)~~(13)~~.
2 For the purpose of departmental investigative jurisdiction,
3 the term "caregiver" does not include law enforcement officers
4 or employees of municipal or county detention facilities or
5 the Department of Corrections while acting in an official
6 capacity.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of s. 415.102(13) as s.
10 415.102(15) by s. 1, ch. 98-182, Laws of
11 Florida.

12
13 Section 72. Paragraph (f) of subsection (1) of section
14 415.1055, Florida Statutes, is amended to read:

15 415.1055 Notification to administrative entities,
16 subjects, and reporters; notification to law enforcement and
17 state attorneys.--

18 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

19 (f) If at any time during a protective investigation
20 the department has reasonable cause to believe that an
21 employee of a facility, as defined in s. 415.102(15)
22 ~~415.102(13)~~, is the alleged perpetrator of abuse, neglect, or
23 exploitation of a disabled adult or an elderly person, the
24 department shall notify the Agency for Health Care
25 Administration, Division of Health Quality Assurance, in
26 writing.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 415.102(13) as s.
30 415.102(15) by s. 1, ch. 98-182, Laws of
31 Florida.

1 Section 73. Subsection (8) of section 415.107, Florida
2 Statutes, is amended to read:

3 415.107 Confidentiality of reports and records.--

4 (8) The department, upon receipt of the applicable
5 fee, shall search its central abuse registry and tracking
6 system records pursuant to the requirements of ss. 110.1127,
7 393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,
8 402.305(2)~~402.305(1)~~, 402.3055, 402.313, 409.175, 409.176,
9 and 985.407 for the existence of a confirmed report made on
10 the personnel as defined in the foregoing provisions. The
11 department shall report the existence of any confirmed report
12 and advise the authorized licensing agency, applicant for
13 licensure, or other authorized agency or person of the results
14 of the search and the date of the report. Prior to a search
15 being conducted, the department or its designee shall notify
16 such person that an inquiry will be made. The department shall
17 notify each person for whom a search is conducted of the
18 results of the search upon request.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of s. 402.305(1) as s. 402.305(2)
22 by s. 2, ch. 91-300, Laws of Florida.
23

24 Section 74. Section 415.1102, Florida Statutes, is
25 reenacted to read:

26 415.1102 Adult protection teams; services; eligible
27 cases.--Subject to an appropriation, the department may
28 develop, maintain, and coordinate the services of one or more
29 multidisciplinary adult protection teams in each of the
30 districts of the department. Such teams may be composed of,
31 but need not be limited to, representatives of appropriate

1 health, mental health, social service, legal service, and law
2 enforcement agencies.

3 (1) The department shall utilize and convene the teams
4 to supplement the protective services activities of the adult
5 protective services program of the department. This section
6 does not prevent a person from reporting under s. 415.1034 all
7 suspected or known cases of abuse, neglect, or exploitation of
8 a disabled adult or an elderly person. The role of the teams
9 is to support activities of the adult protective services
10 program and to provide services deemed by the teams to be
11 necessary and appropriate to abused, neglected, and exploited
12 disabled adults or elderly persons upon referral. Services
13 must be provided with the consent of the disabled adult, or
14 elderly person or that person's guardian, or through court
15 order. The specialized diagnostic assessment, evaluation,
16 coordination, and other supportive services that an adult
17 protection team must be capable of providing include, but are
18 not limited to:

19 (a) Medical diagnosis and evaluation services,
20 including provision or interpretation of X rays and laboratory
21 tests, and related services, as needed, and documentation of
22 findings relative thereto.

23 (b) Telephone consultation services in emergencies and
24 in other situations.

25 (c) Medical evaluation related to abuse, neglect, or
26 exploitation as defined by department policy or rule.

27 (d) Psychological and psychiatric diagnosis and
28 evaluation services for the disabled adult or elderly person.

29 (e) Short-term psychological treatment. It is the
30 intent of the Legislature that short-term psychological
31

1 treatment be limited to no more than 6 months' duration after
2 treatment is initiated.

3 (f) Expert medical, psychological, and related
4 professional testimony in court cases.

5 (g) Case staffings to develop, implement, and monitor
6 treatment plans for disabled adults and elderly persons whose
7 cases have been referred to the team. An adult protection
8 team may provide consultation with respect to a disabled adult
9 or elderly person who has not been referred to the team. The
10 consultation must be provided at the request of a
11 representative of the adult protective services program or at
12 the request of any other professional involved with the
13 disabled adult or elderly person or that person's guardian or
14 other caregivers. In every such adult protection team case
15 staffing consultation or staff activity involving a disabled
16 adult or elderly person, an adult protective services program
17 representative shall attend and participate.

18 (h) Service coordination and assistance, including the
19 location of services available from other public and private
20 agencies in the community.

21 (i) Such training services for program and other
22 department employees as is deemed appropriate to enable them
23 to develop and maintain their professional skills and
24 abilities in handling adult abuse, neglect, or exploitation
25 cases.

26 (j) Education and community awareness campaigns on
27 adult abuse, neglect, or exploitation in an effort to enable
28 citizens to prevent, identify, and treat adult abuse, neglect,
29 and exploitation in the community more successfully.

30 (2) The adult abuse, neglect, or exploitation cases
31 that are appropriate for referral by the adult protective

1 services program to adult protection teams for supportive
2 services include, but are not limited to, cases involving:

3 (a) Unexplained or implausibly explained bruises,
4 burns, fractures, or other injuries in a disabled adult or an
5 elderly person.

6 (b) Sexual abuse or molestation, or sexual
7 exploitation, of a disabled adult or elderly person.

8 (c) Reported medical, physical, or emotional neglect
9 of a disabled adult or an elderly person.

10 (d) Reported financial exploitation of a disabled
11 adult or elderly person.

12

13 In all instances in which an adult protection team is
14 providing certain services to abused, neglected, or exploited
15 disabled adults or elderly persons, other offices and units of
16 the department shall avoid duplicating the provisions of those
17 services.

18

19 Reviser's note.--Section 6, ch. 98-182, Laws of
20 Florida, purported to amend paragraph (2)(c),
21 but failed to republish the flush left language
22 at the end of the section. In the absence of
23 affirmative evidence that the Legislature
24 intended to repeal the flush left language, s.
25 415.1102 is reenacted to confirm that the
26 omission was not intended.

27

28 Section 75. Subsections (1), (3), and (4) of section
29 420.0004, Florida Statutes, are amended to read:

30 420.0004 Definitions.--As used in this part, unless
31 the context otherwise indicates:

1 (1) "Adjusted for family size" means adjusted in a
2 manner which results in an income eligibility level which is
3 lower for households with fewer than four people, or higher
4 for households with more than four people, than the base
5 income eligibility determined as provided in subsection(9)
6 ~~(6)~~, subsection(10)~~(7)~~, or subsection(14)~~(11)~~, based upon
7 a formula as established by the United States Department of
8 Housing and Urban Development.

9 (3) "Affordable" means that monthly rents or monthly
10 mortgage payments including taxes, insurance, and utilities do
11 not exceed 30 percent of that amount which represents the
12 percentage of the median adjusted gross annual income for the
13 households as indicated in subsection(9)~~(6)~~, subsection(10)
14 ~~(7)~~, or subsection(14)~~(11)~~.

15 (4) "Corporation"~~"Agency"~~ means the Florida Housing
16 Finance Corporation ~~Agency~~.

17

18 Reviser's note.--Subsections (1) and (3) are
19 amended to conform to the redesignation of
20 subsection (6), subsection (7), and subsection
21 (11) as subsection (9), subsection (10), and
22 subsection (14), respectively, by s. 13, ch.
23 90-275, Laws of Florida. Subsection (4) is
24 amended to conform to the redesignation of the
25 Florida Housing Finance Agency as the Florida
26 Housing Finance Corporation by s. 7, ch.
27 97-167, Laws of Florida.

28

29 Section 76. Subsections (5), (11), and (13) of section
30 420.102, Florida Statutes, are amended to read:

31

1 420.102 Definitions.--As used in this part, the
2 following words and terms have the following meanings unless
3 the context indicates another or different meaning or intent:

4 (5) "Development costs" means the costs which have
5 been approved by the Florida Housing Finance Corporation
6 ~~agency~~ as appropriate expenditures, including but not limited
7 to:

8 (a) Legal, organizational, marketing, and
9 administrative expenses;

10 (b) Payment of fees for preliminary feasibility
11 studies and advances for planning, engineering, and
12 architectural work;

13 (c) Expenses for surveys as to need and market
14 analyses;

15 (d) Necessary application and other fees to federal
16 and other government agencies; and

17 (e) Such other expenses as the Florida Housing Finance
18 Corporation ~~agency~~ may deem appropriate to effectuate the
19 purposes of this chapter.

20 (11) "Low-income or moderate-income persons" means
21 families and persons who cannot afford, as defined by federal
22 law, to pay the amounts at which private enterprise is
23 providing a substantial supply of decent, safe, and sanitary
24 housing and fall within income limitations set by the Florida
25 Housing Finance Corporation ~~agency~~ in its rules.

26 (13) "Project" means a specific work or improvement,
27 including land, buildings, improvements, real and personal
28 property, or any interest therein, acquired, owned,
29 constructed, reconstructed, rehabilitated, or improved with
30 the financial assistance of the Florida Housing Finance
31 Corporation ~~agency~~, including the construction of low-income

1 and moderate-income housing facilities and facilities incident
2 or appurtenant thereto, such as streets, sewers, utilities,
3 parks, site preparation, landscaping, and such other
4 administrative, community, and recreational facilities as the
5 Florida Housing Finance Corporation ~~agency~~ determines to be
6 necessary, convenient, or desirable appurtenances.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of the Florida Housing Finance
10 Agency as the Florida Housing Finance
11 Corporation by s. 7, ch. 97-167, Laws of
12 Florida.

13
14 Section 77. Section 420.37, Florida Statutes, is
15 amended to read:

16 420.37 Additional powers of the Florida Housing
17 Finance Corporation ~~agency~~.--The Florida Housing Finance
18 Corporation ~~agency~~ shall have all powers necessary or
19 convenient to carry out and effectuate the purposes of this
20 part, including the power to provide for the collection and
21 payment of fees and charges, regardless of method of payment,
22 including, but not limited to, reimbursement of costs of
23 financing by the corporation ~~agency~~, credit underwriting fees,
24 servicing charges, and insurance premiums determined by the
25 corporation ~~agency~~ to be reasonable and as approved by the
26 corporation ~~agency~~. The fees and charges may be paid directly
27 by the borrower to the insurer, lender, or servicing agent or
28 may be deducted from the payments collected by such insurer,
29 lender, or servicing agent.

1 Reviser's note.--Amended to conform to the
2 redesignation of the Florida Housing Finance
3 Agency as the Florida Housing Finance
4 Corporation by s. 7, ch. 97-167, Laws of
5 Florida.

6
7 Section 78. Subsection (30) of section 420.507,
8 Florida Statutes, is amended to read:

9 420.507 Powers of the corporation.--The corporation
10 shall have all the powers necessary or convenient to carry out
11 and effectuate the purposes and provisions of this part,
12 including the following powers which are in addition to all
13 other powers granted by other provisions of this part:

14 (30) To prepare and submit to the secretary of the
15 department a budget request for purposes of the corporation,
16 which request shall, notwithstanding the provisions of chapter
17 216 and in accordance with s. 216.351, contain a request for
18 operational expenditures and separate requests for other
19 authorized corporation programs. The request shall not be
20 required to contain information on the number of employees,
21 salaries, or any classification thereof, and the approved
22 operating budget therefor need not comply with s.
23 216.181(8)-(10)~~216.181(7)-(9)~~. The secretary is authorized to
24 include within the department's budget request the
25 corporation's budget request in the form as authorized by this
26 section.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 216.181(7)-(9) as s.
30 216.181(8)-(10) by s. 6, ch. 97-286, Laws of
31 Florida.

1 Section 79. Paragraph (a) of subsection (3) and
2 subsection (5) of section 420.508, Florida Statutes, are
3 amended to read:

4 420.508 Special powers; multifamily and single-family
5 projects.--The corporation shall have the special power to:

6 (3)(a) Make and participate in the making of, and
7 contract to make or participate in the making of, mortgage
8 loans for permanent or construction financing to sponsors for
9 the purposes of financing development costs of projects,
10 provided each mortgage loan for a project made by the
11 corporation shall:

12 1. Be evidenced by a properly executed note or other
13 evidence of indebtedness and be secured by a properly recorded
14 mortgage;

15 2. Provide for amortization to pay the mortgage loan
16 in full not later than the expiration of the useful life of
17 the property financed with the proceeds of the mortgage loan
18 as determined by the corporation, and in any event not later
19 than 45 years from the date of the mortgage loan;

20 3. Not exceed such percentage of the development costs
21 as the corporation may determine pursuant to rule and, in any
22 event, not more than 95 percent of the development costs;

23 4. If the mortgage loan is to provide financing for
24 the construction of a project, have each advance thereof
25 secured, insured, or guaranteed in such manner as the
26 corporation determines will reasonably protect its interests
27 and those of the bondholders;

28 5. Have the initial review, approval, and origination
29 process accomplished by a lending institution in accordance
30 with such procedure as the corporation may prescribe, which
31

1 lending institution shall be paid such fees and charges for
2 its services as the corporation may determine; and

3 6. Be serviced by such lending institution or other
4 private entity engaged in the business of servicing mortgage
5 loans in the state as the corporation shall approve in
6 accordance with such procedures as the corporation may
7 prescribe, which servicer shall be paid such fees and charges
8 for its services as the corporation ~~agency~~ may determine.

9 (5) Establish with a qualified depository meeting the
10 requirements of chapter 280, a separate fund to be known as
11 the "Florida Housing Finance Corporation Fund," to be
12 administered by the corporation in accordance with the
13 purposes of this chapter. All fees collected by the
14 corporation directly from the Federal Government for
15 administration of the United States Department of Housing and
16 Urban Development Section 8 housing program, all annual
17 administrative fees collected by trustees for bond programs
18 and remitted to the corporation, all expense fees related to
19 costs of bond issuance collected by trustees and remitted to
20 the corporation, and all tax credit program fees must be
21 deposited into the fund. The fund shall be utilized for the
22 purposes of the corporation, including payment of
23 administrative expenses. ~~Effective January 1, 1998, all~~
24 ~~amounts held in the Housing Finance Agency Trust Fund~~
25 ~~established pursuant to state law must be transferred to the~~
26 ~~corporation for deposit in the Florida Housing Finance~~
27 ~~Corporation Fund, whereupon the Housing Finance Agency Trust~~
28 ~~Fund must be closed.~~ Expenditures from the Florida Housing
29 Finance Corporation Fund shall not be required to be included
30 in the corporation's budget request or be subject to
31 appropriation by the Legislature.

1 Reviser's note.--Paragraph (3)(a) is amended to
2 conform to the redesignation of the Florida
3 Housing Finance Agency as the Florida Housing
4 Finance Corporation by s. 7, ch. 97-167, Laws
5 of Florida. Subsection (5) is amended to delete
6 language that has served its purpose.

7
8 Section 80. Subsection (5) of section 420.524, Florida
9 Statutes, is amended to read:

10 420.524 Definitions.--For the purpose of ss.
11 420.521-420.529, the term:

12 (5) "Student" means any person not living with that
13 person's parent or guardian who is eligible to be claimed by
14 that person's parent or guardian as a dependent under the
15 federal income tax code and who is enrolled on at least a
16 half-time basis in a secondary school, vocational-technical
17 center, community college, college, or university. The term
18 does not include a person participating in an educational or
19 training program approved by the corporation ~~agency~~.

20
21 Reviser's note.--Amended to conform to the
22 redesignation of the Florida Housing Finance
23 Agency as the Florida Housing Finance
24 Corporation by s. 7, ch. 97-167, Laws of
25 Florida.

26
27 Section 81. Paragraph (c) of subsection (2) of section
28 420.525, Florida Statutes, is amended to read:

29 420.525 Housing Predevelopment Fund.--

30 (2) All unencumbered funds, loan repayments, proceeds
31 from the sale of any property, existing funds remaining in the

1 following programs, and any other proceeds that would
2 otherwise accrue pursuant to the activities conducted under
3 this program and the provisions of the following programs
4 shall be deposited in the fund and shall not revert to the
5 General Revenue Fund:

6 (c) The Community-Based Organization Loan Program
7 created by the Affordable Housing Planning and Community
8 Assistance Act ~~Florida Affordable Housing Act of 1986~~.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of the Florida Affordable Housing
12 Act of 1986 as the Affordable Housing Planning
13 and Community Assistance Act by s. 27, ch.
14 92-317, Laws of Florida.

15
16 Section 82. Subsection (1) of section 420.602, Florida
17 Statutes, is amended to read:

18 420.602 Definitions.--As used in this part, the
19 following terms shall have the following meanings, unless the
20 context otherwise requires:

21 (1) "Adjusted for family size" means adjusted in a
22 manner which results in an income eligibility level which is
23 lower for households with fewer than four people, or higher
24 for households with more than four people, than the base
25 income eligibility level determined as provided in subsection
26 (8), subsection (9), or subsection (12), based upon a formula
27 as established by rule of the corporation ~~agency~~.

28
29 Reviser's note.--Amended to conform to the
30 redesignation of the Florida Housing Finance
31 Agency as the Florida Housing Finance

1 Corporation by s. 7, ch. 97-167, Laws of
2 Florida.

3
4 Section 83. Subsection (3) of section 420.609, Florida
5 Statutes, is amended to read:

6 420.609 Affordable Housing Study Commission.--Because
7 the Legislature firmly supports affordable housing in Florida
8 for all economic classes:

9 (3) The department and the corporation ~~agency~~ shall
10 supply such information, assistance, and facilities as are
11 deemed necessary for the commission to carry out its duties
12 under this section and shall provide such staff assistance as
13 is necessary for the performance of required clerical and
14 administrative functions of the commission.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of the Florida Housing Finance
18 Agency as the Florida Housing Finance
19 Corporation by s. 7, ch. 97-167, Laws of
20 Florida.

21
22 Section 84. Paragraph (a) of subsection (2) of section
23 420.9072, Florida Statutes, is amended to read:

24 420.9072 State Housing Initiatives Partnership
25 Program.--The State Housing Initiatives Partnership Program is
26 created for the purpose of providing funds to counties and
27 eligible municipalities as an incentive for the creation of
28 local housing partnerships, to expand production of and
29 preserve affordable housing, to further the housing element of
30 the local government comprehensive plan specific to affordable
31 housing, and to increase housing-related employment.

1 (2)(a) To be eligible to receive funds under the
2 program, a county or eligible municipality must:

3 1. Submit to the corporation its local housing
4 assistance plan describing the local housing assistance
5 strategies established pursuant to s. 420.9075;

6 2. Within 12 months after adopting the local housing
7 assistance plan, amend the plan to incorporate the local
8 housing incentive strategies defined in s. 420.9071(16) and
9 described in s. 420.9076 ~~420.7096~~; and

10 3. Within 24 months after adopting the amended local
11 housing assistance plan to incorporate the local housing
12 incentive strategies, amend its land development regulations
13 or establish local policies and procedures, as necessary, to
14 implement the local housing incentive strategies adopted by
15 the local governing body. A county or an eligible municipality
16 that has adopted a housing incentive strategy pursuant to s.
17 420.9076 before the effective date of this act shall review
18 the status of implementation of the plan according to its
19 adopted schedule for implementation and report its findings in
20 the annual report required by s. 420.9075(9). If as a result
21 of the review, a county or an eligible municipality determines
22 that the implementation is complete and in accordance with its
23 schedule, no further action is necessary. If a county or an
24 eligible municipality determines that implementation according
25 to its schedule is not complete, it must amend its land
26 development regulations or establish local policies and
27 procedures, as necessary, to implement the housing incentive
28 plan within 12 months after the effective date of this act, or
29 if extenuating circumstances prevent implementation within 12
30 months, pursuant to s. 420.9075(12), enter into an extension
31 agreement with the corporation.

1 Reviser's note.--Amended to correct an apparent
2 error. Section 420.7096 does not exist. Section
3 420.9076 relates to affordable housing
4 incentive strategies.

5
6 Section 85. Subsections (1) and (2) of section
7 420.9073, Florida Statutes, are amended to read:

8 420.9073 Local housing distributions.--

9 (1) Distributions calculated in this section shall be
10 disbursed on a monthly basis by the corporation ~~agency~~
11 beginning the first day of the month after program approval
12 pursuant to s. 420.9072. Each county's share of the funds to
13 be distributed from the portion of the funds in the Local
14 Government Housing Trust Fund received pursuant to s.
15 201.15(6) shall be calculated by the corporation ~~agency~~ for
16 each fiscal year as follows:

17 (a) Each county other than a county that has
18 implemented the provisions of chapter 83-220, Laws of Florida,
19 as amended by chapters 84-270, 86-152, and 89-252, Laws of
20 Florida, shall receive the guaranteed amount for each fiscal
21 year.

22 (b) Each county other than a county that has
23 implemented the provisions of chapter 83-220, Laws of Florida,
24 as amended by chapters 84-270, 86-152, and 89-252, Laws of
25 Florida, may receive an additional share calculated as
26 follows:

27 1. Multiply each county's percentage of the total
28 state population excluding the population of any county that
29 has implemented the provisions of chapter 83-220, Laws of
30 Florida, as amended by chapters 84-270, 86-152, and 89-252,
31 Laws of Florida, by the total funds to be distributed.

1 2. If the result in subparagraph 1. is less than the
2 guaranteed amount as determined in subsection (3), that
3 county's additional share shall be zero.

4 3. For each county in which the result in subparagraph
5 1. is greater than the guaranteed amount as determined in
6 subsection (3), the amount calculated in subparagraph 1. shall
7 be reduced by the guaranteed amount. The result for each such
8 county shall be expressed as a percentage of the amounts so
9 determined for all counties. Each such county shall receive
10 an additional share equal to such percentage multiplied by the
11 total funds received by the Local Government Housing Trust
12 Fund pursuant to s. 201.15(6) reduced by the guaranteed amount
13 paid to all counties.

14 (2) Effective July 1, 1995, distributions calculated
15 in this section shall be disbursed on a monthly basis by the
16 corporation ~~agency~~ beginning the first day of the month after
17 program approval pursuant to s. 420.9072. Each county's share
18 of the funds to be distributed from the portion of the funds
19 in the Local Government Housing Trust Fund received pursuant
20 to s. 201.15(7) shall be calculated by the corporation ~~agency~~
21 for each fiscal year as follows:

22 (a) Each county shall receive the guaranteed amount
23 for each fiscal year.

24 (b) Each county may receive an additional share
25 calculated as follows:

26 1. Multiply each county's percentage of the total
27 state population, by the total funds to be distributed.

28 2. If the result in subparagraph 1. is less than the
29 guaranteed amount as determined in subsection (3), that
30 county's additional share shall be zero.

31

1 3. For each county in which the result in subparagraph
2 1. is greater than the guaranteed amount, the amount
3 calculated in subparagraph 1. shall be reduced by the
4 guaranteed amount. The result for each such county shall be
5 expressed as a percentage of the amounts so determined for all
6 counties. Each such county shall receive an additional share
7 equal to this percentage multiplied by the total funds
8 received by the Local Government Housing Trust Fund pursuant
9 to s. 201.15(7) as reduced by the guaranteed amount paid to
10 all counties.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of the Florida Housing Finance
14 Agency as the Florida Housing Finance
15 Corporation by s. 7, ch. 97-167, Laws of
16 Florida.

17

18 Section 86. Effective July 1, 2001, subsections (1)
19 and (2) of section 420.9073, Florida Statutes, as amended by
20 section 49 of chapter 99-247, Laws of Florida, are amended to
21 read:

22

420.9073 Local housing distributions.--

23

(1) Distributions calculated in this section shall be
24 disbursed on a monthly basis by the corporation ~~agency~~
25 beginning the first day of the month after program approval
26 pursuant to s. 420.9072. Each county's share of the funds to
27 be distributed from the portion of the funds in the Local
28 Government Housing Trust Fund received pursuant to s.
29 201.15(9) shall be calculated by the corporation ~~agency~~ for
30 each fiscal year as follows:

31

1 (a) Each county other than a county that has
2 implemented the provisions of chapter 83-220, Laws of Florida,
3 as amended by chapters 84-270, 86-152, and 89-252, Laws of
4 Florida, shall receive the guaranteed amount for each fiscal
5 year.

6 (b) Each county other than a county that has
7 implemented the provisions of chapter 83-220, Laws of Florida,
8 as amended by chapters 84-270, 86-152, and 89-252, Laws of
9 Florida, may receive an additional share calculated as
10 follows:

11 1. Multiply each county's percentage of the total
12 state population excluding the population of any county that
13 has implemented the provisions of chapter 83-220, Laws of
14 Florida, as amended by chapters 84-270, 86-152, and 89-252,
15 Laws of Florida, by the total funds to be distributed.

16 2. If the result in subparagraph 1. is less than the
17 guaranteed amount as determined in subsection (3), that
18 county's additional share shall be zero.

19 3. For each county in which the result in subparagraph
20 1. is greater than the guaranteed amount as determined in
21 subsection (3), the amount calculated in subparagraph 1. shall
22 be reduced by the guaranteed amount. The result for each such
23 county shall be expressed as a percentage of the amounts so
24 determined for all counties. Each such county shall receive
25 an additional share equal to such percentage multiplied by the
26 total funds received by the Local Government Housing Trust
27 Fund pursuant to s. 201.15(9) reduced by the guaranteed amount
28 paid to all counties.

29 (2) Effective July 1, 1995, distributions calculated
30 in this section shall be disbursed on a monthly basis by the
31 corporation ~~agency~~ beginning the first day of the month after

1 program approval pursuant to s. 420.9072. Each county's share
2 of the funds to be distributed from the portion of the funds
3 in the Local Government Housing Trust Fund received pursuant
4 to s. 201.15(10) shall be calculated by the corporation ~~agency~~
5 for each fiscal year as follows:

6 (a) Each county shall receive the guaranteed amount
7 for each fiscal year.

8 (b) Each county may receive an additional share
9 calculated as follows:

10 1. Multiply each county's percentage of the total
11 state population, by the total funds to be distributed.

12 2. If the result in subparagraph 1. is less than the
13 guaranteed amount as determined in subsection (3), that
14 county's additional share shall be zero.

15 3. For each county in which the result in subparagraph
16 1. is greater than the guaranteed amount, the amount
17 calculated in subparagraph 1. shall be reduced by the
18 guaranteed amount. The result for each such county shall be
19 expressed as a percentage of the amounts so determined for all
20 counties. Each such county shall receive an additional share
21 equal to this percentage multiplied by the total funds
22 received by the Local Government Housing Trust Fund pursuant
23 to s. 201.15(10) as reduced by the guaranteed amount paid to
24 all counties.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of the Florida Housing Finance
28 Agency as the Florida Housing Finance
29 Corporation by s. 7, ch. 97-167, Laws of
30 Florida.
31

1 Section 87. Subsection (2) of section 421.10, Florida
2 Statutes, is amended to read:

3 421.10 Rentals and tenant selection.--

4 (2) Nothing contained in this section or s. 421.09,
5 shall be construed as limiting the power of an authority to
6 vest in an obligee the right, in the event of a default by the
7 authority, to take possession of a housing project or cause
8 the appointment of a receiver thereof, free from all the
9 restrictions imposed by this section or s. 421.09 ~~the~~
10 ~~preceding section~~.

11
12 Reviser's note.--Amended to conform to the
13 codification of s. 9, ch. 17981, 1937, Laws of
14 Florida, as s. 421.09. Section 421.10 was
15 enacted by s. 10, ch. 17981, 1937, and included
16 the reference to "the preceding section."
17

18 Section 88. Section 421.33, Florida Statutes, is
19 amended to read:

20 421.33 Housing applications by farmers.--The owner of
21 any farm operated, or worked upon, by farmers of low income in
22 need of safe and sanitary housing may file an application with
23 a housing authority created for a county or a regional housing
24 authority requesting that it provide for a safe and sanitary
25 dwelling or dwellings for occupancy by such farmers of low
26 income. Such applications shall be received and examined by
27 housing authorities in connection with the formulation of
28 projects or programs to provide housing for farmers of low
29 income. Provided, however, that if it becomes necessary for an
30 applicant under this section ~~paragraph~~ to convey any portion
31 of the applicant's then homestead in order to take advantages

1 as provided herein, then in that event, the parting with title
2 to a portion of said homestead shall not affect the remaining
3 portion of same, but all rights that said owner may have in
4 and to same under and by virtue of the Constitution of the
5 state or any law passed pursuant thereto, shall be deemed and
6 held to apply to such remaining portion of said land, the
7 title of which remains in said applicant; it being the
8 intention of the Legislature to permit the owner of any farm
9 operated or worked upon by farmers of low income in need of
10 safe and sanitary housing to take advantage of the provisions
11 of this law without jeopardizing their rights in their then
12 homestead by reason of any requirement that may be necessary
13 in order for them to receive the benefits herein provided; and
14 no court shall ever construe that an applicant who has taken
15 advantage of this law has in any manner, shape or form
16 abandoned his or her rights in any property that is the
17 applicant's then homestead by virtue of such action upon his
18 or her part, but it shall be held, construed and deemed that
19 such action upon the part of any applicant hereunder was not
20 any abandonment of the applicant's then homestead, and that
21 all rights that the applicant then had therein shall be and
22 remain as provided by the Constitution and any law enacted
23 pursuant thereto.

24

25 Reviser's note.--Amended to improve clarity and
26 facilitate correct interpretation. Section
27 421.33 is not divided into paragraphs.

28

29 Section 89. Paragraph (i) of subsection (1) of section
30 430.502, Florida Statutes, is amended to read:

31

1 430.502 Alzheimer's disease; memory disorder clinics
2 and day care and respite care programs.--

3 (1) There is established:

4 (i) A memory disorder clinic at Tallahassee Memorial
5 Healthcare ~~Regional Medical Center~~;

6
7 for the purpose of conducting research and training in a
8 diagnostic and therapeutic setting for persons suffering from
9 Alzheimer's disease and related memory disorders. However,
10 memory disorder clinics funded as of June 30, 1995, shall not
11 receive decreased funding due solely to subsequent additions
12 of memory disorder clinics in this subsection.

13
14 Reviser's note.--Amended to conform to the
15 current name of the hospital.

16
17 Section 90. Paragraph (z) of subsection (2) and
18 paragraph (a) of subsection (3) of section 435.03, Florida
19 Statutes, are amended to read:

20 435.03 Level 1 screening standards.--

21 (2) Any person for whom employment screening is
22 required by statute must not have been found guilty of,
23 regardless of adjudication, or entered a plea of nolo
24 contendere or guilty to, any offense prohibited under any of
25 the following provisions of the Florida Statutes or under any
26 similar statute of another jurisdiction:

27 (z) ~~Former s. Section~~ Former s. Section 827.05, relating to negligent
28 treatment of children.

29 (3) Standards must also ensure that the person:

30 (a) For employees and employers licensed or registered
31 pursuant to chapter 400, does not have a confirmed report of

1 abuse, neglect, or exploitation as defined in s. 415.102(6)
2 ~~415.102(5)~~, which has been uncontested or upheld under s.
3 415.103.

4
5 Reviser's note.--Paragraph (2)(z) is amended to
6 improve clarity and facilitate correct
7 interpretation. Section 827.05 was repealed by
8 s. 11, ch. 96-322, Laws of Florida, and by s.
9 31, ch. 96-388, Laws of Florida. Paragraph
10 (3)(a) is amended to conform to the
11 redesignation of s. 415.102(5) as s. 415.102(6)
12 by s. 94, ch. 95-418, Laws of Florida.

13
14 Section 91. Paragraph (ee) of subsection (2) and
15 paragraph (a) of subsection (3) of section 435.04, Florida
16 Statutes, are amended to read:

17 435.04 Level 2 screening standards.--

18 (2) The security background investigations under this
19 section must ensure that no persons subject to the provisions
20 of this section have been found guilty of, regardless of
21 adjudication, or entered a plea of nolo contendere or guilty
22 to, any offense prohibited under any of the following
23 provisions of the Florida Statutes or under any similar
24 statute of another jurisdiction:

25 (ee) ~~Former s. Section~~ 827.05, relating to negligent
26 treatment of children.

27 (3) Standards must also ensure that the person:

28 (a) For employees or employers licensed or registered
29 pursuant to chapter 400, does not have a confirmed report of
30 abuse, neglect, or exploitation as defined in s. 415.102(6)

31

1 ~~415.102(5)~~, which has been uncontested or upheld under s.
2 415.103.

3
4 Reviser's note.--Paragraph (2)(ee) is amended
5 to improve clarity and facilitate correct
6 interpretation. Section 827.05 was repealed by
7 s. 11, ch. 96-322, Laws of Florida, and by s.
8 31, ch. 96-388, Laws of Florida. Paragraph
9 (3)(a) is amended to conform to the
10 redesignation of s. 415.102(5) as s. 415.102(6)
11 by s. 94, ch. 95-418, Laws of Florida.

12
13 Section 92. Paragraph (d) of subsection (23) and
14 subsection (33) of section 440.02, Florida Statutes, are
15 amended to read:

16 440.02 Definitions.--When used in this chapter, unless
17 the context clearly requires otherwise, the following terms
18 shall have the following meanings:

19 (23) "Self-insurer" means:

20 (d) A public utility as defined in s. 364.02 or s.
21 366.02 that has assumed by contract the liabilities of
22 contractors or subcontractors pursuant to s. 624.46225
23 ~~440.571~~; or

24 (33) "Insolvent member" means an individual
25 self-insurer which is a member of the Florida Self-Insurers
26 Guaranty Association, Incorporated, or which was a member and
27 has withdrawn pursuant to s. 440.385(1)(b), and which has been
28 found insolvent, as defined in subparagraph (34)(a)1.,
29 subparagraph (34)(a)2., or subparagraph (34)(a)3. ~~paragraph~~
30 ~~(34)(a), paragraph (34)(b), or paragraph (34)(c),~~ by a court

31

1 of competent jurisdiction in this or any other state, or meets
2 the definition of subparagraph (34)(a)4~~.paragraph (34)(d)~~.

3
4 Reviser's note.--Paragraph (23)(d) is amended
5 to conform to the redesignation of s. 440.571
6 as s. 624.46225 by s. 81, ch. 93-415, Laws of
7 Florida. Subsection (33) is amended to conform
8 to the redesignation of paragraphs (31)(a),
9 (b), (c), and (d) as subparagraphs (31)(a)1.,
10 2., 3., and 4. by s. 2, ch. 93-415, and the
11 further redesignation of subsection (31) as
12 subsection (34) by s. 1, ch. 98-174, Laws of
13 Florida.

14
15 Section 93. Section 440.021, Florida Statutes, is
16 amended to read:

17 440.021 Exemption of workers' compensation from
18 chapter 120.--Workers' compensation adjudications by judges of
19 compensation claims are exempt from chapter 120, and no judge
20 of compensation claims shall be considered an agency or a part
21 thereof. Communications of the result of investigations by the
22 division pursuant to s. 440.185(4) are exempt from chapter
23 120. In all instances in which the division institutes action
24 to collect a penalty or interest which may be due pursuant to
25 this chapter, the penalty or interest shall be assessed
26 without hearing, and the party against which such penalty or
27 interest is assessed shall be given written notice of such
28 assessment and shall have the right to protest within 20 days
29 of such notice. Upon receipt of a timely notice of protest and
30 after such investigation as may be necessary, the division
31 shall, if it agrees with such protest, notify the protesting

1 party that the assessment has been revoked. If the division
2 does not agree with the protest, it shall refer the matter to
3 the judge of compensation claims for determination pursuant to
4 s. 440.25(2)-(5)~~440.25(3) and (4)~~. Such action of the
5 division is exempt from the provisions of chapter 120.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of s. 440.25(3) and (4) as s.
9 440.25(2)-(5) by s. 30, ch. 93-415, Laws of
10 Florida.

11
12 Section 94. Subsection (4) of section 440.14, Florida
13 Statutes, is amended to read:

14 440.14 Determination of pay.--

15 (4) Upon termination of the employee or upon
16 termination of the payment of fringe benefits of any employee
17 who is collecting indemnity benefits pursuant to s. 440.15(2)
18 or (3)(b), the employer shall within 7 days of such
19 termination file a corrected 13-week wage statement reflecting
20 the wages paid and the fringe benefits that had been paid to
21 the injured employee as defined in s. 440.02(27)~~440.02(21)~~.

22
23 Reviser's note.--Amended to conform to the
24 redesignation of s. 440.02(21) as s. 440.02(23)
25 by s. 3, ch. 89-289, Laws of Florida; further
26 redesignation as s. 440.02(24) by s. 9, ch.
27 90-201, Laws of Florida; and further
28 redesignation as s. 440.02(27) by s. 1, ch.
29 98-174, Laws of Florida.

1 Section 95. Paragraph (f) of subsection (1), paragraph
2 (c) of subsection (2), and paragraph (c) of subsection (10) of
3 section 440.15, Florida Statutes, are amended to read:

4 440.15 Compensation for disability.--Compensation for
5 disability shall be paid to the employee, subject to the
6 limits provided in s. 440.12(2), as follows:

7 (1) PERMANENT TOTAL DISABILITY.--

8 (f)1. If permanent total disability results from
9 injuries that occurred subsequent to June 30, 1955, and for
10 which the liability of the employer for compensation has not
11 been discharged under s. 440.20(11)~~440.20(12)~~, the injured
12 employee shall receive additional weekly compensation benefits
13 equal to 5 percent of her or his weekly compensation rate, as
14 established pursuant to the law in effect on the date of her
15 or his injury, multiplied by the number of calendar years
16 since the date of injury. The weekly compensation payable and
17 the additional benefits payable under this paragraph, when
18 combined, may not exceed the maximum weekly compensation rate
19 in effect at the time of payment as determined pursuant to s.
20 440.12(2). Entitlement to these supplemental payments shall
21 cease at age 62 if the employee is eligible for social
22 security benefits under 42 U.S.C. ss. 402 and 423, whether or
23 not the employee has applied for such benefits. These
24 supplemental benefits shall be paid by the division out of the
25 Workers' Compensation Administration Trust Fund when the
26 injury occurred subsequent to June 30, 1955, and before July
27 1, 1984. These supplemental benefits shall be paid by the
28 employer when the injury occurred on or after July 1, 1984.
29 Supplemental benefits are not payable for any period prior to
30 October 1, 1974.

31

1 2.a. The division shall provide by rule for the
2 periodic reporting to the division of all earnings of any
3 nature and social security income by the injured employee
4 entitled to or claiming additional compensation under
5 subparagraph 1. Neither the division nor the employer or
6 carrier shall make any payment of those additional benefits
7 provided by subparagraph 1. for any period during which the
8 employee willfully fails or refuses to report upon request by
9 the division in the manner prescribed by such rules.

10 b. The division shall provide by rule for the periodic
11 reporting to the employer or carrier of all earnings of any
12 nature and social security income by the injured employee
13 entitled to or claiming benefits for permanent total
14 disability. The employer or carrier is not required to make
15 any payment of benefits for permanent total disability for any
16 period during which the employee willfully fails or refuses to
17 report upon request by the employer or carrier in the manner
18 prescribed by such rules or if any employee who is receiving
19 permanent total disability benefits refuses to apply for or
20 cooperate with the employer or carrier in applying for social
21 security benefits.

22 3. When an injured employee receives a full or partial
23 lump-sum advance of the employee's permanent total disability
24 compensation benefits, the employee's benefits under this
25 paragraph shall be computed on the employee's weekly
26 compensation rate as reduced by the lump-sum advance.

27 (2) TEMPORARY TOTAL DISABILITY.--

28 (c) Temporary total disability benefits paid pursuant
29 to this subsection shall include such period as may be
30 reasonably necessary for training in the use of artificial
31 members and appliances, and shall include such period as the

1 employee may be receiving training and education under a
2 program pursuant to s. 440.49(1). Notwithstanding s. 440.02(9)
3 ~~440.02(8)~~, the date of maximum medical improvement for
4 purposes of paragraph (3)(b) shall be no earlier than the last
5 day for which such temporary disability benefits are paid.

6 (10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER
7 AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE
8 ACT.--

9 (c) No disability compensation benefits payable for
10 any week, including those benefits provided by paragraph
11 (1)(f)(1)(e), shall be reduced pursuant to this subsection
12 until the Social Security Administration determines the amount
13 otherwise payable to the employee under 42 U.S.C. ss. 402 and
14 423 and the employee has begun receiving such social security
15 benefit payments. The employee shall, upon demand by the
16 division, the employer, or the carrier, authorize the Social
17 Security Administration to release disability information
18 relating to her or him and authorize the Division of
19 Unemployment Compensation to release unemployment compensation
20 information relating to her or him, in accordance with rules
21 to be promulgated by the division prescribing the procedure
22 and manner for requesting the authorization and for compliance
23 by the employee. Neither the division nor the employer or
24 carrier shall make any payment of benefits for total
25 disability or those additional benefits provided by paragraph
26 (1)(f)(1)(e) for any period during which the employee
27 willfully fails or refuses to authorize the release of
28 information in the manner and within the time prescribed by
29 such rules. The authority for release of disability
30 information granted by an employee under this paragraph shall
31 be effective for a period not to exceed 12 months, such

1 authority to be renewable as the division may prescribe by
2 rule.

3
4 Reviser's note.--Paragraph (1)(f) is amended to
5 conform to the redesignation of s. 440.20(12)
6 as s. 440.20(11) by s. 26, ch. 93-415, Laws of
7 Florida. Paragraph (2)(c) is amended to conform
8 to the redesignation of s. 440.02(8) as s.
9 440.02(9) by s. 1, ch. 98-174, Laws of Florida.
10 Paragraph (10)(c) is amended to conform to the
11 redesignation of s. 440.15(1)(e) as s.
12 440.15(1)(f) by s. 20, ch. 93-415.

13
14 Section 96. Subsection (7) of section 440.185, Florida
15 Statutes, is amended to read:

16 440.185 Notice of injury or death; reports; penalties
17 for violations.--

18 (7) Every carrier shall file with the division within
19 21 days after the issuance of a policy or contract of
20 insurance such policy information as the division may require,
21 including notice of whether the policy is a minimum premium
22 policy. Notice of cancellation or expiration of a policy as
23 set out in s. 440.42(3)~~440.42(2)~~ shall be mailed to the
24 division in accordance with rules promulgated by the division
25 under chapter 120.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of s. 440.42(2) as s. 440.42(3)
29 by s. 10, ch. 98-174, Laws of Florida.

30
31

1 Section 97. Subsection (1) of section 440.191, Florida
2 Statutes, is reenacted to read:

3 440.191 Employee Assistance and Ombudsman Office.--

4 (1)(a) In order to effect the self-executing features
5 of the Workers' Compensation Law, this chapter shall be
6 construed to permit injured employees and employers or the
7 employer's carrier to resolve disagreements without undue
8 expense, costly litigation, or delay in the provisions of
9 benefits. It is the duty of all who participate in the
10 workers' compensation system, including, but not limited to,
11 carriers, service providers, health care providers, attorneys,
12 employers, and employees, to attempt to resolve disagreements
13 in good faith and to cooperate with the division's efforts to
14 resolve disagreements between the parties. The division may by
15 rule prescribe definitions that are necessary for the
16 effective administration of this section.

17 (b) An Employee Assistance and Ombudsman Office is
18 created within the Division of Workers' Compensation to inform
19 and assist injured workers, employers, carriers, and health
20 care providers in fulfilling their responsibilities under this
21 chapter. The division may by rule specify forms and procedures
22 for administering requests for assistance provided by this
23 section.

24 (c) The Employee Assistance and Ombudsman Office,
25 Division of Workers' Compensation, shall be a resource
26 available to all employees who participate in the workers'
27 compensation system and shall take all steps necessary to
28 educate and disseminate information to employees and
29 employers.

30
31

1 Reviser's note.--Section 5, ch. 98-125, Laws of
2 Florida, purported to amend s. 440.191(1), but
3 failed to republish paragraph (1)(c). In the
4 absence of affirmative evidence that the
5 Legislature intended to repeal paragraph
6 (1)(c), subsection (1) is reenacted to confirm
7 that the omission was not intended.
8

9 Section 98. Subsection (3) of section 440.25, Florida
10 Statutes, is amended to read:

11 440.25 Procedures for mediation and hearings.--

12 (3) Such mediation conference shall be conducted
13 informally and does not require the use of formal rules of
14 evidence or procedure. Any information from the files,
15 reports, case summaries, mediator's notes, or other
16 communications or materials, oral or written, relating to a
17 mediation conference under this section obtained by any person
18 performing mediation duties is privileged and confidential and
19 may not be disclosed without the written consent of all
20 parties to the conference. Any research or evaluation effort
21 directed at assessing the mediation program activities or
22 performance must protect the confidentiality of such
23 information. Each party to a mediation conference has a
24 privilege during and after the conference to refuse to
25 disclose and to prevent another from disclosing communications
26 made during the conference whether or not the contested issues
27 are successfully resolved. This subsection and paragraphs
28 (4)(a) and (b) paragraph shall not be construed to prevent or
29 inhibit the discovery or admissibility of any information that
30 is otherwise subject to discovery or that is admissible under
31 applicable law or rule of procedure, except that any conduct

1 or statements made during a mediation conference or in
2 negotiations concerning the conference are inadmissible in any
3 proceeding under this chapter. The Chief Judge shall select a
4 mediator. The mediator shall be employed on a full-time basis
5 by the Office of the Judges of Compensation Claims. A mediator
6 must be a member of The Florida Bar for at least 5 years and
7 must complete a mediation training program approved by the
8 Chief Judge. Adjunct mediators may be employed by the Office
9 of the Judges of Compensation Claims on an as-needed basis and
10 shall be selected from a list prepared by the Chief Judge. An
11 adjunct mediator must be independent of all parties
12 participating in the mediation conference. An adjunct mediator
13 must be a member of The Florida Bar for at least 5 years and
14 must complete a mediation training program approved by the
15 Chief Judge. An adjunct mediator shall have access to the
16 office, equipment, and supplies of the judge of compensation
17 claims in each district. In the event both parties agree, the
18 results of the mediation conference shall be binding and
19 neither party shall have a right to appeal the results. In the
20 event either party refuses to agree to the results of the
21 mediation conference, the results of the mediation conference
22 as well as the testimony, witnesses, and evidence presented at
23 the conference shall not be admissible at any subsequent
24 proceeding on the claim. The mediator shall not be called in
25 to testify or give deposition to resolve any claim for any
26 hearing before the judge of compensation claims. The employer
27 may be represented by an attorney at the mediation conference
28 if the employee is also represented by an attorney at the
29 mediation conference.

30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of former s. 440.25(3)(b) as s.
3 440.25(3) and (4)(a) and (b) by s. 30, ch.
4 93-415, Laws of Florida.

5
6 Section 99. Paragraphs (d) and (f) of subsection (1)
7 of section 440.38, Florida Statutes, are amended to read:

8 440.38 Security for compensation; insurance carriers
9 and self-insurers.--

10 (1) Every employer shall secure the payment of
11 compensation under this chapter:

12 (d) By entering into an interlocal agreement with
13 other local governmental entities to create a local government
14 pool pursuant to s. 624.4622 ~~440.575~~;

15 (f) By entering into a contract with an individual
16 self-insurer under an approved individual
17 self-insurer-provided self-insurance program as set forth in
18 s. 624.46225 ~~440.571~~. The division may adopt rules to
19 implement this subsection.

20
21 Reviser's note.--Paragraph (1)(d) is amended to
22 conform to the redesignation of s. 440.575 as
23 s. 624.4622 by s. 80, ch. 93-415, Laws of
24 Florida. Paragraph (1)(f) is amended to conform
25 to the redesignation of s. 440.571 as s.
26 624.46225 by s. 81, ch. 93-415.

27
28 Section 100. Paragraph (a) of subsection (1) of
29 section 440.385, Florida Statutes, is amended to read:

30 440.385 Florida Self-Insurers Guaranty Association,
31 Incorporated.--

1 (1) CREATION OF ASSOCIATION.--

2 (a) There is created a nonprofit corporation to be
3 known as the "Florida Self-Insurers Guaranty Association,
4 Incorporated," hereinafter referred to as "the association."
5 Upon incorporation of the association, all individual
6 self-insurers as defined in ss. 440.02(23)(a)~~440.02(21)(a)~~
7 and 440.38(1)(b), other than individual self-insurers which
8 are public utilities or governmental entities, shall be
9 members of the association as a condition of their authority
10 to individually self-insure in this state. The association
11 shall perform its functions under a plan of operation as
12 established and approved under subsection (5) and shall
13 exercise its powers and duties through a board of directors as
14 established under subsection (2). The corporation shall have
15 those powers granted or permitted corporations not for profit,
16 as provided in chapter 617.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of s. 440.02(21)(a) as s.
20 440.02(23)(a) by s. 1, ch. 98-174, Laws of
21 Florida.

22
23 Section 101. Subsections (4) and (5), paragraph (c) of
24 subsection (6), paragraph (e) of subsection (7), and paragraph
25 (b) of subsection (13) of section 440.49, Florida Statutes,
26 are amended to read:

27 440.49 Limitation of liability for subsequent injury
28 through Special Disability Trust Fund.--

29 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL
30 DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT
31 CARE AFTER OTHER PHYSICAL IMPAIRMENT.--

1 (a) Permanent impairment.--If an employee who has a
2 preexisting permanent physical impairment incurs a subsequent
3 permanent impairment from injury or occupational disease
4 arising out of, and in the course of, her or his employment
5 which merges with the preexisting permanent physical
6 impairment to cause a permanent impairment, the employer
7 shall, in the first instance, pay all benefits provided by
8 this chapter; but, subject to the limitations specified in
9 subsection (6), such employer shall be reimbursed from the
10 Special Disability Trust Fund created by subsection(9)~~(8)~~
11 for 50 percent of all impairment benefits which the employer
12 has been required to provide pursuant to s. 440.15(3)(a) as a
13 result of the subsequent accident or occupational disease.

14 (b) Permanent total disability.--If an employee who
15 has a preexisting permanent physical impairment incurs a
16 subsequent permanent impairment from injury or occupational
17 disease arising out of, and in the course of, her or his
18 employment which merges with the preexisting permanent
19 physical impairment to cause permanent total disability, the
20 employer shall, in the first instance, pay all benefits
21 provided by this chapter; but, subject to the limitations
22 specified in subsection (6), such employer shall be reimbursed
23 from the Special Disability Trust Fund created by subsection
24 (9)~~(8)~~for 50 percent of all compensation for permanent total
25 disability.

26 (c) Temporary compensation and medical benefits;
27 aggravation or acceleration of preexisting condition or
28 circumstantial causation.--If an employee who has a
29 preexisting permanent physical impairment experiences an
30 aggravation or acceleration of the preexisting permanent
31 physical impairment as a result of an injury or occupational

1 disease arising out of and in the course of her or his
2 employment, or suffers an injury as a result of a merger as
3 defined in paragraph(2)(c)~~subparagraph (1)(b)2.~~, the employer
4 shall provide all benefits provided by this chapter, but,
5 subject to the limitations specified in subsection (7), the
6 employer shall be reimbursed by the Special Disability Trust
7 Fund created by subsection(9)~~(8)~~for 50 percent of its
8 payments for temporary, medical, and attendant care benefits.

9 (5) WHEN DEATH RESULTS.--If death results from the
10 subsequent permanent impairment contemplated in subsection (4)
11 ~~paragraph (c)~~within 1 year after the subsequent injury, or
12 within 5 years after the subsequent injury when disability has
13 been continuous since the subsequent injury, and it is
14 determined that the death resulted from a merger, the employer
15 shall, in the first instance, pay the funeral expenses and the
16 death benefits prescribed by this chapter; but, subject to the
17 limitations specified in subsection (6), she or he shall be
18 reimbursed from the Special Disability Trust Fund created by
19 subsection(9)~~(8)~~for the last 50 percent of all compensation
20 allowable and paid for such death and for 50 percent of the
21 amount paid as funeral expenses.

22 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.--

23 (c) An employer's or carrier's right to apportionment
24 or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and
25 440.151(1)(c) does not preclude reimbursement from such fund,
26 except when the merger comes within the definition of
27 paragraph (2)(c)~~subparagraph (2)(b)2.~~and such apportionment
28 or deduction relieves the employer or carrier from providing
29 the materially and substantially greater permanent disability
30 benefits otherwise contemplated in those paragraphs.

31 (7) REIMBURSEMENT OF EMPLOYER.--

1 (e) For dates of accident on or after January 1, 1994,
2 the Special Disability Trust Fund shall, within 120 days of
3 receipt of notice that a carrier has been required to pay, and
4 has paid over \$10,000 in benefits, serve notice of the
5 acceptance of the claim for reimbursement. Failure of the
6 Special Disability Trust Fund to serve notice of acceptance
7 shall give rise to the right to request a hearing on the claim
8 for reimbursement. If the Special Disability Trust Fund
9 through its representative denies or controverts the claim,
10 the right to such reimbursement shall be barred unless an
11 application for a hearing thereon is filed with the division
12 or administrator at Tallahassee within 60 days after notice to
13 the employer or carrier of such denial or controversion. When
14 such application for a hearing is timely filed, the claim
15 shall be heard and determined in accordance with the procedure
16 prescribed in s. 440.25, to the extent that such procedure is
17 applicable, and in accordance with the workers' compensation
18 rules of procedure. In such proceeding on a claim for
19 reimbursement, the Special Disability Trust Fund shall be made
20 the party respondent, and no findings of fact made with
21 respect to the claim of the injured employee or the dependents
22 for compensation, including any finding made or order entered
23 pursuant to s. 440.20(11)~~440.20(12)~~, shall be res judicata.
24 The Special Disability Trust Fund may not be joined or made a
25 party to any controversy or dispute between an employee and
26 the dependents and the employer or between two or more
27 employers or carriers without the written consent of the fund.

28 (13) SPECIAL DISABILITY TRUST FUND PRIVATIZATION
29 COMMISSION.--

30 (b) Consistent with the closing of the fund provided
31 in subsection (11), the Special Disability Trust Fund

1 Privatization Commission is authorized to contract with an
2 administrator to review, allow, deny, compromise, controvert,
3 and litigate claims of the Special Disability Trust Fund under
4 this section. The commission, in consultation with the
5 division, is authorized to contract with a qualified entity to
6 assume the reimbursement obligations of the Special Disability
7 Trust Fund for claims which have previously been ~~have~~ accepted
8 for reimbursement by the Special Disability Trust Fund and
9 claims which are determined to be reimbursable by the Special
10 Disability Trust Fund. The qualified entity and the
11 administrator shall not be affiliates of the other, and shall
12 not establish or maintain a financial or contractual agreement
13 with each other for purposes of this section. On or before
14 July 1, 1999, the commission, in consultation with the
15 division, may develop and issue a request for proposal for the
16 transfer and assumption of liabilities, and administration of
17 certain functions related to claims of the Special Disability
18 Trust Fund. The administrator shall have experience in
19 workers' compensation claims management of sufficient scope
20 and size to undertake the duties and responsibilities of this
21 section and shall demonstrate the ability to meet the criteria
22 established by the commission, which shall include the ability
23 to substantially reduce the overall costs of reviewing and
24 reimbursing claims, and to settle and extinguish the
25 liabilities of the Special Disability Trust Fund in a more
26 cost-efficient and more timely manner than presently provided
27 by the division. In the event liabilities on the Special
28 Disabilities Trust Fund are transferred to and assumed by a
29 qualified entity, such entity shall provide the state with
30 financial assurance as to the satisfaction of any such
31 liabilities or claims and the state and the Special Disability

1 Trust Fund shall have no further liability with respect to
2 those liabilities and claims. The financial assurances may
3 include, but are not limited to, cash reserves, reinsurance,
4 guarantees, or letters of credit.

5
6 Reviser's note.--Subsections (4) and (5) are
7 amended to conform to the redesignation of
8 subunits of s. 440.49 by s. 43, ch. 93-415,
9 Laws of Florida. Paragraphs (4)(c) and (6)(c)
10 are amended to conform to the definition of
11 "merger" in paragraph (2)(c). Paragraph (7)(e)
12 is amended to conform to the redesignation of
13 s. 440.20(12) as s. 440.20(11) by s. 26, ch.
14 93-415. Paragraph (13)(b) is amended to improve
15 clarity and facilitate correct interpretation.

16
17 Section 102. Paragraph (b) of subsection (1) and
18 subsection (5) of section 440.51, Florida Statutes, are
19 amended to read:

20 440.51 Expenses of administration.--

21 (1) The division shall estimate annually in advance
22 the amounts necessary for the administration of this chapter,
23 in the following manner.

24 (b) The total expenses of administration shall be
25 prorated among the insurance companies writing compensation
26 insurance in the state and self-insurers. The net premiums
27 collected by the companies and the amount of premiums a
28 self-insurer would have to pay if insured are the basis for
29 computing the amount to be assessed. This amount may be
30 assessed as a specific amount or as a percentage of net
31 premiums payable as the division may direct, provided such

1 amount so assessed shall not exceed 4 percent of such net
2 premiums. The insurance companies may elect to make the
3 payments required under s. 440.15(1)(f)~~440.15(1)(e)~~ rather
4 than having these payments made by the division. In that
5 event, such payments will be credited to the insurance
6 companies, and the amount due by the insurance company under
7 this section will be reduced accordingly.

8 (5) Any amount so assessed against and paid by an
9 insurance carrier, self-insurer authorized pursuant to s.
10 624.4621 ~~440.57~~, or commercial self-insurance fund authorized
11 under ss. 624.460-624.488 shall be allowed as a deduction
12 against the amount of any other tax levied by the state upon
13 the premiums, assessments, or deposits for workers'
14 compensation insurance on contracts or policies of said
15 insurance carrier, self-insurer, or commercial self-insurance
16 fund.

17
18 Reviser's note.--Paragraph (1)(b) is amended to
19 conform to the redesignation of s. 440.15(1)(e)
20 as s. 440.15(1)(f) by s. 20, ch. 93-415, Laws
21 of Florida. Subsection (5) is amended to
22 conform to the redesignation of s. 440.57 as s.
23 624.4621 by s. 79, ch. 93-415.

24
25 Section 103. Subsection (2) of section 442.20, Florida
26 Statutes, is amended to read:

27 442.20 Workplace safety.--

28 (2) The Division of Safety shall have the authority to
29 adopt rules for the purpose of assuring safe working
30 conditions for all workers by authorizing the enforcement of
31 effective standards, assisting and encouraging employers to

1 maintain safe working conditions, and by providing for
2 education and training in the field of safety. For public
3 sector employers, the division may by rule adopt subparts C
4 through T and subpart Z of 29 C.F.R. part 1910; subparts C
5 through Z of 29 C.F.R. part 1926; subparts A through D,
6 subpart I, and subpart M of 29 C.F.R. part 1928; subparts A
7 through G of 29 C.F.R. part 1917; subparts A through L and
8 subpart Z of 29 C.F.R. part 1915; subparts A through J of 29
9 C.F.R. part 1918, as revised July 1, 1993, provided that 29
10 C.F.R. s. 1910.156 applies to volunteer firefighters and fire
11 departments operated by the state or ~~of~~ political
12 subdivisions; the National Fire Protection Association, Inc.,
13 Standard 1500, paragraph 5-7 (Personal Alert Safety System)
14 (1992 edition); and ANSI A 10.4-1990.

15

16 Reviser's note.--Amended to improve clarity and
17 facilitate correct interpretation.

18

19 Section 104. Paragraph (n) of subsection (21) of
20 section 443.036, Florida Statutes, is amended to read:

21 443.036 Definitions.--As used in this chapter, unless
22 the context clearly requires otherwise:

23 (21) EMPLOYMENT.--"Employment," subject to the other
24 provisions of this chapter, means any service performed by an
25 employee for the person employing him or her.

26 (n) Exclusions generally.--The term "employment" does
27 not include:

28 1. Domestic service in a private home, local college
29 club, or local chapter of a college fraternity or sorority,
30 except as provided in paragraph (g).

31

1 2. Service performed on or in connection with a vessel
2 or aircraft not an American vessel or American aircraft, if
3 the employee is employed on and in connection with such vessel
4 or aircraft when outside the United States.

5 3. Service performed by an individual in, or as an
6 officer or member of the crew of a vessel while it is engaged
7 in, the catching, taking, harvesting, cultivating, or farming
8 of any kind of fish, shellfish, crustacea, sponges, seaweeds,
9 or other aquatic forms of animal and vegetable life, including
10 service performed by any such individual as an ordinary
11 incident to any such activity, except:

12 a. Service performed in connection with the catching
13 or taking of salmon or halibut for commercial purposes.

14 b. Service performed on, or in connection with, a
15 vessel of more than 10 net tons, determined in the manner
16 provided for determining the register tonnage of merchant
17 vessels under the laws of the United States.

18 4. Service performed by an individual in the employ of
19 his or her son, daughter, or spouse, including step
20 relationships, and service performed by a child, or stepchild,
21 under the age of 21 in the employ of his or her father or
22 mother, or stepfather or stepmother.

23 5. Service performed in the employ of the United
24 States Government or of an instrumentality of the United
25 States which is:

26 a. Wholly or partially owned by the United States.

27 b. Exempt from the tax imposed by s. 3301 of the
28 Internal Revenue Code by virtue of any provision of federal
29 law which specifically refers to such section, or the
30 corresponding section of prior law, in granting such
31 exemption; except that to the extent that the Congress shall

1 permit states to require any instrumentalities of the United
2 States to make payments into an unemployment fund under a
3 state unemployment compensation law, all of the provisions of
4 this law shall be applicable to such instrumentalities, and to
5 services performed for such instrumentalities, in the same
6 manner, to the same extent, and on the same terms as to all
7 other employers, employing units, individuals, and services.
8 If this state is not certified for any year by the Secretary
9 of Labor under s. 3304 of the federal Internal Revenue Code,
10 the payments required of such instrumentalities with respect
11 to such year shall be refunded by the division from the fund
12 in the same manner and within the same period as is provided
13 in s. 443.141(6) with respect to contributions erroneously
14 collected.

15 6. Service performed in the employ of a state, or any
16 political subdivision thereof, or any instrumentality of any
17 one or more of the foregoing which is wholly owned by one or
18 more states or political subdivisions, except as provided in
19 paragraph (b), and any service performed in the employ of any
20 instrumentality of one or more states or political
21 subdivisions, to the extent that the instrumentality is, with
22 respect to such service, immune under the Constitution of the
23 United States from the tax imposed by s. 3301 of the Internal
24 Revenue Code.

25 7. Service performed in the employ of a corporation,
26 community chest, fund, or foundation, organized and operated
27 exclusively for religious, charitable, scientific, testing for
28 public safety, literary, or educational purposes, or for the
29 prevention of cruelty to children or animals, no part of the
30 net earnings of which inures to the benefit of any private
31 shareholder or individual, no substantial part of the

1 activities of which is carrying on propaganda or otherwise
2 attempting to influence legislation, and which does not
3 participate in, or intervene in (including the publishing or
4 distributing of statements), any political campaign on behalf
5 of any candidate for public office, except as provided in
6 paragraph (c).

7 8. Service with respect to which unemployment
8 compensation is payable under an unemployment compensation
9 system established by an Act of Congress.

10 9.a. Service performed in any calendar quarter in the
11 employ of any organization exempt from income tax under s.
12 501(a) of the Internal Revenue Code, other than an
13 organization described in s. 401(a), or under s. 521, if the
14 remuneration for such service is less than \$50.

15 b. Service performed in the employ of a school,
16 college, or university, if such service is performed by a
17 student who is enrolled and is regularly attending classes at
18 such school, college, or university.

19 10. Service performed in the employ of a foreign
20 government, including service as a consular or other officer
21 or employee of a nondiplomatic representative.

22 11. Service performed in the employ of an
23 instrumentality wholly owned by a foreign government:

24 a. If the service is of a character similar to that
25 performed in foreign countries by employees of the United
26 States Government or of an instrumentality thereof; and

27 b. The Secretary of State shall certify to the
28 Secretary of the Treasury that the foreign government, with
29 respect to whose instrumentality exemption is claimed, grants
30 an equivalent exemption with respect to similar service
31

1 performed in the foreign country by employees of the United
2 States Government and of instrumentalities thereof.

3 12. Service performed as a student nurse in the employ
4 of a hospital or a nurses' training school by an individual
5 who is enrolled and is regularly attending classes in a
6 nurses' training school chartered or approved pursuant to a
7 state law; service performed as an intern in the employ of a
8 hospital by an individual who has completed a 4-year course in
9 a medical school chartered or approved pursuant to state law;
10 and service performed by a patient of a hospital for such
11 hospital.

12 13. Service performed by an individual for a person as
13 an insurance agent or as an insurance solicitor, if all such
14 service performed by such individual for such person is
15 performed for remuneration solely by way of commission, except
16 for such services performed in accordance with 26 U.S.C.S. s.
17 3306(c)(7) and (8). For purposes of this subsection, those
18 benefits excluded from the definition of wages pursuant to
19 subparagraphs (40)(b)2.-6.~~(33)(b)2.-6.~~, inclusive, shall not
20 be considered remuneration.

21 14. Service performed by an individual for a person as
22 a real estate salesperson or agent, if all such service
23 performed by such individual for such person is performed for
24 remuneration solely by way of commission.

25 15. Service performed by an individual under the age
26 of 18 in the delivery or distribution of newspapers or
27 shopping news, not including delivery or distribution to any
28 point for subsequent delivery or distribution.

29 16. Service covered by an arrangement between the
30 division and the agency charged with the administration of any
31 other state or federal unemployment compensation law pursuant

1 to which all services performed by an individual for an
2 employing unit during the period covered by such employing
3 unit's duly approved election are deemed to be performed
4 entirely within such agency's state or under such federal law.

5 17. Service performed by an individual who is enrolled
6 at a nonprofit or public educational institution which
7 normally maintains a regular faculty and curriculum and
8 normally has a regularly organized body of students in
9 attendance at the place where its educational activities are
10 carried on as a student in a full-time program, taken for
11 credit at such institution, which combines academic
12 instruction with work experience, if such service is an
13 integral part of such program, and such institution has so
14 certified to the employer, except that this subparagraph does
15 not apply to service performed in a program established for or
16 on behalf of an employer or group of employers.

17 18. Service performed by an individual for a person as
18 a barber, if all such service performed by such individual for
19 such person is performed for remuneration solely by way of
20 commission.

21 19. Casual labor not in the course of the employer's
22 trade or business.

23 20. Service performed by a speech therapist,
24 occupational therapist, or physical therapist who is
25 nonsalaried and working pursuant to a written contract with a
26 home health agency as defined in s. 400.462.

27 21. Service performed by a direct seller. For purposes
28 of this subparagraph, the term "direct seller" means a person:

29 a.(I) Who is engaged in the trade or business of
30 selling or soliciting the sale of consumer products to buyers
31 on a buy-sell basis or a deposit-commission basis, or on any

1 similar basis, for resale in the home or in any other place
2 that is not a permanent retail establishment; or

3 (II) Who is engaged in the trade or business of
4 selling or soliciting the sale of consumer products in the
5 home or in any other place that is not a permanent retail
6 establishment;

7 b. Substantially all of whose remuneration for
8 services described in sub-subparagraph a., whether or not paid
9 in cash, is directly related to sales or other output, rather
10 than to the number of hours worked; and

11 c. Who performs such services pursuant to a written
12 contract with the person for whom the services are performed,
13 which contract provides that the person will not be treated as
14 an employee with respect to such services for federal tax
15 purposes.

16 22. Service performed by a nonresident alien
17 individual for the period he or she is temporarily present in
18 the United States as a nonimmigrant under subparagraph (F) or
19 subparagraph (J) of s. 101(a)(15) of the Immigration and
20 Nationality Act, and which is performed to carry out the
21 purpose specified in subparagraph (F) or subparagraph (J), as
22 the case may be.

23 23. Service performed by an individual for
24 remuneration for a private, for-profit delivery or messenger
25 service, if the individual:

26 a. Is free to accept or reject jobs from the delivery
27 or messenger service and the delivery or messenger service has
28 no control over when the individual works;

29 b. Is remunerated for each delivery, or the
30 remuneration is based on factors that relate to the work

31

1 performed, including receipt of a percentage of any rate
2 schedule;
3 c. Pays all expenses and the opportunity for profit or
4 loss rests solely with the individual;
5 d. Is responsible for operating costs, including fuel,
6 repairs, supplies, and motor vehicle insurance;
7 e. Determines the method of performing the service,
8 including selection of routes and order of deliveries;
9 f. Is responsible for the completion of a specific job
10 and is liable for any failure to complete that job;
11 g. Enters into a contract with the delivery or
12 messenger service which specifies the relationship of the
13 individual to the delivery or messenger service to be that of
14 an independent contractor and not that of an employee; and
15 h. Provides the vehicle used to perform the service.
16 24. Service performed in agricultural labor by an
17 individual who is an alien admitted to the United States to
18 perform service in agricultural labor pursuant to ss.
19 101(a)(15)(H) and 214(c) of the Immigration and Nationality
20 Act.
21 25. Service performed by a person who is an inmate of
22 a penal institution.
23
24 Reviser's note.--Amended to conform to the
25 redesignation of subparagraphs (33)(b)2.-6. of
26 s. 443.036 as subparagraphs (40)(b)2.-6. by s.
27 4, ch. 98-149, Laws of Florida.
28
29 Section 105. Paragraph (b) of subsection (2) of
30 section 443.041, Florida Statutes, is amended to read:
31

1 443.041 Waiver of rights; fees; privileged
2 communications.--
3 (2) FEES.--
4 (b) An attorney at law representing a claimant for
5 benefits in any district court of appeal of this state or in
6 the Supreme Court of Florida is entitled to counsel fees
7 payable by the division as fixed by the court if the petition
8 for review or appeal is initiated by the claimant and results
9 in a decision awarding more benefits than did the decision
10 from which appeal was taken. The amount of the fee may not
11 exceed 50 percent of the regular benefits awarded under s.
12 443.111(5)(a)~~443.111(4)(a)~~during the benefit year.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 443.111(4)(a) as s.
16 443.111(5)(a) by s. 5, ch. 96-378, Laws of
17 Florida, and s. 21, ch. 96-423, Laws of
18 Florida.

19
20 Section 106. Paragraphs (f), (g), and (h) of
21 subsection (7) of section 443.111, Florida Statutes, are
22 amended to read:

23 443.111 Payment of benefits.--
24 (7) SHORT-TIME COMPENSATION PROGRAM.--
25 (f) Weekly short-time compensation benefit
26 amount.--The weekly short-time compensation benefit amount
27 payable to an individual shall be an amount equal to the
28 product of her or his weekly benefit amount as provided in
29 subsection(3)~~(2)~~and the ratio of the number of normal
30 weekly hours of work for which the employer would not
31 compensate the individual to the individual's normal weekly

1 hours of work. Such benefit amount, if not a multiple of \$1,
2 shall be rounded downward to the next lower multiple of \$1.

3 (g) Total short-time compensation benefit amount.--No
4 individual shall be paid benefits under this paragraph in any
5 benefit year for more than the maximum entitlement provided in
6 subsection(5)~~(4)~~, nor shall an individual be paid short-time
7 compensation benefits for more than 26 weeks in any benefit
8 year.

9 (h) Effect of short-time compensation benefits
10 relating to the payment of regular and extended benefits.--

11 1. The short-time compensation benefits paid to an
12 individual shall be deducted from the total benefit amount
13 established for that individual as provided in subsection(5)
14 ~~(4)~~.

15 2. An individual who has received all of the
16 short-time compensation or combined unemployment compensation
17 and short-time compensation available in a benefit year shall
18 be considered an exhaustee for purposes of the extended
19 benefits program as provided in subsection(6)~~(5)~~and, if
20 otherwise eligible under those provisions, shall be eligible
21 to receive extended benefits.

22 3. No otherwise eligible individual shall be
23 disqualified from benefits for leaving employment instead of
24 accepting a reduction in hours pursuant to the implementation
25 of an approved plan.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of subunits of s. 443.111 by s.
29 5, ch. 96-378, Laws of Florida, and s. 21, ch.
30 96-423, Laws of Florida.

31

1 Section 107. Subsection (5) of section 443.141,
2 Florida Statutes, is amended to read:
3 443.141 Collection of contributions.--
4 (5) PRIORITIES UNDER LEGAL DISSOLUTION OR
5 DISTRIBUTIONS.--In the event of any distribution of any
6 employer's assets pursuant to an order of any court under the
7 laws of this state, including any receivership, assignment for
8 the benefit of creditors, adjudicated insolvency, composition,
9 administration of estates of decedents, or other similar
10 proceeding, contributions then or thereafter due shall be paid
11 in full prior to all other claims except claims for wages of
12 not more than \$250 to each claimant, earned within 6 months of
13 the commencement of the proceeding, and on a parity with all
14 other tax claims wherever such tax claims have been given
15 priority. In the administration of the estate of any
16 decedent, the filing of notice of lien shall be deemed a
17 proceeding required upon protest of the claim filed by the
18 division for contributions due under this chapter, and such
19 claim shall be allowed by the circuit judge. However, the
20 personal representative of the decedent may by petition to the
21 circuit court object to the validity of the claim of the
22 division, and proceedings shall be had in the circuit court
23 for the determination of the validity of the claim of the
24 division. Further, the bond of the personal representative
25 shall not be discharged until such claim is finally determined
26 by the circuit court; and, when no bond has been given by the
27 personal representative, none of the assets of the estate
28 shall be distributed until such final determination by the
29 circuit court. Upon distribution of the assets of the estate
30 of any decedent, the claim of the division shall have class 8
31 7 priority established in s. 733.707(1)(h)~~733.707(1)(g)~~,

1 subject to the above limitations with reference to wages. In
2 the event of any employer's adjudication in bankruptcy,
3 judicially confirmed extension proposal, or composition, under
4 the Federal Bankruptcy Act of 1898, as amended, contributions
5 then or thereafter due shall be entitled to such priority as
6 is provided in s. 64B of that act (U.S.C. Title II, s. 104(b),
7 as amended).

8

9 Reviser's note.--Amended to conform to the
10 redesignation of class 7 priority in s.
11 733.707(1)(g) as class 8 priority in s.
12 733.707(1)(h) by s. 20, ch. 93-208, Laws of
13 Florida.

14

15 Section 108. Paragraph (a) of subsection (3) and
16 paragraph (e) of subsection (6) of section 443.151, Florida
17 Statutes, are amended to read:

18 443.151 Procedure concerning claims.--

19 (3) DETERMINATION.--

20 (a) In general.--An initial determination upon a claim
21 filed pursuant to subsection (2) shall be made promptly by an
22 examiner designated by the division, shall include a statement
23 as to whether and in what amount claimant is entitled to
24 benefits, and, in the event of a denial, shall state the
25 reasons therefor. A determination with respect to the first
26 week of a benefit year shall also include a statement as to
27 whether the claimant has been paid the wages required under s.
28 443.091(1)(f)~~443.091(1)(e)~~ and, if so, the first day of the
29 benefit year, the claimant's weekly benefit amount, and the
30 maximum total amount of benefits payable to the claimant with
31 respect to a benefit year. The claimant, the claimant's most

1 recent employing unit, and all employers whose accounts would
2 be charged with benefits pursuant to such determination shall
3 be promptly notified of such initial determination; and such
4 determination shall be final unless within 20 days after the
5 mailing of such notices to the parties' last known addresses,
6 or in the absence of such mailing, within 20 days after the
7 delivery of such notice, appeal or written request for
8 reconsideration is filed by the claimant or other party
9 entitled to such notice.

10 (6) RECOVERY AND RECOUPMENT.--

11 (e) Notwithstanding any other provision of this
12 chapter, any person who has been determined by either this
13 state, a cooperating state agency, the United States Secretary
14 of Labor, or a court of competent jurisdiction to have
15 received any payments under the Trade Act of 1974, as amended,
16 to which the person was not entitled shall have such sum
17 deducted from any regular benefits, as defined in s.
18 443.111(6)(a)5.~~443.111(5)(a)5.~~, payable to her or him under
19 this chapter; except that no single deduction under this
20 paragraph shall exceed 50 percent of the amount otherwise
21 payable. The amounts so deducted shall be paid to the agency
22 which issued the payments under the Trade Act of 1974, as
23 amended, for return to the United States Treasury. However,
24 except for overpayments determined by a court of competent
25 jurisdiction, no deduction may be made under this paragraph
26 until a determination by the state agency or the United States
27 Secretary of Labor has become final.

28

29 Reviser's note.--Paragraph (3)(a) is amended to
30 conform to the redesignation of s.

31 443.091(1)(e) as s. 443.091(1)(f) by s. 3, ch.

1 94-347, Laws of Florida. Paragraph (6)(e) is
2 amended to conform to the redesignation of s.
3 443.111(5)(a)5. as s. 443.111(6)(a)5. by s. 5,
4 ch. 96-378, Laws of Florida, and s. 21, ch.
5 96-423, Laws of Florida.
6

7 Section 109. Subsection (7) and paragraph (a) of
8 subsection (11) of section 443.171, Florida Statutes, are
9 amended to read:

10 443.171 Division and commission; powers and duties;
11 rules; advisory council; records and reports.--

12 (7) RECORDS AND REPORTS.--Each employing unit shall
13 keep true and accurate work records, containing such
14 information as the division may prescribe. Such records shall
15 be open to inspection and be subject to being copied by the
16 division at any reasonable time and as often as may be
17 necessary. The division or an appeals referee may require from
18 any employing unit any sworn or unsworn reports, with respect
19 to persons employed by it, deemed necessary for the effective
20 administration of this chapter. However, a state or local
21 governmental agency performing intelligence or
22 counterintelligence functions need not report an employee if
23 the head of such agency has determined that reporting the
24 employee could endanger the safety of the employee or
25 compromise an ongoing investigation or intelligence mission.
26 Information revealing the employing unit's or individual's
27 identity thus obtained from the employing unit or from any
28 individual pursuant to the administration of this chapter,
29 shall, except to the extent necessary for the proper
30 presentation of a claim or upon written authorization of the
31 claimant who has a workers' compensation claim pending, be

1 held confidential and exempt from the provisions of s.
2 119.07(1). Such information shall be available only to public
3 employees in the performance of their public duties, including
4 employees of the Department of Education in obtaining
5 information for the Florida Education and Training Placement
6 Information Program and the Office of Tourism, Trade, and
7 Economic Development ~~Department of Commerce~~ in its
8 administration of the qualified defense contractor tax refund
9 program authorized by s. 288.1045 ~~288.104~~, the qualified
10 target industry business tax refund program authorized by s.
11 288.106. Any claimant, or the claimant's legal representative,
12 at a hearing before an appeals referee or the commission shall
13 be supplied with information from such records to the extent
14 necessary for the proper presentation of her or his claim. Any
15 employee or member of the commission or any employee of the
16 division, or any other person receiving confidential
17 information, who violates any provision of this subsection is
18 guilty of a misdemeanor of the second degree, punishable as
19 provided in s. 775.082 or s. 775.083. However, the division
20 may furnish to any employer copies of any report previously
21 submitted by such employer, upon the request of such employer,
22 and the division is authorized to charge therefor such
23 reasonable fee as the division may by rule prescribe not to
24 exceed the actual reasonable cost of the preparation of such
25 copies. Fees received by the division for copies provided
26 under this subsection shall be deposited to the credit of the
27 Employment Security Administration Trust Fund.

28 (11) STATE-FEDERAL COOPERATION.--

29 (a)1. In the administration of this chapter, the
30 division shall cooperate with the United States Department of
31 Labor to the fullest extent consistent with the provisions of

1 this chapter and shall take such action, through the adoption
2 of appropriate rules, administrative methods, and standards,
3 as may be necessary to secure to this state and its citizens
4 all advantages available under the provisions of the Social
5 Security Act that relate to unemployment compensation, the
6 Federal Unemployment Tax Act, the Wagner-Peyser Act, and the
7 Federal-State Extended Unemployment Compensation Act of 1970,
8 or other federal manpower acts.

9 2. In the administration of the provisions in s.
10 443.111(6)~~443.111(5)~~, which are enacted to conform with the
11 requirements of the Federal-State Extended Unemployment
12 Compensation Act of 1970, the division shall take such action
13 as may be necessary to ensure that the provisions are so
14 interpreted and applied as to meet the requirements of such
15 federal act as interpreted by the United States Department of
16 Labor and to secure to this state the full reimbursement of
17 the federal share of extended benefits paid under this chapter
18 that are reimbursable under the federal act.

19 3. The division shall comply with the regulations of
20 the United States Department of Labor relating to the receipt
21 or expenditure by this state of moneys granted under any of
22 such acts; shall make such reports, in such form and
23 containing such information, as the United States Department
24 of Labor may from time to time require; and shall comply with
25 such provisions as the United States Department of Labor may
26 from time to time find necessary to assure the correctness and
27 verification of such reports.

28
29 Reviser's note.--Subsection (7) is amended to
30 conform to the substitution of the Office of
31 Tourism, Trade, and Economic Development for

1 the Department of Commerce for purposes of s.
2 288.106 by s. 44, ch. 96-320, Laws of Florida,
3 and the repeal of s. 288.104 by s. 8, ch.
4 96-348, Laws of Florida, and the enactment of
5 new s. 288.1045 governing the qualified defense
6 contractor tax refund program by s. 1, ch.
7 96-348. Paragraph (11)(a) is amended to conform
8 to the redesignation of s. 443.111(5) as s.
9 443.111(6) by s. 5, ch. 96-378, Laws of
10 Florida, and s. 21, ch. 96-423, Laws of
11 Florida.

12
13 Section 110. Paragraph (a) of subsection (5) of
14 section 443.191, Florida Statutes, is amended to read:

15 443.191 Unemployment Compensation Trust Fund;
16 establishment and control.--

17 (5) MONEY CREDITED UNDER SECTION 903 OF THE SOCIAL
18 SECURITY ACT.--

19 (a) Money credited to the account of this state in the
20 Unemployment Compensation Trust Fund by the Secretary of the
21 Treasury of the United States pursuant to s. 903 of the Social
22 Security Act may not be requisitioned from this state's
23 account or used except for the payment of benefits and for the
24 payment of expenses incurred for the administration of this
25 law. Such money may be requisitioned pursuant to subsection
26 (3) for the payment of benefits. Such money may also be
27 requisitioned and used for the payment of expenses incurred
28 for the administration of this law but only pursuant to a
29 specific appropriation by the Legislature and only if the
30 expenses are incurred and the money is requisitioned after the
31 enactment of an appropriation law which:

1 1. Specifies the purposes for which such money is
2 appropriated and the amounts appropriated therefor;

3 2. Limits the period within which such money may be
4 obligated to a period ending not more than 2 years after the
5 date of the enactment of the appropriation law; and

6 3. Limits the amount which may be obligated during any
7 12-month period beginning on July 1 and ending on the next
8 June 30 to an amount which does not exceed the amount by which
9 the aggregate of the amounts credited to the account of this
10 state pursuant to s. 903 of the Social Security Act during the
11 same 12-month period and the 34 preceding 12-month periods,
12 exceeds the aggregate of the amounts obligated for
13 administration and paid out for benefits and charged against
14 the amounts credited to the account of this state during such
15 35 12-month periods.

16 4. Notwithstanding this paragraph ~~subparagraph 1~~,
17 money credited with respect to federal fiscal years 1999,
18 2000, and 2001 shall be used solely for the administration of
19 the unemployment compensation program and such money shall not
20 otherwise be subject to the requirements of this paragraph
21 ~~subparagraph 1~~ when appropriated by the Legislature.

22
23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation and to
25 conform to the reference as specified in
26 federal model language.

27
28 Section 111. Subsections (1) and (9) of section
29 446.22, Florida Statutes, are amended to read:

30
31

1 446.22 Definitions.--As used in this act, the
2 following words and phrases shall have the meanings set forth
3 herein, except where the context otherwise requires:

4 (1) "Advisory council" means the State Human Resource
5 Investment ~~Job Training Coordinating~~ Council, as created and
6 described by s. 446.20(2).

7 (9) "Private industry council" means an organization
8 comprised of private businesses, local government, education,
9 welfare agencies, organized labor, and community-based
10 organizations designated by the State Human Resource
11 Investment ~~Job Training Coordinating~~ Council under the federal
12 Job Training Partnership Act to deliver training and
13 educational services to youth and unemployed persons.

14
15 Reviser's note.--Amended to conform to the
16 redesignation of the State Job Training
17 Coordinating Council as the State Human
18 Resource Investment Council by s. 7, ch.
19 96-404, Laws of Florida.

20
21 Section 112. Subsection (3) of section 446.25, Florida
22 Statutes, is amended to read:

23 446.25 Implementation.--

24 (3) The State Human Resource Investment ~~Job Training~~
25 ~~Coordinating~~ Council shall review proposed operational
26 policies and rules associated with the program and shall act
27 as advisory council to this program for the purpose of:

28 (a) Establishing general performance standards in
29 conjunction with the department guidelines.

30 (b) Making recommendations to the department with
31 regard to the establishment of program criteria.

1 (c) Assisting in the development of linkages with
2 potential public and private sector participants in the
3 program.

4 (d) Advising the department of changes to the federal
5 Job Training Partnership Act which may impact this program.

6 (e) Providing for followup studies and evaluating the
7 program in conjunction with the Department of Labor and
8 Employment Security.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of the State Job Training
12 Coordinating Council as the State Human
13 Resource Investment Council by s. 7, ch.
14 96-404, Laws of Florida.

15
16 Section 113. Subsection (1) of section 455.01, Florida
17 Statutes, is amended to read:

18 455.01 Definitions.--As used in this part, the term:

19 (1) "Board" means any board or commission, or other
20 statutorily created entity to the extent such entity is
21 authorized to exercise regulatory or rulemaking functions,
22 within the department, including the Florida Real Estate
23 Commission; except that, for ss. 455.201-455.245
24 ~~455.201-455.261~~, "board" means only a board, or other
25 statutorily created entity to the extent such entity is
26 authorized to exercise regulatory or rulemaking functions,
27 within the Division of Certified Public Accounting, the
28 Division of Professions, or the Division of Real Estate.

29
30 Reviser's note.--Amended to conform to the
31 transfer of s. 455.261 to s. 455.707 by s. 94,

1 ch. 97-261, Laws of Florida. The last section
2 of the range, which pertains to professions
3 regulated by the Department of Business and
4 Professional Regulation, is now s. 455.245.
5 Section 455.707 pertains to professions
6 regulated by the Department of Health.
7

8 Section 114. Paragraph (a) of subsection (2) of
9 section 455.557, Florida Statutes, is repealed, and paragraph
10 (b) of subsection (3) and subsections (5), (8), and (9) of
11 that section are amended to read:

12 455.557 Standardized credentialing for health care
13 practitioners.--

14 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

15 (b) The department shall:

16 1. Maintain a complete, current file of core
17 credentials data on each health care practitioner, which shall
18 include all updates provided in accordance with subparagraph
19 (a)2.

20 2. Release the core credentials data that is otherwise
21 confidential or exempt from the provisions of chapter 119 and
22 s. 24(a), Art. I of the State Constitution and any
23 corrections, updates, and modifications thereto, if authorized
24 by the health care practitioner.

25 3. Charge a fee to access the core credentials data,
26 which may not exceed the actual cost, including prorated setup
27 and operating costs, pursuant to the requirements of chapter
28 119. ~~The actual cost shall be set in consultation with the~~
29 ~~advisory council.~~

30 4. ~~Develop, in consultation with the advisory council,~~
31 standardized forms to be used by the health care practitioner

1 or designated credentials verification organization for the
2 initial reporting of core credentials data, for the health
3 care practitioner to authorize the release of core credentials
4 data, and for the subsequent reporting of corrections,
5 updates, and modifications thereto.

6 ~~5. Establish a Credentials Advisory Council,~~
7 ~~consisting of 13 members, to assist the department as provided~~
8 ~~in this section. The secretary, or his or her designee, shall~~
9 ~~serve as one member and chair of the council and shall appoint~~
10 ~~the remaining 12 members. Except for any initial lesser term~~
11 ~~required to achieve staggering, such appointments shall be for~~
12 ~~4-year staggered terms, with one 4-year reappointment, as~~
13 ~~applicable. Three members shall represent hospitals, and two~~
14 ~~members shall represent health maintenance organizations. One~~
15 ~~member shall represent health insurance entities. One member~~
16 ~~shall represent the credentials verification industry. Two~~
17 ~~members shall represent physicians licensed under chapter 458.~~
18 ~~One member shall represent osteopathic physicians licensed~~
19 ~~under chapter 459. One member shall represent chiropractic~~
20 ~~physicians licensed under chapter 460. One member shall~~
21 ~~represent podiatric physicians licensed under chapter 461.~~

22 (5) STANDARDS AND REGISTRATION.--Any credentials
23 verification organization that does business in this state
24 must be fully accredited or certified as a credentials
25 verification organization by a national accrediting
26 organization as specified in paragraph (2)(b) and must
27 register with the department. The department may charge a
28 reasonable registration fee, ~~set in consultation with the~~
29 ~~advisory council,~~not to exceed an amount sufficient to cover
30 its actual expenses in providing and enforcing such
31 registration. The department shall establish by rule for

1 biennial renewal of such registration. Failure by a registered
2 credentials verification organization to maintain full
3 accreditation or certification, to provide data as authorized
4 by the health care practitioner, to report to the department
5 changes, updates, and modifications to a health care
6 practitioner's records within the time period specified in
7 subparagraph (3)(a)2., or to comply with the prohibition
8 against collection of duplicate core credentials data from a
9 practitioner may result in denial of an application for
10 renewal of registration or in revocation or suspension of a
11 registration.

12 (8) RULES.--The department, ~~in consultation with the~~
13 ~~advisory council,~~ shall adopt rules necessary to develop and
14 implement the standardized core credentials data collection
15 program established by this section.

16 (9) ~~COUNCIL ABOLISHED~~ DEPARTMENT AUTHORITY.--~~The~~
17 ~~council shall be abolished October 1, 1999. After the council~~
18 ~~is abolished,~~ All duties of the department required under this
19 section ~~to be in consultation with the council~~ may be carried
20 out by the department ~~on its own.~~

21
22 Reviser's note.--Amended to conform to the
23 abolishment of the Credentials Advisory Council
24 on October 1, 1999, pursuant to s. 75, ch.
25 99-397, Laws of Florida.

26
27 Section 115. Subsections (1) and (2) of section
28 455.5651, Florida Statutes, are amended to read:

29 455.5651 Practitioner profile; creation.--

30 (1) Beginning July 1, 1999, the Department of Health
31 shall compile the information submitted pursuant to s. 455.565

1 ~~section 1~~ into a practitioner profile of the applicant
2 submitting the information, except that the Department of
3 Health may develop a format to compile uniformly any
4 information submitted under s. 455.565(4)(b)~~paragraph~~
5 ~~1(4)(b)~~.

6 (2) On the profile required under subsection (1), the
7 department shall indicate if the information provided under s.
8 455.565(1)(a)7.~~section 1(1)(a)7.~~ is not corroborated by a
9 criminal history check conducted according to this subsection.
10 If the information provided under s. 455.565(1)(a)7.~~section~~
11 ~~1(1)(a)7.~~ is corroborated by the criminal history check, the
12 fact that the criminal history check was performed need not be
13 indicated on the profile. The department, or the board having
14 regulatory authority over the practitioner acting on behalf of
15 the department, shall investigate any information received by
16 the department or the board when it has reasonable grounds to
17 believe that the practitioner has violated any law that
18 relates to the practitioner's practice.

19
20 Reviser's note.--Amended to correct apparent
21 errors, facilitate correct interpretation, and
22 conform to redesignation of references by the
23 reviser incident to compiling the Florida
24 Statutes 1997. The references to "section 1,"
25 "paragraph 1(4)(b)," and "section 1(1)(a)7." in
26 s. 128, ch. 97-237, Laws of Florida, and s. 4,
27 ch. 97-273, Laws of Florida, were not updated
28 to conform to the final location of that
29 material in the laws. The references became
30 "section 127," "paragraph 127(4)(b), and
31 "section 127(1)(a)7.," respectively, for ch.

1 97-237 and "section 3," "paragraph 3(4)(b),"
2 and "section 3(1)(a)7.," respectively, for ch.
3 97-273. The references were codified as "s.
4 455.565," "s. 455.565(4)(b)," and "s.
5 455.565(1)(a)7.," respectively, by the reviser.
6

7 Section 116. Section 455.5653, Florida Statutes, is
8 amended to read:

9 455.5653 Practitioner profiles; data
10 storage.--Effective upon this act becoming a law, the
11 Department of Health must develop or contract for a computer
12 system to accommodate the new data collection and storage
13 requirements under this act pending the development and
14 operation of a computer system by the Department of Health for
15 handling the collection, input, revision, and update of data
16 submitted by physicians as a part of their initial licensure
17 or renewal to be compiled into individual practitioner
18 profiles. The Department of Health must incorporate any data
19 required by this act into the computer system used in
20 conjunction with the regulation of health care professions
21 under its jurisdiction. The department must develop, by the
22 year 2000, a schedule and procedures for each practitioner
23 within a health care profession regulated within the Division
24 of Medical Quality Assurance to submit relevant information to
25 be compiled into a profile to be made available to the public.
26 The Department of Health is authorized to contract with and
27 negotiate any interagency agreement necessary to develop and
28 implement the practitioner profiles. The Department of Health
29 shall have access to any information or record maintained by
30 the Agency for Health Care Administration, including any
31 information or record that is otherwise confidential and

1 exempt from the provisions of chapter 119 and s. 24(a), Art. I
2 of the State Constitution, so that the Department of Health
3 may corroborate any information that physicians are required
4 to report under s. 455.565 ~~section 1 of this act.~~

5
6 Reviser's note.--Amended to correct an apparent
7 error, facilitate correct interpretation, and
8 conform to redesignation of references by the
9 reviser incident to compiling the Florida
10 Statutes 1997. The references to "section 1 of
11 this act" in s. 130, ch. 97-237, Laws of
12 Florida, and s. 6, ch. 97-273, Laws of Florida,
13 were not updated to conform to the final
14 location of that material in the laws. The
15 references became "section 127" for ch. 97-237
16 and "section 3" for ch. 97-273. The material
17 was codified as s. 455.565 by the reviser.

18
19 Section 117. Section 455.5654, Florida Statutes, is
20 amended to read:

21 455.5654 Practitioner profiles; rules;
22 workshops.--Effective upon this act becoming a law, the
23 Department of Health shall adopt rules for the form of a
24 practitioner profile that the agency is required to prepare.
25 The Department of Health, pursuant to chapter 120, must hold
26 public workshops for purposes of rule development to implement
27 this section. An agency to which information is to be
28 submitted under this act may adopt by rule a form for the
29 submission of the information required under s. 455.565
30 ~~section 1.~~

1 Reviser's note.--Amended to correct an apparent
2 error, facilitate correct interpretation, and
3 conform to redesignation of references by the
4 reviser incident to compiling the Florida
5 Statutes 1997. The references to "section 1" by
6 s. 131, ch. 97-237, Laws of Florida, and s. 7,
7 ch. 97-273, Laws of Florida, were not updated
8 to conform to the final location of that
9 material in the laws. The references became
10 "section 127" for ch. 97-237 and "section 3"
11 for ch. 97-273. The material was codified as s.
12 455.565 by the reviser.

13
14 Section 118. Subsection (6) of section 455.621,
15 Florida Statutes, is amended to read:

16 455.621 Disciplinary proceedings.--Disciplinary
17 proceedings for each board shall be within the jurisdiction of
18 the department.

19 (6) The appropriate board, with those members of the
20 panel, if any, who reviewed the investigation pursuant to
21 subsection (4)~~(5)~~ being excused, or the department when there
22 is no board, shall determine and issue the final order in each
23 disciplinary case. Such order shall constitute final agency
24 action. Any consent order or agreed-upon settlement shall be
25 subject to the approval of the department.

26
27 Reviser's note.--Amended to improve clarity and
28 facilitate correct interpretation. Subsection
29 (4) provides for a probable cause panel.

30
31

1 Section 119. Subsection (5) of section 458.311,
2 Florida Statutes, is amended to read:

3 458.311 Licensure by examination; requirements;
4 fees.--

5 (5) The board may not certify to the department for
6 licensure any applicant who is under investigation in another
7 jurisdiction for an offense which would constitute a violation
8 of this chapter until such investigation is completed. Upon
9 completion of the investigation, the provisions of s. 458.331
10 shall apply. Furthermore, the department may not issue an
11 unrestricted license to any individual who has committed any
12 act or offense in any jurisdiction which would constitute the
13 basis for disciplining a physician pursuant to s. 458.331.
14 When the board finds that an individual has committed an act
15 or offense in any jurisdiction which would constitute the
16 basis for disciplining a physician pursuant to s. 458.331,
17 then the board may enter an order imposing one or more of the
18 terms set forth in subsection (8)~~(9)~~.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of s. 458.311(9) as s. 458.311(8)
22 necessitated by the repeal of former subsection
23 (8) by s. 20, ch. 95-145, Laws of Florida.

24
25 Section 120. Paragraph (b) of subsection (4) of
26 section 458.320, Florida Statutes, is amended to read:

27 458.320 Financial responsibility.--

28 (4)

29 (b) If financial responsibility requirements are met
30 by maintaining an escrow account or letter of credit as
31 provided in this section, upon the entry of an adverse final

1 judgment arising from a medical malpractice arbitration award,
2 from a claim of medical malpractice either in contract or
3 tort, or from noncompliance with the terms of a settlement
4 agreement arising from a claim of medical malpractice either
5 in contract or tort, the licensee shall pay the entire amount
6 of the judgment together with all accrued interest, or the
7 amount maintained in the escrow account or provided in the
8 letter of credit as required by this section, whichever is
9 less, within 60 days after the date such judgment became final
10 and subject to execution, unless otherwise mutually agreed to
11 in writing by the parties. If timely payment is not made by
12 the physician, the department shall suspend the license of the
13 physician pursuant to procedures set forth in subparagraphs
14 (5)(g)3., 4., and 5.~~(5)(g)2., 3., and 4.~~ Nothing in this
15 paragraph shall abrogate a judgment debtor's obligation to
16 satisfy the entire amount of any judgment.

17

18 Reviser's note.--Amended to conform to the
19 redesignation of s. 458.320(5)(g)2., 3., and 4.
20 as s. 458.320(5)(g)3., 4., and 5.,
21 respectively, by s. 144, ch. 97-237, Laws of
22 Florida, and s. 20, ch. 97-273, Laws of
23 Florida.

24

25 Section 121. Paragraph (b) of subsection (4) of
26 section 459.0085, Florida Statutes, is amended to read:

27 459.0085 Financial responsibility.--

28 (4)

29 (b) If financial responsibility requirements are met
30 by maintaining an escrow account or letter of credit as
31 provided in this section, upon the entry of an adverse final

1 judgment arising from a medical malpractice arbitration award,
2 from a claim of medical malpractice either in contract or
3 tort, or from noncompliance with the terms of a settlement
4 agreement arising from a claim of medical malpractice either
5 in contract or tort, the licensee shall pay the entire amount
6 of the judgment together with all accrued interest or the
7 amount maintained in the escrow account or provided in the
8 letter of credit as required by this section, whichever is
9 less, within 60 days after the date such judgment became final
10 and subject to execution, unless otherwise mutually agreed to
11 in writing by the parties. If timely payment is not made by
12 the osteopathic physician, the department shall suspend the
13 license of the osteopathic physician pursuant to procedures
14 set forth in subparagraphs (5)(g)3., 4., and 5.~~(5)(g)2., 3.,~~
15 ~~and 4.~~ Nothing in this paragraph shall abrogate a judgment
16 debtor's obligation to satisfy the entire amount of any
17 judgment.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of s. 459.0085(5)(g)2., 3., and
21 4. as s. 459.0085(5)(g)3., 4., and 5.,
22 respectively, by s. 145, ch. 97-237, Laws of
23 Florida, and s. 21, ch. 97-273, Laws of
24 Florida.

25
26 Section 122. Section 459.018, Florida Statutes, is
27 amended to read:

28 459.018 Search warrants for certain violations.--When
29 the department has reason to believe that violations of s.
30 459.015(1)(t)~~459.015(1)(u)~~ or s. 459.015(1)(u)~~459.015(1)(v)~~
31 have occurred or are occurring, its agents or other duly

1 authorized persons may search an osteopathic physician's place
2 of practice for purposes of securing such evidence as may be
3 needed for prosecution. Such evidence shall not include any
4 medical records of patients unless pursuant to the patient's
5 written consent. Notwithstanding the consent of the patient,
6 such records maintained by the department are confidential and
7 exempt from s. 119.07(1). This section shall not limit the
8 psychotherapist-patient privileges of s. 90.503. Prior to a
9 search, the department shall secure a search warrant from any
10 judge authorized by law to issue search warrants. The search
11 warrant shall be issued upon probable cause, supported by oath
12 or affirmation particularly describing the things to be
13 seized. The application for the warrant shall be sworn to and
14 subscribed, and the judge may require further testimony from
15 witnesses, supporting affidavits, or depositions in writing to
16 support the application. The application and supporting
17 information, if required, must set forth the facts tending to
18 establish the grounds of the application or probable cause
19 that they exist. If the judge is satisfied that probable cause
20 exists, he or she shall issue a search warrant signed by him
21 or her with the judge's name of office to any agent or other
22 person duly authorized by the department to execute process,
23 commanding the agent or person to search the place described
24 in the warrant for the property specified. The search warrant
25 shall be served only by the agent or person mentioned in it
26 and by no other person except an aide of the agent or person
27 when such agent or person is present and acting in its
28 execution.

29

30 Reviser's note.--Amended to conform to the
31 redesignation of subunits necessitated by the

1 repeal of former s. 459.015(1)(k) by s. 2, ch.
2 92-178, Laws of Florida.

3
4 Section 123. Subsection (4) of section 460.406,
5 Florida Statutes, is amended to read:

6 460.406 Licensure by examination.--

7 (4) The department shall submit written notification
8 within 5 working days to applicants who have successfully
9 completed the requirements of paragraphs (1)(a)-(e)~~(1)(a)-(f)~~
10 and who have successfully passed the state licensure
11 examination. An applicant who is notified in writing by the
12 department of the successful completion of requirements in
13 paragraphs (1)(a)-(e)~~(1)(a)-(f)~~ and who has successfully
14 passed the state licensure examination may lawfully practice
15 pending receipt of the certificate of licensure, and the
16 written notification shall act as evidence of licensure
17 entitling the chiropractic physician to practice for a maximum
18 period of 45 days or until the licensing fee is received by
19 the department whichever is sooner.

20
21 Reviser's note.--Amended to conform to the
22 redesignation of paragraphs (1)(a)-(f) as
23 paragraphs (1)(a)-(e) by s. 106, ch. 99-397,
24 Laws of Florida.

25
26 Section 124. Section 462.09, Florida Statutes, is
27 amended to read:

28 462.09 Disposition of fees.--All fees received under
29 this chapter shall be deposited into the Medical Quality
30 Assurance Professional Regulation Trust Fund. The Legislature
31 shall appropriate funds from this trust fund sufficient to

1 carry out the provisions of this chapter. The department
2 shall prepare and submit a proposed budget in accordance with
3 law.

4
5 Reviser's note.--Amended to conform to the
6 transfer of the regulation of health care
7 professionals from the Department of Business
8 and Professional Regulation to the Department
9 of Health. The Medical Quality Assurance Trust
10 Fund in s. 20.435(1)(d) provides administrative
11 support for the regulation.

12
13 Section 125. Paragraph (t) of subsection (1) of
14 section 462.14, Florida Statutes, is amended to read:

15 462.14 Grounds for disciplinary action; action by the
16 department.--

17 (1) The following acts constitute grounds for which
18 the disciplinary actions specified in subsection (2) may be
19 taken:

20 (t) Gross or repeated malpractice or the failure to
21 practice naturopathic medicine with that level of care, skill,
22 and treatment which is recognized by a reasonably prudent
23 similar physician as being acceptable under similar conditions
24 and circumstances. The department shall give great weight to
25 the provisions of s. 766.102 ~~768.45~~ when enforcing this
26 paragraph.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 768.45 as s. 766.102 by the
30 reviser incident to compiling the 1988
31 Supplement to the Florida Statutes 1987.

1 Section 126. Section 466.014, Florida Statutes, is
2 amended to read:
3 466.014 Continuing education; dental hygienists.--In
4 addition to the other requirements for relicensure for dental
5 hygienists set out in this act, the board shall require each
6 licensed dental hygienist to complete not less than 24 hours
7 or more than 36 hours of continuing professional education in
8 dental subjects, biennially, in programs prescribed or
9 approved by the board or in equivalent programs of continuing
10 education. Programs of continuing education approved by the
11 board shall be programs of learning which, in the opinion of
12 the board, contribute directly to the dental education of the
13 dental hygienist. The board shall adopt rules and guidelines
14 to administer and enforce the provisions of this section. In
15 applying for license renewal, the dental hygienist shall
16 submit a sworn affidavit, on a form acceptable to the
17 department, attesting that she or he has completed the
18 continuing education required in this section in accordance
19 with the guidelines and provisions of this section and listing
20 the date, location, sponsor, subject matter, and hours of
21 completed continuing education courses. The applicant shall
22 retain in her or his records such receipts, vouchers, or
23 certificates as may be necessary to document completion of the
24 continuing education courses listed in accordance with this
25 section. With cause, the board may request such documentation
26 by the applicant, and the board may request such documentation
27 from applicants selected at random without cause. Compliance
28 with the continuing education requirements shall be mandatory
29 for issuance of the renewal certificate. The board shall have
30 the authority to excuse licensees, as a group or as
31 individuals, from the continuing educational requirements, or

1 any part thereof, in the event an unusual circumstance,
2 emergency, or hardship has prevented compliance with this
3 section ~~subsection~~.

4
5 Reviser's note.--Amended to improve clarity and
6 facilitate correct interpretation. Section
7 466.014 is not divided into subsections.

8
9 Section 127. Section 467.0135, Florida Statutes, is
10 amended to read:

11 467.0135 Fees.--The department shall establish fees
12 for application, examination, initial licensure, renewal of
13 licensure, licensure by endorsement, inactive status,
14 delinquent status, and reactivation of an inactive license.
15 The appropriate fee must be paid at the time of application
16 and is payable to the Department of Health, in accordance with
17 rules adopted by the department. A fee is nonrefundable,
18 unless otherwise provided by rule. A fee may not exceed:

- 19 (1) Five hundred dollars for examination.
20 (2) Five hundred dollars for initial licensure.
21 (3) Five hundred dollars for renewal of licensure.
22 (4) Two hundred dollars for application, which fee is
23 nonrefundable.
24 (5) Five hundred dollars for reactivation of an
25 inactive license.
26 (6) Five hundred dollars for licensure by endorsement.

27
28 A fee for inactive status, reactivation of an inactive
29 license, or delinquency may not exceed the fee established by
30 the department for biennial renewal of an active license. All
31

1 fees collected under this section shall be deposited in the
2 Medical Quality Assurance ~~Professional Regulation~~ Trust Fund.

3
4 Reviser's note.--Amended to conform to the
5 transfer of the regulation of health care
6 professionals from the Department of Business
7 and Professional Regulation to the Department
8 of Health. The Medical Quality Assurance Trust
9 Fund in s. 20.435(1)(d) provides administrative
10 support for the regulation.

11
12 Section 128. Subsection (5) of section 468.1655,
13 Florida Statutes, is amended to read:

14 468.1655 Definitions.--As used in this part:

15 (5) "Nursing home" means an institution or facility
16 licensed as such under part II ~~I~~ of chapter 400.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of part I of chapter 400 as part
20 II necessitated by the creation of a new part I
21 incident to the compilation of ss. 1-16, ch.
22 93-177, Laws of Florida.

23
24 Section 129. Subsection (4) of section 468.1695,
25 Florida Statutes, is repealed, and subsection (2) of that
26 section is amended to read:

27 468.1695 Licensure by examination.--

28 (2) ~~Beginning October 1, 1992,~~The department shall
29 examine each applicant who the board certifies has completed
30 the application form and remitted an examination fee set by
31 the board not to exceed \$250 and who:

1 (a)1. Holds a baccalaureate degree from an accredited
2 college or university and majored in health care
3 administration or has credit for at least 60 semester hours in
4 subjects, as prescribed by rule of the board, which prepare
5 the applicant for total management of a nursing home; and

6 2. Has fulfilled the requirements of a
7 college-affiliated or university-affiliated internship in
8 nursing home administration or of a 1,000-hour nursing home
9 administrator-in-training program prescribed by the board; or

10 (b)1. Holds a baccalaureate degree from an accredited
11 college or university; and

12 2.a. Has fulfilled the requirements of a 2,000-hour
13 nursing home administrator-in-training program prescribed by
14 the board; or

15 b. Has 1 year of management experience allowing for
16 the application of executive duties and skills, including the
17 staffing, budgeting, and directing of resident care, dietary,
18 and bookkeeping departments within a skilled nursing facility,
19 hospital, hospice, assisted living facility with a minimum of
20 60 licensed beds, or geriatric residential treatment program
21 and, if such experience is not in a skilled nursing facility,
22 has fulfilled the requirements of a 1,000-hour nursing home
23 administrator-in-training program prescribed by the board.

24

25 Reviser's note.--Subsection (2) is amended to
26 delete language that has served its purpose.

27 Subsection (4) is repealed to delete language
28 that is obsolete; persons exempted from
29 qualifications specified in current subsection
30 (2) have already been grandfathered in as
31 nursing home administrators.

1 Section 130. Paragraph (a) of subsection (2) of
2 section 468.307, Florida Statutes, is amended to read:

3 468.307 Certificate; issuance; possession; display.--

4 (2)(a) The department may, at its discretion, issue a
5 temporary certificate to:

6 1. An applicant who has completed an educational
7 program and is awaiting examination for a certificate
8 specified in s. 468.302(2)(b), (c), (e), or (f), if the
9 applicant has met all other requirements established pursuant
10 to s. 468.304.

11 2. A basic X-ray machine operator, if such person is
12 under the direct supervision of a licensed practitioner and
13 the licensed practitioner has not requested issuance of a
14 temporary certificate within the previous 18 months, upon
15 application by a licensed practitioner who is practicing in an
16 office of five or ~~of~~ fewer licensed practitioners.

17 3. A basic X-ray machine operator-podiatric medicine,
18 if such person is under the direct supervision of a licensed
19 podiatric physician and the licensed podiatric physician has
20 not requested issuance of a temporary certificate within the
21 previous 18 months, upon application by a licensed podiatric
22 physician who is practicing in an office of five or fewer
23 licensed podiatric physicians.

24
25 Reviser's note.--Amended to improve clarity and
26 facilitate correct interpretation.

27
28 Section 131. Paragraph (1) of subsection (1) of
29 section 468.505, Florida Statutes, is amended to read:

30 468.505 Exemptions; exceptions.--

31

1 (1) Nothing in this part may be construed as
2 prohibiting or restricting the practice, services, or
3 activities of:

4 (1) A person employed by a nursing facility exempt
5 from licensing under s. 395.002(13)~~395.002(14)~~, or a person
6 exempt from licensing under s. 464.022.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of s. 395.002(14) as s.
10 395.002(13) by the reviser incident to the
11 compilation of the 1998 Supplement to the
12 Florida Statutes 1997.

13
14 Section 132. Paragraph (c) of subsection (2) of
15 section 468.605, Florida Statutes, is amended to read:
16 468.605 Florida Building Code Administrators and
17 Inspectors Board.--

18 (2) The board shall consist of nine members, as
19 follows:

20 (c) Two members serving as inspectors ~~inspector~~.

21
22 None of the board members described in paragraph (a) or
23 paragraph (f) may be an employee of a municipal, county, or
24 state governmental agency.

25
26 Reviser's note.--Amended to improve clarity and
27 facilitate correct interpretation.

28
29 Section 133. Subsection (1) of section 468.828,
30 Florida Statutes, is amended to read:

31

1 468.828 Background screening information; rulemaking
2 authority.--

3 (1) The Agency for Health Care Administration shall
4 allow the department to electronically access its background
5 screening database and records, and the Department of Children
6 and Family Services ~~Families~~ shall allow the department to
7 electronically access its central abuse registry and tracking
8 system under chapter 415.

9
10 Reviser's note.--Amended to conform to the
11 official title of the department pursuant to s.
12 20.19.

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