

By the Committee on Health Regulation and Representatives
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1 A bill to be entitled
2 An act relating to health care; amending s.
3 395.0197, F.S.; revising provisions relating to
4 hospital and ambulatory surgical center
5 internal risk management programs; modifying
6 requirements for risk management and prevention
7 education and training; restricting
8 participation of unlicensed persons in surgical
9 procedures; requiring ongoing evaluation of
10 surgical procedures and protocols; eliminating
11 an annual report summarizing facility incident
12 reports and disciplinary actions; requiring the
13 Agency for Health Care Administration to
14 publish website summaries of adverse incident
15 reports; requiring facility reporting of
16 allegations of sexual misconduct by health care
17 practitioners; providing certain civil
18 liability for licensed risk managers;
19 prohibiting intimidation of a risk manager;
20 providing a penalty; amending s. 395.10972,
21 F.S.; increasing membership on the Health Care
22 Risk Management Advisory Council; amending s.
23 395.701, F.S.; limiting the financial
24 information the agency may require to determine
25 the amount of hospital annual assessments;
26 amending s. 456.013, F.S.; providing a
27 professional continuing education requirement
28 relating to prevention of medical errors;
29 amending s. 456.063, F.S.; requiring licensed
30 health care practitioners to report to the
31 Department of Health any allegations of sexual

1 misconduct; amending s. 456.072, F.S.;

2 providing additional grounds for disciplinary

3 actions; clarifying a penalty involving

4 restriction of professional practice or

5 license; providing additional penalties;

6 requiring assessment of costs related to

7 investigation and prosecution; amending s.

8 456.073, F.S.; requiring the department to

9 notify the patient or legal representative of

10 the status of a disciplinary case; requiring

11 the agency to provide certain information to

12 the complainant; amending s. 456.077, F.S.;

13 specifying violations for which the department

14 or a regulatory board may issue citations;

15 amending s. 456.081, F.S.; requiring the

16 department and regulatory boards to maintain a

17 website containing specified information;

18 amending ss. 458.331 and 459.015, F.S.;

19 conforming language and cross references to

20 changes made by the act; amending ss. 465.019

21 and 465.0196, F.S.; requiring institutional

22 pharmacies and special pharmacy permittees that

23 use pharmacy technicians to have a written

24 policy and procedures manual; directing the

25 department and agency to review health care

26 practitioner and facility reporting

27 requirements; requiring a report to the

28 Legislature; amending s. 468.1755, F.S.;

29 providing an additional ground for disciplinary

30 action against a nursing home administrator;

31 reenacting ss. 468.1695(3) and 468.1735, F.S.,

1 to incorporate said amendment in references;
2 reenacting s. 484.056(1)(a), F.S., relating to
3 disciplinary action against hearing aid
4 specialists, to incorporate the amendment to s.
5 456.072(1), in a reference; amending s.
6 766.101, F.S.; providing that a continuous
7 quality improvement committee of a licensed
8 pharmacy is a medical review committee for
9 purposes of immunity from liability, and
10 reenacting ss. 440.105(1)(a) and 626.989(6),
11 F.S., to incorporate said amendment in
12 references; amending s. 766.1115, F.S.;
13 conforming language and cross references to
14 changes made by the act; providing an effective
15 date.

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

18
19 Section 1. Section 395.0197, Florida Statutes, is
20 amended to read:

21 395.0197 Internal risk management program.--

22 (1) Every licensed facility shall, as a part of its
23 administrative functions, establish an internal risk
24 management program that includes all of the following
25 components:

26 (a) The investigation and analysis of the frequency
27 and causes of general categories and specific types of adverse
28 incidents to patients.

29 (b) The development of appropriate measures to
30 minimize the risk of adverse incidents to patients, including,
31 but not limited to:

- 1 1. Risk management and risk prevention education and
2 training of all nonphysician personnel as follows:
- 3 a. Such education and training of all nonphysician
4 personnel as part of their initial orientation; and
- 5 b. At least 1 hour of such education and training
6 annually for all ~~nonphysician~~ personnel of the licensed
7 facility working in clinical areas and providing patient care,
8 except those persons licensed as health care practitioners who
9 are required to complete continuing education coursework
10 pursuant to chapter 456 or the respective practice act.
- 11 2. A prohibition, except when emergency circumstances
12 require otherwise, against a staff member of the licensed
13 facility attending a patient in the recovery room, unless the
14 staff member is authorized to attend the patient in the
15 recovery room and is in the company of at least one other
16 person. However, a licensed facility is exempt from the
17 two-person requirement if it has:
- 18 a. Live visual observation;
- 19 b. Electronic observation; or
- 20 c. Any other reasonable measure taken to ensure
21 patient protection and privacy.
- 22 3. A prohibition against an unlicensed person from
23 assisting or participating in any surgical procedure unless
24 the facility has authorized the person to do so following a
25 competency assessment, and such assistance or participation is
26 done under the direct and immediate supervision of a licensed
27 physician and is not otherwise an activity that may only be
28 performed by a licensed health care practitioner.
- 29 4. Development, implementation, and ongoing evaluation
30 of procedures, protocols, and systems to accurately identify
31 patients, planned procedures, and the correct site of the

1 planned procedure so as to minimize the performance of a
2 surgical procedure on the wrong patient, a wrong surgical
3 procedure, a wrong-site surgical procedure, or a surgical
4 procedure otherwise unrelated to the patient's diagnosis or
5 medical condition.

6 (c) The analysis of patient grievances that relate to
7 patient care and the quality of medical services.

8 (d) The development and implementation of an incident
9 reporting system based upon the affirmative duty of all health
10 care providers and all agents and employees of the licensed
11 health care facility to report adverse incidents to the risk
12 manager, or to his or her designee, within 3 business days
13 after their occurrence.

14 (2) The internal risk management program is the
15 responsibility of the governing board of the health care
16 facility. Each licensed facility shall hire a risk manager,
17 licensed under s. 395.10974 ~~part IX of chapter 626~~, who is
18 responsible for implementation and oversight of such
19 facility's internal risk management program as required by
20 this section. A risk manager must not be made responsible for
21 more than four internal risk management programs in separate
22 licensed facilities, unless the facilities are under one
23 corporate ownership or the risk management programs are in
24 rural hospitals.

25 (3) In addition to the programs mandated by this
26 section, other innovative approaches intended to reduce the
27 frequency and severity of medical malpractice and patient
28 injury claims shall be encouraged and their implementation and
29 operation facilitated. Such additional approaches may include
30 extending internal risk management programs to health care
31 providers' offices and the assuming of provider liability by a

1 licensed health care facility for acts or omissions occurring
2 within the licensed facility.

3 (4) The agency shall, ~~after consulting with the~~
4 ~~Department of Insurance,~~ adopt rules governing the
5 establishment of internal risk management programs to meet the
6 needs of individual licensed facilities. Each internal risk
7 management program shall include the use of incident reports
8 to be filed with an individual of responsibility who is
9 competent in risk management techniques in the employ of each
10 licensed facility, such as an insurance coordinator, or who is
11 retained by the licensed facility as a consultant. The
12 individual responsible for the risk management program shall
13 have free access to all medical records of the licensed
14 facility. The incident reports are part of the workpapers of
15 the attorney defending the licensed facility in litigation
16 relating to the licensed facility and are subject to
17 discovery, but are not admissible as evidence in court. A
18 person filing an incident report is not subject to civil suit
19 by virtue of such incident report. As a part of each internal
20 risk management program, the incident reports shall be used to
21 develop categories of incidents which identify problem areas.
22 Once identified, procedures shall be adjusted to correct the
23 problem areas.

24 (5) For purposes of reporting to the agency pursuant
25 to this section, the term "adverse incident" means an event
26 over which health care personnel could exercise control and
27 which is associated in whole or in part with medical
28 intervention, rather than the condition for which such
29 intervention occurred, and which:

30 (a) Results in one of the following injuries:

31 1. Death;

- 1 2. Brain or spinal damage;
2 3. Permanent disfigurement;
3 4. Fracture or dislocation of bones or joints;
4 5. A resulting limitation of neurological, physical,
5 or sensory function which continues after discharge from the
6 facility;
7 6. Any condition that required specialized medical
8 attention or surgical intervention resulting from nonemergency
9 medical intervention, other than an emergency medical
10 condition, to which the patient has not given his or her
11 informed consent; or
12 7. Any condition that required the transfer of the
13 patient, within or outside the facility, to a unit providing a
14 more acute level of care due to the adverse incident, rather
15 than the patient's condition prior to the adverse incident;
16 (b) Was the performance of a surgical procedure on the
17 wrong patient, a wrong surgical procedure, a wrong-site
18 surgical procedure, or a surgical procedure otherwise
19 unrelated to the patient's diagnosis or medical condition;
20 (c) Required the surgical repair of damage resulting
21 to a patient from a planned surgical procedure, where the
22 damage was not a recognized specific risk, as disclosed to the
23 patient and documented through the informed-consent process;
24 or
25 (d) Was a procedure to remove unplanned foreign
26 objects remaining from a surgical procedure.
27 (6)(a) Each licensed facility subject to this section
28 shall submit an annual report to the agency summarizing the
29 incident reports that have been filed in the facility for that
30 year. The report shall include:
31 1. The total number of adverse incidents.

1 2. A listing, by category, of the types of operations,
2 diagnostic or treatment procedures, or other actions causing
3 the injuries, and the number of incidents occurring within
4 each category.

5 3. A listing, by category, of the types of injuries
6 caused and the number of incidents occurring within each
7 category.

8 4. A code number using the health care professional's
9 licensure number and a separate code number identifying all
10 other individuals directly involved in adverse incidents to
11 patients, the relationship of the individual to the licensed
12 facility, and the number of incidents in which each individual
13 has been directly involved. Each licensed facility shall
14 maintain names of the health care professionals and
15 individuals identified by code numbers for purposes of this
16 section.

17 5. A description of all malpractice claims filed
18 against the licensed facility, including the total number of
19 pending and closed claims and the nature of the incident which
20 led to, the persons involved in, and the status and
21 disposition of each claim. Each report shall update status and
22 disposition for all prior reports.

23 (b) The information reported to the agency pursuant to
24 paragraph (a) which relates to persons licensed under chapter
25 458, chapter 459, chapter 461, or chapter 466 shall be
26 reviewed by the agency. The agency shall determine whether
27 any of the incidents potentially involved conduct by a health
28 care professional who is subject to disciplinary action, in
29 which case the provisions of s. 456.073 shall apply.

30 (c) The report submitted to the agency shall also
31 contain the name and license number of the risk manager of the

1 licensed facility, a copy of its policy and procedures which
2 govern the measures taken by the facility and its risk manager
3 to reduce the risk of injuries and adverse incidents, and the
4 results of such measures. The annual report is confidential
5 and is not available to the public pursuant to s. 119.07(1) or
6 any other law providing access to public records. The annual
7 report is not discoverable or admissible in any civil or
8 administrative action, except in disciplinary proceedings by
9 the agency or the appropriate regulatory board. The annual
10 report is not available to the public as part of the record of
11 investigation for and prosecution in disciplinary proceedings
12 made available to the public by the agency or the appropriate
13 regulatory board. However, the agency or the appropriate
14 regulatory board shall make available, upon written request by
15 a health care professional against whom probable cause has
16 been found, any such records which form the basis of the
17 determination of probable cause.

18 (7) The licensed facility shall notify the agency no
19 later than 1 business day after the risk manager or his or her
20 designee has received a report pursuant to paragraph (1)(d)
21 and can determine within 1 business day that any of the
22 following adverse incidents has occurred, whether occurring in
23 the licensed facility or arising from health care prior to
24 admission in the licensed facility:

25 (a) The death of a patient;

26 (b) Brain or spinal damage to a patient;

27 (c) The performance of a surgical procedure on the
28 wrong patient;

29 (d) The performance of a wrong-site surgical
30 procedure; or

31 (e) The performance of a wrong surgical procedure.

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2 The notification must be made in writing and be provided by
3 facsimile device or overnight mail delivery. The notification
4 must include information regarding the identity of the
5 affected patient, the type of adverse incident, the initiation
6 of an investigation by the facility, and whether the events
7 causing or resulting in the adverse incident represent a
8 potential risk to other patients.

9 (8) Any of the following adverse incidents, whether
10 occurring in the licensed facility or arising from health care
11 prior to admission in the licensed facility, shall be reported
12 by the facility to the agency within 15 calendar days after
13 its occurrence:

14 (a) The death of a patient;

15 (b) Brain or spinal damage to a patient;

16 (c) The performance of a surgical procedure on the
17 wrong patient;

18 (d) The performance of a wrong-site surgical
19 procedure;

20 (e) The performance of a wrong surgical procedure;

21 (f) The performance of a surgical procedure that is
22 medically unnecessary or otherwise unrelated to the patient's
23 diagnosis or medical condition;

24 (g) The surgical repair of damage resulting to a
25 patient from a planned surgical procedure, where the damage is
26 not a recognized specific risk, as disclosed to the patient
27 and documented through the informed-consent process; or

28 (h) The performance of procedures to remove unplanned
29 foreign objects remaining from a surgical procedure.

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1 The agency may grant extensions to this reporting requirement
2 for more than 15 days upon justification submitted in writing
3 by the facility administrator to the agency. The agency may
4 require an additional, final report. These reports shall not
5 be available to the public pursuant to s. 119.07(1) or any
6 other law providing access to public records, nor be
7 discoverable or admissible in any civil or administrative
8 action, except in disciplinary proceedings by the agency or
9 the appropriate regulatory board, nor shall they be available
10 to the public as part of the record of investigation for and
11 prosecution in disciplinary proceedings made available to the
12 public by the agency or the appropriate regulatory board.
13 However, the agency or the appropriate regulatory board shall
14 make available, upon written request by a health care
15 professional against whom probable cause has been found, any
16 such records which form the basis of the determination of
17 probable cause. The agency may investigate, as it deems
18 appropriate, any such incident and prescribe measures that
19 must or may be taken in response to the incident. The agency
20 shall review each incident and determine whether it
21 potentially involved conduct by the health care professional
22 who is subject to disciplinary action, in which case the
23 provisions of s. 456.073 shall apply.

24 (9) The agency shall publish on the agency's website,
25 no less than quarterly, a summary and trend analysis of
26 adverse incident reports received pursuant to this section,
27 which shall not include information that would identify the
28 patient, the reporting facility, or the health care
29 practitioners involved. The agency shall publish on the
30 agency's website an annual summary and trend analysis of all
31 adverse incident reports and malpractice claims information

1 provided by facilities in their annual reports, which shall
2 not include information that would identify the patient, the
3 reporting facility, or the practitioners involved. The
4 purpose of the publication of the summary and trend analysis
5 is to promote the rapid dissemination of information relating
6 to adverse incidents and malpractice claims to assist in
7 avoidance of similar incidents and reduce morbidity and
8 mortality.

9 (10)~~(9)~~ The internal risk manager of each licensed
10 facility shall:

11 (a) Investigate every allegation of sexual misconduct
12 which is made against a member of the facility's personnel who
13 has direct patient contact, when the allegation is that the
14 sexual misconduct occurred at the facility or on the grounds
15 of the facility.~~†~~ and

16 (b) Report every allegation of sexual misconduct to
17 the administrator of the licensed facility.

18 (c) Notify the family or guardian of the victim, if a
19 minor, that an allegation of sexual misconduct has been made
20 and that an investigation is being conducted.~~†~~

21 (d) Report to the Department of Health every
22 allegation of sexual misconduct, as defined in chapter 456 and
23 the respective practice act, by a licensed health care
24 practitioner that involves a patient.

25 (11)~~(10)~~ Any witness who witnessed or who possesses
26 actual knowledge of the act that is the basis of an allegation
27 of sexual abuse shall:

28 (a) Notify the local police; and

29 (b) Notify the hospital risk manager and the
30 administrator.

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1 For purposes of this subsection, "sexual abuse" means acts of
2 a sexual nature committed for the sexual gratification of
3 anyone upon, or in the presence of, a vulnerable adult,
4 without the vulnerable adult's informed consent, or a minor.
5 "Sexual abuse" includes, but is not limited to, the acts
6 defined in s. 794.011(1)(h), fondling, exposure of a
7 vulnerable adult's or minor's sexual organs, or the use of the
8 vulnerable adult or minor to solicit for or engage in
9 prostitution or sexual performance. "Sexual abuse" does not
10 include any act intended for a valid medical purpose or any
11 act which may reasonably be construed to be a normal
12 caregiving action.

13 (12)~~(11)~~ A person who, with malice or with intent to
14 discredit or harm a licensed facility or any person, makes a
15 false allegation of sexual misconduct against a member of a
16 licensed facility's personnel is guilty of a misdemeanor of
17 the second degree, punishable as provided in s. 775.082 or s.
18 775.083.

19 (13)~~(12)~~ In addition to any penalty imposed pursuant
20 to this section, the agency shall require a written plan of
21 correction from the facility. For a single incident or series
22 of isolated incidents that are nonwillful violations of the
23 reporting requirements of this section, the agency shall first
24 seek to obtain corrective action by the facility. If the
25 correction is not demonstrated within the timeframe
26 established by the agency or if there is a pattern of
27 nonwillful violations of this section, the agency may impose
28 an administrative fine, not to exceed \$5,000 for any violation
29 of the reporting requirements of this section. The
30 administrative fine for repeated nonwillful violations shall
31 not exceed \$10,000 for any violation. The administrative fine

1 for each intentional and willful violation may not exceed
2 \$25,000 per violation, per day. The fine for an intentional
3 and willful violation of this section may not exceed \$250,000.
4 In determining the amount of fine to be levied, the agency
5 shall be guided by s. 395.1065(2)(b). This subsection does not
6 apply to the notice requirements under subsection (7).

7 (14)~~(13)~~ The agency shall have access to all licensed
8 facility records necessary to carry out the provisions of this
9 section. The records obtained by the agency under subsection
10 (6), subsection (8), or subsection(10)~~(9)~~are not available
11 to the public under s. 119.07(1), nor shall they be
12 discoverable or admissible in any civil or administrative
13 action, except in disciplinary proceedings by the agency or
14 the appropriate regulatory board, nor shall records obtained
15 pursuant to s. 456.071 be available to the public as part of
16 the record of investigation for and prosecution in
17 disciplinary proceedings made available to the public by the
18 agency or the appropriate regulatory board. However, the
19 agency or the appropriate regulatory board shall make
20 available, upon written request by a health care professional
21 against whom probable cause has been found, any such records
22 which form the basis of the determination of probable cause,
23 except that, with respect to medical review committee records,
24 s. 766.101 controls.

25 (15)~~(14)~~ The meetings of the committees and governing
26 board of a licensed facility held solely for the purpose of
27 achieving the objectives of risk management as provided by
28 this section shall not be open to the public under the
29 provisions of chapter 286. The records of such meetings are
30 confidential and exempt from s. 119.07(1), except as provided
31 in subsection(14)~~(13)~~.

1 (16)~~(15)~~ The agency shall review, as part of its
2 licensure inspection process, the internal risk management
3 program at each licensed facility regulated by this section to
4 determine whether the program meets standards established in
5 statutes and rules, whether the program is being conducted in
6 a manner designed to reduce adverse incidents, and whether the
7 program is appropriately reporting incidents under this
8 section ~~subsections (5), (6), (7), and (8)~~.

9 (17)~~(16)~~ There shall be no monetary liability on the
10 part of, and no cause of action for damages shall arise
11 against, any risk manager, licensed under s. 395.10974 ~~part IX~~
12 ~~of chapter 626~~, for the implementation and oversight of the
13 internal risk management program in a facility licensed under
14 this chapter or chapter 390 as required by this section, for
15 any act or proceeding undertaken or performed within the scope
16 of the functions of such internal risk management program if
17 the risk manager acts without intentional fraud.

18 (18) A privilege against civil liability is hereby
19 granted to any licensed risk manager or licensed facility with
20 regard to information furnished pursuant to this chapter,
21 unless the licensed risk manager or facility acted in bad
22 faith or with malice in providing such information.

23 (19)~~(17)~~ If the agency, through its receipt of any
24 reports required under this section ~~the annual reports~~
25 ~~prescribed in subsection (6)~~ or through any investigation, has
26 a reasonable belief that conduct by a staff member or employee
27 of a licensed facility is grounds for disciplinary action by
28 the appropriate regulatory board, the agency shall report this
29 fact to such regulatory board.

30 ~~(18)~~ ~~The agency shall annually publish a report~~
31 ~~summarizing the information contained in the annual incident~~

1 ~~reports submitted by licensed facilities pursuant to~~
2 ~~subsection (6) and disciplinary actions reported to the agency~~
3 ~~pursuant to s. 395.0193. The report must, at a minimum,~~
4 ~~summarize:~~

5 ~~(a) Adverse incidents, by category of reported~~
6 ~~incident, and by type of professional involved.~~

7 ~~(b) Types of malpractice claims filed, by type of~~
8 ~~professional involved.~~

9 ~~(c) Disciplinary actions taken against professionals,~~
10 ~~by type of professional involved.~~

11 (20) It shall be unlawful for any person to coerce,
12 intimidate, or preclude a risk manager from lawfully executing
13 his or her reporting obligations pursuant to this chapter.
14 Such unlawful action shall be subject to civil monetary
15 penalties not to exceed \$10,000 per violation.

16 Section 2. Section 395.10972, Florida Statutes, is
17 amended to read:

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

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1 (1) Two shall be active health care risk managers,
2 including one risk manager who is recommended by and a member
3 of the Florida Society of Healthcare Risk Management.

4 (2) One shall be an active hospital administrator.

5 (3) One shall be an employee of an insurer or
6 self-insurer of medical malpractice coverage.

7 (4) One shall be a representative of the
8 health-care-consuming public.

9 (5) Two shall be licensed health care practitioners,
10 one of whom shall be licensed as a physician under chapter 458
11 or chapter 459.

12 Section 3. Paragraph (b) of subsection (2) of section
13 395.701, Florida Statutes, is amended to read:

14 395.701 Annual assessments on net operating revenues
15 for inpatient and outpatient services to fund public medical
16 assistance; administrative fines for failure to pay
17 assessments when due; exemption.--

18 (2)

19 (b) There is imposed upon each hospital an assessment
20 in an amount equal to 1 percent of the annual net operating
21 revenue for outpatient services for each hospital, such
22 revenue to be determined by the agency, based on the actual
23 experience of the hospital as reported to the agency. While
24 prior year report worksheets may be reconciled to the
25 hospital's audited financial statements, no additional audited
26 financial components may be required for the purposes of
27 determining the amount of the assessment imposed pursuant to
28 this section other than those in effect on July 1, 2000.

29 Within 6 months after the end of each hospital fiscal year,
30 the agency shall certify the amount of the assessment for each
31 hospital. The assessment shall be payable to and collected by

1 the agency in equal quarterly amounts, on or before the first
2 day of each calendar quarter, beginning with the first full
3 calendar quarter that occurs after the agency certifies the
4 amount of the assessment for each hospital. All moneys
5 collected pursuant to this subsection shall be deposited into
6 the Public Medical Assistance Trust Fund.

7 Section 4. Subsections (7) through (11) of section
8 456.013, Florida Statutes, are renumbered as subsections (8)
9 through (12), respectively, and a new subsection (7) is added
10 to said section to read:

11 456.013 Department; general licensing provisions.--

12 (7) The boards, or the department when there is no
13 board, shall require the completion of a 2-hour course
14 relating to prevention of medical errors as part of the
15 licensure and renewal process. The 2-hour course shall count
16 towards the total number of continuing education hours
17 required for the profession. The course shall be approved by
18 the board or department, as appropriate, and shall include a
19 study of root-cause analysis, error reduction and prevention,
20 and patient safety. If the course is being offered by a
21 facility licensed pursuant to chapter 395 for its employees,
22 the board may approve up to 1 hour of the 2-hour course to be
23 specifically related to error reduction and prevention methods
24 used in that facility.

25 Section 5. Subsection (3) is added to section 456.063,
26 Florida Statutes, to read:

27 456.063 Sexual misconduct; disqualification for
28 license, certificate, or registration; reports of allegation
29 of sexual misconduct.--

30 (3) Licensed health care practitioners shall report
31 allegations of sexual misconduct to the department, regardless

1 of the practice setting in which the alleged sexual misconduct
2 occurred.

3 Section 6. Paragraph (c) of subsection (1) of section
4 456.072, Florida Statutes, is amended, paragraphs (aa) and
5 (bb) are added to said subsection, paragraph (c) of subsection
6 (2) and subsection (4) are amended, and paragraphs (i) and (j)
7 are added to subsection (2) of said section, to read:

8 456.072 Grounds for discipline; penalties;
9 enforcement.--

10 (1) The following acts shall constitute grounds for
11 which the disciplinary actions specified in subsection (2) may
12 be taken:

13 (c) Being convicted or found guilty of, or entering a
14 plea of guilty or nolo contendere to, regardless of
15 adjudication, a crime in any jurisdiction which relates to the
16 practice of, or the ability to practice, a licensee's
17 profession.

18 (aa) Performing or attempting to perform health care
19 services on the wrong patient, a wrong-site procedure, a wrong
20 procedure, or an unauthorized procedure or a procedure that is
21 medically unnecessary or otherwise unrelated to the patient's
22 diagnosis or medical condition. For the purposes of this
23 paragraph, performing or attempting to perform health care
24 services includes the preparation of the patient.

25 (bb) Leaving a foreign body in a patient, such as a
26 sponge, clamp, forceps, surgical needle, or other
27 paraphernalia commonly used in surgical, examination, or other
28 diagnostic procedures. For the purposes of this paragraph, it
29 shall be legally presumed that retention of a foreign body is
30 not in the best interest of the patient and is not within the
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1 standard of care of the profession, regardless of the intent
2 of the professional.

3 (2) When the board, or the department when there is no
4 board, finds any person guilty of the grounds set forth in
5 subsection (1) or of any grounds set forth in the applicable
6 practice act, including conduct constituting a substantial
7 violation of subsection (1) or a violation of the applicable
8 practice act which occurred prior to obtaining a license, it
9 may enter an order imposing one or more of the following
10 penalties:

11 (c) Restriction of practice or license, including, but
12 not limited to, restricting the licensee from practicing in
13 certain settings, restricting the licensee to work only under
14 designated conditions or in certain settings, restricting the
15 licensee from performing or providing designated clinical and
16 administrative services, restricting the licensee from
17 practicing more than a designated number of hours, or any
18 other restriction found to be necessary for the protection of
19 the public health, safety, and welfare.

20 (i) Refund of fees billed and collected from the
21 patient or a third party on behalf of the patient.

22 (j) Requirement that the practitioner undergo remedial
23 education.

24
25 In determining what action is appropriate, the board, or
26 department when there is no board, must first consider what
27 sanctions are necessary to protect the public or to compensate
28 the patient. Only after those sanctions have been imposed may
29 the disciplining authority consider and include in the order
30 requirements designed to rehabilitate the practitioner. All
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1 costs associated with compliance with orders issued under this
2 subsection are the obligation of the practitioner.

3 (4) In addition to any other discipline imposed
4 pursuant to this section or discipline imposed for a violation
5 of any practice act, the board, or the department when there
6 is no board, shall ~~may~~ assess costs related to the
7 investigation and prosecution of the case. In any case where
8 the board or the department imposes a fine or assessment and
9 the fine or assessment is not paid within a reasonable time,
10 such reasonable time to be prescribed in the rules of the
11 board, or the department when there is no board, or in the
12 order assessing such fines or costs, the department or the
13 Department of Legal Affairs may contract for the collection
14 of, or bring a civil action to recover, the fine or
15 assessment.

16 Section 7. Paragraphs (a) and (c) of subsection (9) of
17 section 456.073, Florida Statutes, are amended to read:

18 456.073 Disciplinary proceedings.--Disciplinary
19 proceedings for each board shall be within the jurisdiction of
20 the department.

21 (9)(a) The department shall periodically notify the
22 person who filed the complaint, as well as the patient or the
23 patient's legal representative, of the status of the
24 investigation, indicating whether probable cause has been
25 found and the status of any civil action or administrative
26 proceeding or appeal.

27 (c) In any disciplinary case for which probable cause
28 is not found, the department shall so inform the person who
29 filed the complaint and notify that person that he or she may,
30 within 60 days, provide any additional information to the
31 department ~~probable cause panel~~ which may be relevant to the

1 decision. To facilitate the provision of additional
2 information, the person who filed the complaint may receive,
3 upon request, a copy of the agency's expert report that
4 supported the recommendation for closure, if such a report was
5 relied upon by the agency. In no way does this require the
6 agency to procure an expert opinion or report if none was
7 used. Additionally, the identity of the expert shall remain
8 confidential. The person who filed the complaint shall agree,
9 in writing, to maintain the confidentiality of any information
10 found in the expert report.In any administrative proceeding
11 under s. 120.57, the person who filed the disciplinary
12 complaint shall have the right to present oral or written
13 communication relating to the alleged disciplinary violations
14 or to the appropriate penalty.

15 Section 8. Subsections (2) and (6) of section 456.077,
16 Florida Statutes, are amended to read:

17 456.077 Authority to issue citations.--

18 (2) The board, or the department if there is no board,
19 shall adopt rules designating violations for which a citation
20 may be issued. Such rules shall designate as citation
21 violations those violations for which there is no substantial
22 threat to the public health, safety, and welfare. Violations
23 for which a citation may be issued shall include violations of
24 continuing education requirements, failure to timely pay
25 required fees and fines, failure to comply with the
26 requirements of ss. 381.026 and 381.0261 regarding the
27 dissemination of information regarding patient rights, failure
28 to comply with advertising requirements, failure to timely
29 update practitioner profile and credentialing files, failure
30 to display signs, licenses, and permits, failure to have
31 required reference books available, and all other violations

1 that do not pose a direct and serious threat to the health and
2 safety of the patient.

3 (6) A board ~~created on or after January 1, 1992,~~ has 6
4 months in which to enact rules designating violations and
5 penalties appropriate for citation offenses. Failure to enact
6 such rules gives the department exclusive authority to adopt
7 rules as required for implementing this section. A board has
8 continuous authority to amend its rules adopted pursuant to
9 this section.

10 Section 9. Section 456.081, Florida Statutes, is
11 amended to read:

12 456.081 Publication of information.--The department
13 and the boards shall have the authority to advise licensees
14 periodically, through the publication of a newsletter, about
15 information that the department or the board determines is of
16 interest to the industry. The department and the boards shall
17 maintain a website which contains copies of the newsletter;
18 information relating to adverse incident reports without
19 identifying the patient, practitioner, or facility in which
20 the adverse incident occurred until 10 days after probable
21 cause is found, at which time the name of the practitioner and
22 facility shall become public as part of the investigative
23 file; information about error prevention and safety
24 strategies; and information concerning best practices.Unless
25 otherwise prohibited by law, the department and the boards
26 shall publish on the website a summary of final orders entered
27 after July 1, 2001, resulting in disciplinary action fines,
28 ~~suspensions, or revocations,~~ and any other information the
29 department or the board determines is of interest to the
30 public. In order to provide useful and timely information at
31 minimal cost, the department and boards may consult with, and

1 include information provided by, professional associations and
2 national organizations.

3 Section 10. Subsection (9) of section 458.331, Florida
4 Statutes, is amended to read:

5 458.331 Grounds for disciplinary action; action by the
6 board and department.--

7 (9) When an investigation of a physician is
8 undertaken, the department shall promptly furnish to the
9 physician or the physician's attorney a copy of the complaint
10 or document which resulted in the initiation of the
11 investigation. For purposes of this subsection, such
12 documents include, but are not limited to: the pertinent
13 portions of an annual report submitted to the department
14 pursuant to s. 395.0197(6); a report of an adverse incident
15 which is provided to the department pursuant to s.
16 395.0197~~(8)~~; a report of peer review disciplinary action
17 submitted to the department pursuant to s. 395.0193(4) or s.
18 458.337, providing that the investigations, proceedings, and
19 records relating to such peer review disciplinary action shall
20 continue to retain their privileged status even as to the
21 licensee who is the subject of the investigation, as provided
22 by ss. 395.0193(8) and 458.337(3); a report of a closed claim
23 submitted pursuant to s. 627.912; a presuit notice submitted
24 pursuant to s. 766.106(2); and a petition brought under the
25 Florida Birth-Related Neurological Injury Compensation Plan,
26 pursuant to s. 766.305(2). The physician may submit a written
27 response to the information contained in the complaint or
28 document which resulted in the initiation of the investigation
29 within 45 days after service to the physician of the complaint
30 or document. The physician's written response shall be
31 considered by the probable cause panel.

1 Section 11. Subsection (9) of section 459.015, Florida
2 Statutes, is amended to read:

3 459.015 Grounds for disciplinary action; action by the
4 board and department.--

5 (9) When an investigation of an osteopathic physician
6 is undertaken, the department shall promptly furnish to the
7 osteopathic physician or his or her attorney a copy of the
8 complaint or document which resulted in the initiation of the
9 investigation. For purposes of this subsection, such documents
10 include, but are not limited to: the pertinent portions of an
11 annual report submitted to the department pursuant to s.
12 395.0197(6); a report of an adverse incident which is provided
13 to the department pursuant to s. 395.0197~~(8)~~; a report of peer
14 review disciplinary action submitted to the department
15 pursuant to s. 395.0193(4) or s. 459.016, provided that the
16 investigations, proceedings, and records relating to such peer
17 review disciplinary action shall continue to retain their
18 privileged status even as to the licensee who is the subject
19 of the investigation, as provided by ss. 395.0193(8) and
20 459.016(3); a report of a closed claim submitted pursuant to
21 s. 627.912; a presuit notice submitted pursuant to s.
22 766.106(2); and a petition brought under the Florida
23 Birth-Related Neurological Injury Compensation Plan, pursuant
24 to s. 766.305(2). The osteopathic physician may submit a
25 written response to the information contained in the complaint
26 or document which resulted in the initiation of the
27 investigation within 45 days after service to the osteopathic
28 physician of the complaint or document. The osteopathic
29 physician's written response shall be considered by the
30 probable cause panel.

31

1 Section 12. Subsection (5) of section 465.019, Florida
2 Statutes, is amended to read:

3 465.019 Institutional pharmacies; permits.--

4 (5) All institutional pharmacies shall be under the
5 professional supervision of a consultant pharmacist, and the
6 compounding and dispensing of medicinal drugs shall be done
7 only by a licensed pharmacist. Every institutional pharmacy
8 that employs or otherwise utilizes pharmacy technicians shall
9 have a written policy and procedures manual specifying those
10 duties, tasks, and functions which a pharmacy technician is
11 allowed to perform.

12 Section 13. Section 465.0196, Florida Statutes, is
13 amended to read:

14 465.0196 Special pharmacy permits.--Any person
15 desiring a permit to operate a pharmacy which does not fall
16 within the definitions set forth in s. 465.003(11)(a)1., 2.,
17 and 3. shall apply to the department for a special pharmacy
18 permit. If the board certifies that the application complies
19 with the applicable laws and rules of the board governing the
20 practice of the profession of pharmacy, the department shall
21 issue the permit. No permit shall be issued unless a licensed
22 pharmacist is designated to undertake the professional
23 supervision of the compounding and dispensing of all drugs
24 dispensed by the pharmacy. The licensed pharmacist shall be
25 responsible for maintaining all drug records and for providing
26 for the security of the area in the facility in which the
27 compounding, storing, and dispensing of medicinal drugs
28 occurs. The permittee shall notify the department within 10
29 days of any change of the licensed pharmacist responsible for
30 such duties. Every permittee that employs or otherwise
31 utilizes pharmacy technicians shall have a written policy and

1 procedures manual specifying those duties, tasks, and
2 functions which a pharmacy technician is allowed to perform.

3 Section 14. The Department of Health and the Agency
4 for Health Care Administration shall conduct a review of all
5 statutorily imposed reporting requirements for health care
6 practitioners and health facilities. The department and the
7 agency shall report back to the Legislature on or before
8 November 1, 2001, with recommendations and suggested statutory
9 changes to streamline reporting requirements to avoid
10 duplicative, overlapping, and unnecessary reports or data
11 elements.

12 Section 15. Paragraph (r) is added to subsection (1)
13 of section 468.1755, Florida Statutes, and, for the purpose of
14 incorporating the amendment to section 456.072(1), Florida
15 Statutes, in a reference thereto, paragraph (a) of subsection
16 (1) of said section is reenacted, to read:

17 468.1755 Disciplinary proceedings.--

18 (1) The following acts shall constitute grounds for
19 which the disciplinary actions in subsection (2) may be taken:

20 (a) Violation of any provision of s. 456.072(1) or s.
21 468.1745(1).

22 (r) Failing to implement an ongoing quality assurance
23 program directed by an interdisciplinary team that meets at
24 least every other month.

25 (2) When the board finds any nursing home
26 administrator guilty of any of the grounds set forth in
27 subsection (1), it may enter an order imposing one or more of
28 the following penalties:

29 (a) Denial of an application for licensure.

30 (b) Revocation or suspension of a license.

31

1 (c) Imposition of an administrative fine not to exceed
2 \$1,000 for each count or separate offense.

3 (d) Issuance of a reprimand.

4 (e) Placement of the licensee on probation for a
5 period of time and subject to such conditions as the board may
6 specify, including requiring the licensee to attend continuing
7 education courses or to work under the supervision of another
8 licensee.

9 (f) Restriction of the authorized scope of practice.

10 Section 16. For the purpose of incorporating the
11 amendment to section 468.1755(1), Florida Statutes, in
12 reference thereto, subsection (3) of section 468.1695, Florida
13 Statutes, and section 468.1735, Florida Statutes, are
14 reenacted to read:

15 468.1695 Licensure by examination.--

16 (3) The department shall issue a license to practice
17 nursing home administration to any applicant who successfully
18 completes the examination in accordance with this section and
19 otherwise meets the requirements of this part. The department
20 shall not issue a license to any applicant who is under
21 investigation in this state or another jurisdiction for an
22 offense which would constitute a violation of s. 468.1745 or
23 s. 468.1755. Upon completion of the investigation, the
24 provisions of s. 468.1755 shall apply.

25 468.1735 Provisional license.--The board may establish
26 by rule requirements for issuance of a provisional license. A
27 provisional license shall be issued only to fill a position of
28 nursing home administrator that unexpectedly becomes vacant
29 due to illness, sudden death of the administrator, or
30 abandonment of position and shall be issued for one single
31 period as provided by rule not to exceed 6 months. The

1 department shall not issue a provisional license to any
2 applicant who is under investigation in this state or another
3 jurisdiction for an offense which would constitute a violation
4 of s. 468.1745 or s. 468.1755. Upon completion of the
5 investigation, the provisions of s. 468.1755 shall apply. The
6 provisional license may be issued to a person who does not
7 meet all of the licensing requirements established by this
8 part, but the board shall by rule establish minimal
9 requirements to ensure protection of the public health,
10 safety, and welfare. The provisional license shall be issued
11 to the person who is designated as the responsible person next
12 in command in the event of the administrator's departure. The
13 board may set an application fee not to exceed \$500 for a
14 provisional license.

15 Section 17. For the purpose of incorporating the
16 amendment to section 456.072(1), Florida Statutes, in a
17 reference thereto, paragraph (a) of subsection (1) of section
18 484.056, Florida Statutes, is reenacted to read:

19 484.056 Disciplinary proceedings.--

20 (1) The following acts relating to the practice of
21 dispensing hearing aids shall be grounds for both disciplinary
22 action against a hearing aid specialist as set forth in this
23 section and cease and desist or other related action by the
24 department as set forth in s. 456.065 against any person
25 owning or operating a hearing aid establishment who engages
26 in, aids, or abets any such violation:

27 (a) Violation of any provision of s. 456.072(1), s.
28 484.0512, or s. 484.053.

29 Section 18. Paragraph (a) of subsection (1), paragraph
30 (a) of subsection (7), and subsection (8) of section 766.101,
31 Florida Statutes, are amended to read:

1 766.101 Medical review committee, immunity from
2 liability.--
3 (1) As used in this section:
4 (a) The term "medical review committee" or "committee"
5 means:
6 1.a. A committee of a hospital or ambulatory surgical
7 center licensed under chapter 395 or a health maintenance
8 organization certificated under part I of chapter 641,
9 b. A committee of a physician-hospital organization, a
10 provider-sponsored organization, or an integrated delivery
11 system,
12 c. A committee of a state or local professional
13 society of health care providers,
14 d. A committee of a medical staff of a licensed
15 hospital or nursing home, provided the medical staff operates
16 pursuant to written bylaws that have been approved by the
17 governing board of the hospital or nursing home,
18 e. A committee of the Department of Corrections or the
19 Correctional Medical Authority as created under s. 945.602, or
20 employees, agents, or consultants of either the department or
21 the authority or both,
22 f. A committee of a professional service corporation
23 formed under chapter 621 or a corporation organized under
24 chapter 607 or chapter 617, which is formed and operated for
25 the practice of medicine as defined in s. 458.305(3), and
26 which has at least 25 health care providers who routinely
27 provide health care services directly to patients,
28 g. A committee of a mental health treatment facility
29 licensed under chapter 394 or a community mental health center
30 as defined in s. 394.907, provided the quality assurance
31

1 program operates pursuant to the guidelines which have been
2 approved by the governing board of the agency,

3 h. A committee of a substance abuse treatment and
4 education prevention program licensed under chapter 397
5 provided the quality assurance program operates pursuant to
6 the guidelines which have been approved by the governing board
7 of the agency,

8 i. A peer review or utilization review committee
9 organized under chapter 440, ~~or~~

10 j. A committee of the Department of Health, a county
11 health department, healthy start coalition, or certified rural
12 health network, when reviewing quality of care, or employees
13 of these entities when reviewing mortality records, or

14 k. A continuous quality improvement committee of a
15 pharmacy licensed pursuant to chapter 465,

16
17 which committee is formed to evaluate and improve the quality
18 of health care rendered by providers of health service or to
19 determine that health services rendered were professionally
20 indicated or were performed in compliance with the applicable
21 standard of care or that the cost of health care rendered was
22 considered reasonable by the providers of professional health
23 services in the area; or

24 2. A committee of an insurer, self-insurer, or joint
25 underwriting association of medical malpractice insurance, or
26 other persons conducting review under s. 766.106.

27 (7)(a) It is the intent of the Legislature to
28 encourage medical review committees to contribute further to
29 the quality of health care in this state by reviewing
30 complaints against physicians in the manner described in this
31 paragraph. Accordingly, the Department of Health ~~Business and~~

1 ~~Professional Regulation~~ may enter into a letter of agreement
2 with a professional society of physicians licensed under
3 chapter 458 or chapter 459, under which agreement the medical
4 or peer review committees of the professional society will
5 conduct a review of any complaint or case referred to the
6 society by the department which involves a question as to
7 whether a physician's actions represented a breach of the
8 prevailing professional standard of care. The prevailing
9 professional standard of care is that level of care, skill,
10 and treatment which, in light of all relevant surrounding
11 circumstances, is recognized as acceptable and appropriate by
12 reasonably prudent similar health care providers. The letter
13 of agreement must specify that the professional society will
14 submit an advisory report to the department within a
15 reasonable time following the department's written and
16 appropriately supported request to the professional society.
17 The advisory report, which is not binding upon the department,
18 constitutes the professional opinion of the medical review
19 committee and must include:

- 20 1. A statement of relevant factual findings.
- 21 2. The judgment of the committee as to whether the
22 physician's actions represented a breach of the prevailing
23 professional standard of care.

24 (8) No cause of action of any nature by a person
25 licensed pursuant to chapter 458, chapter 459, chapter 461,
26 chapter 463, part I of chapter 464, chapter 465, or chapter
27 466 shall arise against another person licensed pursuant to
28 chapter 458, chapter 459, chapter 461, chapter 463, part I of
29 chapter 464, chapter 465, or chapter 466 for furnishing
30 information to a duly appointed medical review committee, to
31 an internal risk management program established under s.

1 395.0197, to the Department of Health or the Agency for Health
2 Care Administration ~~Business and Professional Regulation~~, or
3 to the appropriate regulatory board if the information
4 furnished concerns patient care at a facility licensed
5 pursuant to part I of chapter 395 where both persons provide
6 health care services, if the information is not intentionally
7 fraudulent, and if the information is within the scope of the
8 functions of the committee, department, or board. However, if
9 such information is otherwise available from original sources,
10 it is not immune from discovery or use in a civil action
11 merely because it was presented during a proceeding of the
12 committee, department, or board.

13 Section 19. For the purpose of incorporating the
14 amendment to section 766.101(1)(a) in references thereto,
15 paragraph (a) of subsection (1) of section 440.105, Florida
16 Statutes, and subsection (6) of section 626.989, Florida
17 Statutes, are reenacted to read:

18 440.105 Prohibited activities; reports; penalties;
19 limitations.--

20 (1)(a) Any insurance carrier, any individual
21 self-insured, any commercial or group self-insurance fund, any
22 professional practitioner licensed or regulated by the
23 Department of Business and Professional Regulation, except as
24 otherwise provided by law, any medical review committee as
25 defined in s. 766.101, any private medical review committee,
26 and any insurer, agent, or other person licensed under the
27 insurance code, or any employee thereof, having knowledge or
28 who believes that a fraudulent act or any other act or
29 practice which, upon conviction, constitutes a felony or
30 misdemeanor under this chapter is being or has been committed
31 shall send to the Division of Insurance Fraud, Bureau of

1 Workers' Compensation Fraud, a report or information pertinent
2 to such knowledge or belief and such additional information
3 relative thereto as the bureau may require. The bureau shall
4 review such information or reports and select such information
5 or reports as, in its judgment, may require further
6 investigation. It shall then cause an independent examination
7 of the facts surrounding such information or report to be made
8 to determine the extent, if any, to which a fraudulent act or
9 any other act or practice which, upon conviction, constitutes
10 a felony or a misdemeanor under this chapter is being
11 committed. The bureau shall report any alleged violations of
12 law which its investigations disclose to the appropriate
13 licensing agency and state attorney or other prosecuting
14 agency having jurisdiction with respect to any such violations
15 of this chapter. If prosecution by the state attorney or other
16 prosecuting agency having jurisdiction with respect to such
17 violation is not begun within 60 days of the bureau's report,
18 the state attorney or other prosecuting agency having
19 jurisdiction with respect to such violation shall inform the
20 bureau of the reasons for the lack of prosecution.

21 626.989 Investigation by department or Division of
22 Insurance Fraud; compliance; immunity; confidential
23 information; reports to division; division investigator's
24 power of arrest.--

25 (6) Any person, other than an insurer, agent, or other
26 person licensed under the code, or an employee thereof, having
27 knowledge or who believes that a fraudulent insurance act or
28 any other act or practice which, upon conviction, constitutes
29 a felony or a misdemeanor under the code, or under s. 817.234,
30 is being or has been committed may send to the Division of
31 Insurance Fraud a report or information pertinent to such

1 knowledge or belief and such additional information relative
2 thereto as the department may request. Any professional
3 practitioner licensed or regulated by the Department of
4 Business and Professional Regulation, except as otherwise
5 provided by law, any medical review committee as defined in s.
6 766.101, any private medical review committee, and any
7 insurer, agent, or other person licensed under the code, or an
8 employee thereof, having knowledge or who believes that a
9 fraudulent insurance act or any other act or practice which,
10 upon conviction, constitutes a felony or a misdemeanor under
11 the code, or under s. 817.234, is being or has been committed
12 shall send to the Division of Insurance Fraud a report or
13 information pertinent to such knowledge or belief and such
14 additional information relative thereto as the department may
15 require. The Division of Insurance Fraud shall review such
16 information or reports and select such information or reports
17 as, in its judgment, may require further investigation. It
18 shall then cause an independent examination of the facts
19 surrounding such information or report to be made to determine
20 the extent, if any, to which a fraudulent insurance act or any
21 other act or practice which, upon conviction, constitutes a
22 felony or a misdemeanor under the code, or under s. 817.234,
23 is being committed. The Division of Insurance Fraud shall
24 report any alleged violations of law which its investigations
25 disclose to the appropriate licensing agency and state
26 attorney or other prosecuting agency having jurisdiction with
27 respect to any such violation, as provided in s. 624.310. If
28 prosecution by the state attorney or other prosecuting agency
29 having jurisdiction with respect to such violation is not
30 begun within 60 days of the division's report, the state
31 attorney or other prosecuting agency having jurisdiction with

1 respect to such violation shall inform the division of the
2 reasons for the lack of prosecution.

3 Section 20. Paragraph (c) of subsection (4) of section
4 766.1115, Florida Statutes, is amended to read:

5 766.1115 Health care providers; creation of agency
6 relationship with governmental contractors.--

7 (4) CONTRACT REQUIREMENTS.--A health care provider
8 that executes a contract with a governmental contractor to
9 deliver health care services on or after April 17, 1992, as an
10 agent of the governmental contractor is an agent for purposes
11 of s. 768.28(9), while acting within the scope of duties
12 pursuant to the contract, if the contract complies with the
13 requirements of this section and regardless of whether the
14 individual treated is later found to be ineligible. A health
15 care provider under contract with the state may not be named
16 as a defendant in any action arising out of the medical care
17 or treatment provided on or after April 17, 1992, pursuant to
18 contracts entered into under this section. The contract must
19 provide that:

20 (c) Adverse incidents and information on treatment
21 outcomes must be reported by any health care provider to the
22 governmental contractor if such incidents and information
23 pertain to a patient treated pursuant to the contract. The
24 health care provider shall submit the reports required by s.
25 ~~395.0197(7) annually submit an adverse incident report that~~
26 ~~includes all information required by s. 395.0197(6)(a), unless~~
27 ~~the adverse incident involves a result described by s.~~
28 ~~395.0197(8), in which case it shall be reported within 15 days~~
29 ~~after the occurrence of such incident.~~ If an incident involves
30 a professional licensed by the Department of Health or a
31 facility licensed by the Agency for Health Care

1 Administration, the governmental contractor shall submit such
2 incident reports to the appropriate department or agency,
3 which shall review each incident and determine whether it
4 involves conduct by the licensee that is subject to
5 disciplinary action. All patient medical records and any
6 identifying information contained in adverse incident reports
7 and treatment outcomes which are obtained by governmental
8 entities pursuant to this paragraph are confidential and
9 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
10 I of the State Constitution.

11 Section 21. This act shall take effect July 1, 2001.

12

13

14

HOUSE SUMMARY

15

16 Revises provisions relating to hospital and ambulatory
17 surgical center risk management programs. Requires
18 ongoing evaluation of surgical procedures and protocols.
19 Provides a penalty for intimidation or coercion of a risk
20 manager. Requires the Agency for Health Care
21 Administration, the Department of Health, and the
22 regulatory boards to publish adverse incident information
23 on websites. Adds two health care practitioners to the
24 Health Care Risk Management Advisory Board. Provides a
25 professional education requirement relating to prevention
26 of medical errors. Provides additional grounds for
27 disciplinary action against a health care practitioner.
28 Provides additional penalties. Requires assessment of
29 costs related to disciplinary investigations and
30 prosecutions. Requires certain notice to the patient or
31 complainant regarding a disciplinary case. Requires
certain facility and practitioner reporting of sexual
misconduct allegations. Provides additional ground for
disciplinary action against a nursing home administrator.
Limits financial information the agency may require to
determine hospital assessments. Requires certain
pharmacies using pharmacy technicians to have a policy
and procedures manual. Requires the department and agency
to review facility and practitioner reporting
requirements and report to the Legislature. Provides that
a continuous quality improvement committee of a licensed
pharmacy is a medical review committee for purposes of
immunity from liability. See bill for details.

30

31