STORAGE NAME: h1895s1.hcc.doc
DATE: April 19, 2001

HOUSE OF REPRESENTATIVES

COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: CS/HB 1895 (PCB HR 01-10)

RELATING TO: Health Care

SPONSOR(S): Council for Healthy Communities, Committee on Health Regulation, and Representative Farkas

TIED BILL(S): None.

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

(1) HEALTH REGULATION YEAS 9 NAYS 0
(2) COUNCIL FOR HEALTHY COMMUNITIES YEAS 14 NAYS 0
(3)
(4)
(5)

I. SUMMARY:

This bill amends various statutes relating to regulation of health care. It is a comprehensive bill that addresses patient safety, nursing shortages, and other current issues facing health care practitioners and providers in Florida.

Please see the Effect of Proposed Changes portion of this analysis for details of the issues included in this bill. Please see the Fiscal Comments section for an explanation of the expected revenues and expenses of this bill. The overall fiscal impact to the state of this bill is anticipated to be positive or at least neutral.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes [x]	No []	N/A []
4.	Personal Responsibility	Yes [x]	No []	N/A []
5.	Family Empowerment	Yes [x]	No []	N/A []

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

B. PRESENT SITUATION:

Issues Relating to Medical Errors and the Commission on Excellence in Health Care

The 2000 Legislature created the Florida Commission on Excellence in Health Care to facilitate the development of a comprehensive statewide strategy for improving the health care delivery system through meaningful reporting standards, data collection and review, and quality measurement.

The Legislature directed the commission to:

1. Identify existing data sources that evaluate the quality of care in Florida and collect, analyze, and evaluate this data.

2. Establish guidelines for data sharing and coordination.

3. Identify core sets of quality measures for standardized reporting by appropriate components of the health care continuum.

4. Recommend a framework for quality measurement and outcome reporting.

5. Develop quality measures that enhance and improve the ability to evaluate and improve care.

6. Make recommendations regarding research and development needed to advance quality measurement and reporting.

7. Evaluate regulatory issues relating to the pharmacy profession and recommend changes necessary to optimize patient safety.

8. Facilitate open discussion of a process to ensure that comparative information on health care quality is valid, reliable, comprehensive, understandable, and widely available in the public domain.

9. Sponsor public hearings to share information and expertise, identify "best practices," and recommend methods to promote their acceptance.

10. Evaluate current regulatory programs to determine what changes, if any, need to be made to facilitate patient safety.

11. Review public and private health care purchasing systems to determine if there are sufficient mandates and incentives to facilitate continuous improvement in patient safety.

12. Analyze how effective existing regulatory systems are in ensuring continuous competence and knowledge of effective safety practices.

13. Develop a framework for organizations that license, accredit, or credential health care practitioners and health care providers to more quickly and effectively identify unsafe practitioners and providers and to take action necessary to remove the unsafe practitioner or provider from practice or operation until such time as the practitioner or provider has proven safe to practice or operate.

14. Recommend procedures for development of a curriculum on patient safety and methods of incorporating such curriculum into training, licensure, and certification requirements.

15. Develop a framework for regulatory bodies to disseminate information on patient safety to health care practitioners, health care providers, and consumers through conferences, journal articles and editorials, newsletters, publications, and Internet websites.

16. Recommend procedures to incorporate recognized patient safety considerations into practice guidelines and into standards related to the introduction and diffusion of new technologies, therapies, and drugs.

17. Recommend a framework for development of community-based collaborative initiatives for error reporting and analysis and implementation of patient safety improvements.

18. Evaluate the role of advertising in promoting or adversely affecting patient safety.

19. Evaluate and make recommendations regarding the need for licensure of additional persons who participate in the delivery of health care to Floridians, including, but not limited to, surgical technologists and pharmacy technicians.

20. Evaluate the benefits and problems of the current disciplinary systems and make recommendations regarding alternatives and improvements.

The Legislature specified that the commission shall consist of the following membership: the secretary of the Department of Health, the secretary of the Agency for Health Care Administration, one representative each from the Board of Medicine, the Board of Osteopathic Medicine, the Board of Pharmacy, the Board of Dentistry, the Board of Nursing, the Florida Dental Association, the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Academy of Physician Assistants, the Florida Chiropractic Association, the Florida Chiropractic Society, the Florida Podiatric Medical Association, the Florida Society of Ambulatory Surgical Centers, the Florida Nurses Association, the Florida Organization of Nursing Executives, the Florida Pharmacy Association, the Florida Society of Health System Pharmacists, Inc., the Florida Hospital Association, the Association of Community Hospitals and Health Systems of Florida, Inc., the Florida League of Health Systems, the Florida Health Care Risk Management Advisory Council, the Florida Health Care Association, the Florida Statutory Teaching Hospital Council, Inc., the Florida Statutory Rural Hospital Council, the Florida Association of Homes for the Aging, the Florida Society for Respiratory Care; one licensed clinical laboratory director, two health lawyers, one

representative of the medical malpractice professional liability insurance industry, two representatives of the health insurance industry, five consumer advocates, two legislators, and one representative of a Florida medical school.

The Legislature further specified that:

1. The commission membership must reflect the geographic and demographic diversity of the state;

2. The secretaries of the Department of Health and the Agency for Health Care Administration shall jointly chair the commission;

3. Subcommittees shall be formed by the joint chairs, as needed, to make recommendations to the full commission;

4. All votes on work products of the commission shall be at the full commission level; and

5. All recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives must pass by a two-thirds vote of the full commission.

The Legislature directed that a report be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1, 2001. The report contained a summary of the commission's recommendations. Further information can be found at myflorida.com@doh.state.fl.us. Copies of the Report are available on line at http://www.floridahealthstat.com.

The Introduction to the Commission on Excellence in Health Care Report states:

> "Building a safer health care system means designing processes of care to ensure that patients are safe from preventable injury. Once agreement has been reached on a particular course of treatment, patients should have the reasonable assurance that it will proceed correctly and safely so they have the best chance possible of achieving the desired outcome. As health care and the system that delivers it become more complex, the opportunity for errors increases. Establishing systems that will promote patient safety and error reduction will require a concerted effort by all components of the health care delivery system, including practitioners and providers, health care entities, purchasers, consumers, regulators, and policy-makers. Traditional clinical boundaries and a culture of blame must be changed so that all members of the health care team are encouraged and supported in reporting and correcting problems. But more importantly, safety systems must be systematically integrated throughout the health care delivery system.
>
> "This report describes the efforts of the members of the legislatively appointed Florida Commission on Excellence in Health Care to examine the quality of Florida's health care delivery system. The commission focused its attention on quality of health care issues, patient safety and the reduction of health care errors, as directed by the 2000 Legislature. The Legislature recognized that Florida's health care delivery system is one of the largest and most complex industries in the state, and that additional focus on strengthening it by eliminating avoidable mistakes in the diagnosis and treatment of patients holds tremendous promise to increase the quality of health care services available to residents and visitors.
>
> "This report proposes a comprehensive strategy for addressing broad issues of quality health care including reducing health care errors and improving patient safety. The strategy includes market and regulatory initiatives as well as public and private efforts, including enhanced

consumer involvement. To address the issue of additional marketplace incentives, the commission proposed that quality performance be recognized and rewarded. Both health care facilities and practitioners would be recognized publicly as quality providers.

"Commission members opined that the increased publication of performance data would allow consumers to use the information to make health care decisions based on records of quality. The commission agreed that a basic level of safety should be assured for all health care consumers, and that an efficient and effective regulatory component is critical to accomplishing this goal. However, the commission also recognized that regulation alone would not be sufficient to reduce health care errors and improve patient safety. The commission indicated strongly that in addition to the existing mandatory reporting system, a voluntary, incentive-driven, non-punitive system, for quality improvement purposes should be created to encourage reporting of errors that could result in injury. Moreover, these records should be redacted of names and used as a learning tool by health care practitioners, providers, and the public.

The commission made an attempt to address all aspects of the health care continuum to ensure that, in the future, health care performance is measured and monitored with a focus on the patient rather than the setting within which treatment occurs. Throughout their deliberations, commission members remained singularly focused on developing a patient-centered health care improvement plan that relies on valid, reliable, and accurate data to establish short-term as well as longer-term goals and objectives. The commission held a total of seven meetings, during which fourteen hours of public testimony was heard. Three subcommittees were formed to address the areas of:

- Regulation
- Education/Best Practices
- Quality Measurement/Data Collection and Reporting"

The Commission made a lot of recommendations for the Department of Health and the Agency for Health Care Administration to implement, as well as to the Legislature for those issues requiring statutory change. Among the findings and recommendations of the Commission Report are several statutory changes, including the following proposals to:

- "Expand the content of periodic regulatory board newsletters to include articles on disciplinary cases resulting from health care errors." (p. 13 and 21, unanimous).
- "Compile and integrate data on health care errors." (p. 14 and 25, unanimous).
- "Identify statutes that require revisions." (p. 14).
- "Corrective actions taken following adverse incidents should be disseminated in a periodic advisory to reporting entities so loss preventions systems can be implemented that will result in improved patient care." (p. 14 and 21, unanimous).
- "Enhance timely resolution of disciplinary cases." (p. 16).
- "Periodically publish information for the medical community regarding best practices of prevention strategies." (p. 16 and 21, 2/3 majority).
- "…[P]rovide meaningful status updates regarding the investigation and prosecution of the complaint to the person who filed the complaint and/or the patient or the patient's legal representative."(p. 16 and 19, unanimous).
- "Publish, no less than quarterly, a summary of adverse incident reports, which shall not include information that would identify the reporting facility or health care practitioner involved. The purpose of the publication of such summaries is to promote the rapid dissemination of information relating to incidents to assist in the avoidance of similar incidents and reduce morbidity and mortality. (NOTE: A public records exemption will be necessary, as is currently provided for annual hospital reports). The quarterly report should replace the current annual reporting requirements."(p. 17 and 21, 2/3 majority).

- "Seek statutory authority to extend the current protections of peer review, relating to quality improvement functions, for institutional pharmacists to community pharmacists." (p. 17 and 22, 2/3 majority).
- "Create…new language to allow, upon request, the complaint(s) and defendant/practitioner to receive a copy of the expert report, with the identity of the expert witness redacted, when said report is the basis for closure." (p. 19, 2/3 majority).
- "Amend s. 395.1072, F.S., to change the Health Care Risk Manager Advisory Council to be a seven (7) member-group." (p. 20, unanimous).
- "Create a new statutory section in Chapter 395 to provide immunity from civil liability to risk managers and licensed facilities for reporting only." (p. 20, 2/3 majority).
- "Report every allegation of sexual misconduct…" (See p. 20, unanimous).
- "Create a new statutory provision to specify that: <u>It shall be unlawful for any person to coerce, intimidate, or preclude a risk manager from lawfully executing his or her reporting obligations pursuant to Chapter 395, F.S. Such unlawful action shall be subject to civil monetary penalties not to exceed $10,000 per violation."</u> (pp. 20-21, unanimous).
- "Ensure that regulatory rules for any practice setting in which surgical procedures are performed require that the practice setting establish minimum training and education requirements for all operating personnel." (p. 16 and 22, unanimous).
- "Legislation should be proposed requiring a course in medical errors and patient safety, including root cause analysis, error reduction, error prevention and patient safety practices as a requirement for initial and re-licensing of appropriate health care professionals. The course will be included in the existing number of required hours." (p. 24, unanimous).
- "Require each nursing home to implement a quality assurance program directed by an interdisciplinary team that meets at least every other month." (p. 28, unanimous).

<u>Issues Relating to Practitioner Credentialing</u>

Section 456.047, Florida Statutes, sets forth the requirements for a standardized credentialing program for health care practitioners within the Department of Health. The program was authorized by the Legislature in 1998 following a 1997 study and has been amended each subsequent year as the program was implemented. Approximately $10 million has been spent to date by the department to develop and implement this program. The estimated operating expenses are approximately $4 million per year. The intent of the program is found in s. 456.047(1), F.S., which, in pertinent part, states:

> "Therefore, it is the intent of this section that a credentials collection program be established which provides that, once a health care practitioner's core credentials data are collected, they need not be collected again, except for corrections, updates, and modifications thereto."

The credentialing program originally included only allopathic physicians licensed under chapter 458, F.S., osteopathic physicians licensed under chapter 459, F.S., chiropractic physicians licensed under chapter 460, F.S., and podiatric physicians licensed under chapter 461, F.S. However, during the 2000 session, this program was expanded to include advanced registered nurse practitioners licensed under section 464.012, F.S. All practitioners included in the credentialing system are first required to be part of the practitioner profiling program in which certain information about the practitioner is listed on the Internet and which requires the practitioner to be fingerprinted and background screened.

The Department of Health and the entities using the credentialing system, known as CoreSTAT, have determined that there are certain elements currently required by statute to be included in the system that have hindered efficiencies rather than helped create efficiencies. Furthermore, issues have been raised regarding whether or not an entity accredited by a national accrediting

organization may rely on the primary source verification procedure conducted by the department. Additional concerns have been raised that could be resolved by clarifying legislation.

Issues Relating to Nursing

Nursing Student Loan Forgiveness Program

Section 240.4075, Florida Statutes, establishes the Nursing Student Loan Forgiveness Program within the Department of Education. The program was established to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the State and in State-operated medical and health care facilities, birth centers, federally sponsored community health centers and teaching hospitals. The program provides financial assistance to eligible nurses by making repayments toward loans obtained by the licensed nurse to pay for a postsecondary nursing education. To be eligible for repayment of a loan, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse or registered nurse, or certification as an advanced registered nurse practitioner. The program only covers repayment of loans to pay the costs of tuition, books, and living expenses for a total which may not exceed $4,000 for each year of education. To receive funds under the program, the candidate must show proof of employment in designated facilities in the State. Loan principal payments must be made by the Department of Education directly to the federal or state programs, or the commercial lending institutions. The loan principal and accrued interest is retired on the following schedule: twenty-five percent of the loan principal and accrued interest shall be retired after the first year; fifty percent is retired after the second year; seventy-five percent is retired after the third year; and the remaining loan principal and accrued interest after the fourth year.

The program is funded from a $5 licensing fee collected from each nurse upon initial licensure and license renewal. Revenues collected from the fee must be deposited into the Nursing Student Loan Forgiveness Trust Fund and used to fund both the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program. The trust fund is administered by the Department of Education and the Comptroller authorizes expenditures from the trust fund upon receipt of vouchers approved by the Department of Education. The Department of Education may solicit technical assistance for the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program from the Department of Health.

Any funds which are used for loan forgiveness for nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions. Employing institutions that are state-operated medical and health care facilities, county health departments, federally sponsored community health centers, or statutory teaching hospitals are exempt from the requirement to match loan forgiveness funding for those nurses employed by those entities. Any money collected from the private health care industry and other private sources, as matching funds must be deposited into the trust fund. Any balance in the trust fund at the end of any fiscal year must remain and be available for the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program established under s. 240.4076, F.S. All moneys in the Nursing Student Loan Forgiveness Trust Fund must be invested and interest income accruing to that portion of the trust fund not matched must increase the total funds available for loan forgiveness and scholarships. The Department of Education is authorized to recover its costs for administering both the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program from the trust fund. The Department of Education may adopt rules necessary to implement the Nursing Student Loan Forgiveness Program.

The Office of Health Professional Recruitment within the Department of Health initially administered the Nursing Student Loan Forgiveness Program. The program was transferred to the Department of Education on July 1, 1998. According to officials at the Department of Education, there were no employing entities that were required to give a dollar for dollar match of scholarship funds during the period from 1994-2000.

The following table identifies the number of nurses funded, the average amount of an award, and total program disbursements for FY 95-96 through FY 99-00.

Year	Number of Nurses Funded	Average Award Amount	Total Disbursements
1995-1996	95	$1,301	$123,569
1996-1997	58	$1,791	$103,853
1997-1998	81	$2,251	$182,364
1998-1999	90	$2,025	$182,269
1999-2000	80	$2,709	$216,730

Source: Department of Education

Nursing Scholarship Program

Section 240.4076, F.S., establishes the Nursing Scholarship Program that gives financial assistance to applicants who are enrolled as full-time or part-time students in the upper division of an approved nursing program leading to a baccalaureate or any advanced registered nurse practitioner degree or are enrolled as a full-time or part-time student in an approved program leading to an associate degree in nursing or a diploma in nursing. A scholarship may be awarded for no more than 2 years, in an amount no greater than $8,000 per year. Registered nurses who are pursuing an advanced registered nurse practitioner degree may receive up to $12,000 per year. Beginning July 1, 1998, these amounts are adjusted by the amount of any increase or decrease in the consumer price index for urban consumers, published by the United States Department of Commerce.

Scholarship payments are transmitted to the recipient after the Department of Education has received documentation that the recipient is enrolled in an approved nursing school. To be eligible for a nursing scholarship in the program, an applicant must be enrolled as a full-time or part-time nursing student in an approved nursing program and pursuing an associate degree or a diploma in nursing; or be enrolled in the upper division of an approved nursing program and pursuing a baccalaureate or any advanced registered nurse practitioner degree. For each full year of scholarship assistance received, the recipient must agree to work 12 months at a health facility in a medically under-served area approved by the Florida Department of Education. Scholarship recipients who attend school on a part-time basis must have their employment service obligation prorated in proportion to the amount of scholarship payments received. Eligible health care facilities include state-operated medical or health care facilities, county health departments, federally sponsored community health centers, or statutory teaching hospitals. The Department of Education must develop a formula to prorate payments to scholarship recipients so that it does not exceed the maximum amount per academic year.

The Nursing Scholarship Program has penalties for recipients who default on their education or service requirements. Any recipient who does not complete an appropriate program of studies or who does not become licensed must repay the Department of Education the entire amount of the

scholarship plus 18 percent interest accruing from the date of the scholarship payment. Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance received must repay the Department of Education an amount equal to two times the entire amount of the scholarship plus interest accruing from the date of the scholarship payment at the maximum allowable interest rate permitted by law. Repayment must be made within 1 year of notice that the recipient is in default. The Department of Education must adopt rules to implement the Nursing Scholarship Program, including rules to address extraordinary circumstances that may cause a recipient to default on his or her agreement.

On July 1, 1998, the Nursing Scholarship Program was transferred from the Department of Health to the Department of Education.

The following table identifies the number of nurses receiving scholarships, the average amount of the scholarship and total program disbursements for FY 95-96 through FY 99-00.

Year	Number of Nurses Funded	Average Award Amount	Total Disbursements
1995-1996	8	$10,500	$84,000
1996-1997	1	$6,000	$6,000
1997-1998	2	$12,000	$24,000
1998-1999	1	$3,000	$3,000
1999-2000	0	$0	$0

Source: Department of Education

Type-two Transfers

Section 20.06, F.S., provides methods of reorganizing the executive branch of government. A type two transfer under s. 20.06, F.S., is defined to mean the transfer of a program, activity, or function and all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds from one agency to another.

Office of Health Professional Recruitment

The Office of Health Professional Recruitment within the Department of Health is charged both with identifying medically under-served areas throughout Florida and with administering several programs to improve access to primary care by alleviating health professional shortages. This office administers a federally funded cooperative agreement with the United States Public Health Service which assists in recommending placement of the health care professionals participating in the program, and the Area Health Education Center Network which recruits students from under-served, remote, rural and inner-city communities into primary health care professional training programs. The office also recommends health professional placement to work in medically under-served areas and state programs primarily through the National Health Service Corps Program, recommends placement of foreign physicians under the J-1 Visa Waiver Program, and gathers data for recommending areas for designation by the federal government as health professional shortage areas.

Family Practice Teaching Hospitals

Section 395.805, F.S., defines a family practice teaching hospital to mean a freestanding, community-based hospital licensed under chapter 395, F.S., that offers a 3-year family practice residency program accredited through the Residency Review Committee of the Accreditation Council of Graduate Medical Education or the Council on Post-doctoral Training of the American Osteopathic Association.

Florida Board of Nursing/Requirements for Licensure

The staff and the official headquarters for the Board of Nursing is currently located in Jacksonville. All other health care practitioner regulatory boards and their staff, including the Board of Medicine, the Board of Dentistry, and others, are located in Tallahassee. All of the boards' administrative and ministerial functions are performed by employees of the Department of Health, Division of Medical Quality Assurance. The Board of Nursing does not employ any staff directly, nor does the board contract for office space or other operating expenses directly.

The Department of Health, Division of Medical Quality Assurance (MQA), is divided by function into three bureaus: the Bureau of Operations which is responsible for licensure, renewal, and examination services; the Bureau of Management Services which is responsible for filing and maintaining records for the agency clerk, overseeing contracts for travel and administrative services, and ensuring compliance with final orders of the boards and department; and the Bureau of Health Care Practitioner Regulation which provides executive directors and support staff for functions of the boards relating to rulemaking and licensure certification.

Because the Board of Nursing is located in Jacksonville separate from the other boards and from the department, certain administrative functions associated with mailing, filing, and other services are duplicated. Certain costs relating to the duplicative administrative functions and to travel expenses are incurred as a result of the board being located in Jacksonville, which probably could be eliminated or reduced if the Board of Nursing was located in Tallahassee.

Chapter 464, F.S., provides the requirements for licensure as a nurse in Florida. There are two main pathways to becoming licensed in Florida—licensure by examination and licensure by endorsement. The main difference is that with licensure by endorsement, the applicant has already successfully completed the national licensure examination and is therefore more readily considered for licensure purposes. Licensure by endorsement is generally considered to be the fastest way to become licensed in a health care profession in Florida. Most practice acts provide for licensure by endorsement, with the exception a few such as pharmacy and dentistry.

C. EFFECT OF PROPOSED CHANGES:

Regarding Issues Relating to the Commission on Excellence in Health Care, the Bill:

- Amends s. 395.0197, F.S., to require annual one-hour risk management course for all personnel of a licensed facility except licensed health care practitioners who are required to complete continuing education coursework for licensure purposes; requires facility internal risk management programs to include a prohibition against unlicensed personnel from assisting in surgical procedures unless the facility has conducted a competency assessment of the person and authorized the person specifically to participate, such assistance or participation is done only under the direct and immediate supervision of a licensed physician, and is not otherwise an activity that may only be performed by a licensed health care practitioner; amends cross-references; requires agency to publish quarterly on the

Internet, a summary and trend analysis of adverse incidents which shall not include information that would identify the patient, the reporting facility, or the health care practitioners involved; requires agency to publish annually on the Internet, a summary and trend analysis of all adverse incidents and malpractice claims which shall not include information that would identify the patient, the reporting facility, or the health care practitioners involved; provides legislative intent for published adverse incident report summaries; mandates that every allegation of sexual misconduct by a licensed health care practitioner be reported to the department; creates privilege against civil liability for risk managers and facilities who report information pursuant to Chapter 395, F.S., unless the risk manager or facility acted in bad faith or with malice; and provides that it is unlawful for any person to coerce, intimidate, or preclude a risk manager from lawfully executing the reporting requirements of Chapter 395, F.S., and sets a civil penalty for doing so.

- Amends s. 395.0198, F.S., to conform cross-reference.

- Amends s. 395.10972, F.S., to change Health Care Risk Manager Advisory Council from a five-member council to a seven-member council, adding two licensed health care practitioners of whom one shall be a licensed physician. Also, provides that one of the risk managers shall be recommended by and a member of the Florida Society of Healthcare Risk Management.

- Amends s. 395.701, F.S., to provide certain documents to be used for purposes of determining the proper public medical assistance assessment.

- Amends s. 456.013, F.S., to require boards, or the department when there is no board, to implement a 2-hour continuing education course requirement as part of the licensure and renewal process for all health care practitioners. Provides that the two hours shall count toward the total number of continuing education hours required, not in addition to. Requires the courses to be approved by the board and to include a study of root cause analysis, error reduction and prevention, and patient safety. Allows facility-provided course which focuses on prevention of errors in that particular facility to count for one of two hours to meet this requirement.

- Amends s. 456.063, F.S., to require licensed health care practitioners to report allegations of sexual misconduct to the department regardless of the practice setting in which the alleged sexual misconduct occurred.

- Amends s. 456.072, F.S., to add new grounds for discipline and to modify existing grounds for discipline for all health care practitioners, including providing health care services to the wrong patient/wrong-site/wrong-procedure and leaving a foreign body in a patient such as a sponge, clamp, forceps, or surgical needle. Also, clarifies what “restriction of practice or license” means, adds three penalties which are currently in some, but not all practice acts, relating to refunds of fees, issuance of a letter of concern, and remedial education, and requires boards to assess costs of the case against the licensee at the time disciplinary action is imposed.

- Amends s. 456.073, F.S., to require the department to notify the patient or patient’s legal representative, in addition to the complainant, of the current status of the case. Also, allows the complainant to receive a copy of the expert report, if one was obtained by the department and used as the basis for closing a case. Requires that the identity of the expert be kept confidential since the case is not public until 10 days after a finding of probable cause.

- Amends s. 456.077, F.S., to designate additional grounds for discipline, which shall be handled by citation.

- Amends s. 456.081, F.S., to require additional information relating to adverse incidents, error prevention and safety strategies, and best practices information to be posted on the department's website. Requires summaries of final orders entered after July 1, 2001, to be available on the website. Provides legislative intent.

- Amends s. 458.331, F.S., to conform to cross-references in s. 395.0197, F.S.

- Amends s. 459.015, F.S., to conform to cross-references in s. 395.0197, F.S.

- Amends s. 465.019, F.S., to require institutional pharmacies which employ pharmacy technicians to maintain a policy and procedure manual specifying those tasks which a pharmacy technician is allowed to perform.

- Amends s. 465.0196, F.S., to require special pharmacies which employ pharmacy technicians to maintain a policy and procedure manual specifying those tasks which a pharmacy technician is allowed to perform.

- Requires the Department of Health and the Agency for Health Care Administration to conduct a review of all statutorily reporting requirements for health care practitioners and facilities; requires report to Legislature on or before November 1, 2001, with recommendations and suggested statutory changes to streamline reporting requirements to avoid duplicative, overlapping, and unnecessary reports or data elements.

- Amends s. 468.1755, F.S., to create new ground for discipline for a nursing home administrator who fails to implement an ongoing quality assurance program directed by an interdisciplinary team which meets at least every other month.

- Reenacts ss. 468.1695 and 468.1735, F.S., relating to nursing home administration.

- Reenacts s. 484.056, F.S., relating to hearing aid specialists.

- Amends s. 766.101, F.S., to include a continuous quality improvement committee of a licensed pharmacy to the definition of "medical review committee."

- Reenacts ss. 440.105 and 626.989, F.S., relating to medical review committees.

- Amends s. 766.1115, F.S., to conform cross-reference.

Regarding Issues Relating to Practitioner Credentialing, the Bill: Amends s. 456.047, F.S., relating to the standardized credentialing program for health care practitioners. The bill clarifies that it is the intent of the Legislature that all involved parties should cooperatively work to ensure the integrity and accuracy of the program. The Department of Health anticipates that the effect of this change will be that the integrity of the department's data files will be enhanced, increasing the value for users.

The bill deletes certain core data collected for the purposes of credentialing from the definition of "core credentials data." This subsection also specifies that the core data collected and provided by the department shall be primary source verified. The department asserts that the impact is to reduce the broad definition of core credentials data collected by the department to only those data elements that can be primary source verified, and to add value to the data and increase health care

entities' ability to rely upon the data collected and verified by the department. Furthermore, it gives the department greater flexibility in adding additional core credentials data elements in the future, by granting rulemaking authority, so that yearly revisions to this law are not necessary.

This bill also expands the definition of "health care entity" for purposes of this program to include additional groups of providers licensed under chapters 627, 636, 641 and 651, Florida Statutes. The effect is to include organizations, such as preferred provider networks, that engage in credentialing activities, heretofore not included under the requirements of the law. The department has asserted that there are additional types of entities that should be included in this program. Moreover, the bill deletes the definition of "hospital and other institution affiliations" to conform to the deletion of these terms in the definition of "core credentials data."
Additionally, the bill provides a definition of "primary source verification" using terminology recommended by the department as that language currently used by accrediting organizations and by the industry. Lastly, the bill clarifies a health care entity's ability to rely upon verified credentialing information from the department in order to eliminate duplicative verification activities.

Regarding Issues Relating to the Nursing Shortage: This bill attempts to reduce the shortage of nurses in Florida. It is a comprehensive bill incorporating various ways to make nursing education more affordable, make additional employment locations attractive, and to reduce unnecessary barriers to licensure while maintaining those requirements necessary to protect the public health, safety, and welfare. Specifically, this bill:

- Amends s. 240.4075, F.S., relating to the Nursing Student Loan Forgiveness Program, to include public schools, family practice teaching hospitals, and specialty children's hospitals as employing institutions whose nurse employees are eligible to receive loan repayment under the program. It extends an exemption to public schools, family practice teaching hospitals, and specialty children's hospitals from the requirement to match loan forgiveness funding for those nurses employed by those entities. The bill creates a priority listing, by employer, for the disbursement of funds from the Nursing Student Loan Forgiveness Trust Fund, if insufficient funding prevents the grant of all eligible applicants' requests for awards.

- Amends s. 240.4076, F.S., relating to the Nursing Scholarship Program, to include public schools, family practice teaching hospitals, and specialty children's hospitals in the list of facilities where scholarship recipients can complete their service obligation.

- Transfers by a type two transfer, all statutory powers, duties, functions and the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program from the Department of Education to the Department of Health.

- Amends s. 464.005, F.S., effective July 1, 2003, to require the Board of Nursing to maintain its official headquarters in Tallahassee like all other health care practitioner regulatory boards. This will create efficiencies and reduce duplicative services provided currently by board staff and by other employees of the Department of Health, including those services provided by the Division of Medical Quality Assurance, Bureau of Operations and Bureau of Management Services. By using an effective date of July 1, 2003, the department and board will have time to make the necessary arrangements for relocating.

- Amends s. 464.008, F.S., to allow the Board of Nursing to approve applicants, who graduated from a nursing program determined to be equivalent to the programs already approved by the board, to take the licensure examination in Florida.

- Amends s. 464.009, F.S., to require applicants for licensure by endorsement in Florida to submit a set of fingerprints so that a national criminal history check can be completed prior to the granting of a license to practice nursing. Clarifies that a violation in another state that would constitute a violation of Florida law, includes those violations found in chapter 456, F.S., as well as those found in chapter 464, F.S. Additionally, this section requires the department to notify applicants electronically of the status of the application and requires the license to be issued within 30 days of completion of all required data collection and verification activities.

- Amends s. 464.0205, F.S., to eliminate the application and processing fee of $25 for retired volunteer nurses who work without pay.

Regarding Issues Relating to Fraud, the Bill: Amends s. 456.074, F.S., to provide for emergency suspension of a practitioner's license upon conviction of fraud. Creates s. 456.0375, F.S., to set forth requirements for the registration of medical clinics. Requires the Department of Health and the Department of Insurance to set up a joint unit to investigate and prosecute health care fraud, in addition to the Medicaid fraud units within the Agency for Health Care Administration and the Department of Legal Affairs.

Regarding Other Issues, the Bill:

- Amends s. 381.6021, F.S., to prohibit pooling of human cells or tissue from two or more donors.

- Amends s. 456.073, F.S., to provide statute of limitations for practitioner disciplinary actions.

- Creates a new section 765.1025, F.S., related to Palliative Care. It provides a definition of palliative care, and lists several elements which palliative care must include. Those elements are: an opportunity to discuss and plan for the end-of-life care needs; assurance that suffering will be attended to; assurances that personal wishes regarding life-sustaining interventions will be honored; assurances that the goals and dignity of the dying person will be cared for; that health care providers will not abandon the dying person; that the burden on family members and others will be addressed; that palliative and other end-of-life care services will be evaluated for quality and accessibility; that palliative care will be delivered in a culturally appropriate manner. Amends subsection (2) of section 765.1103, F.S., to reword. Amends paragraph (b) of subsection (1) of section 765.205, F.S., related to the responsibility of the surrogate. This section provides that when the surrogate has no indication of what the principal would have chosen in a particular circumstance, the decision maker may act in the "best-interest" when deciding to withhold or withdraw treatment. Amends subsection (2) and (3) of 765.401, F.S., related to the proxy. This section provides that when the proxy has no indication of what the principal would have chosen in a particular circumstance, the decision maker may act in the "best-interest" when deciding to withhold or withdraw treatment.

- Directs the Department of Health to conduct a study relating to physician specialty certification.

- Creates ss. 464.0195, 464.0196, and 464.0197, F.S., relating to the Florida Center for Nursing.

- Places a moratorium on certain Board of Nursing rulemaking relating to nursing programs that affect certain nursing programs in this state.

- Amends s. 456.057, F.S., to permit the board, or department when there is no board, to appoint a custodian of patient records under certain circumstances.

- Requires study by the Legislature's Office of Program Policy Analysis and Government Accountability relating to the feasibility of maintaining all functions of Medical Quality Assurance within one state agency.

- Amends ss. 456.031 and 456.033, F.S., to allow dentists and dental hygienists to take a board-approved continuing education course in lieu of the domestic violence course, end-of-life care course, and HIV/AIDs course so long as the dentist or dental hygienist has taken the domestic violence course and the HIV/AIDs course in the immediately preceding two years.

- Creates s. 458.3147, F.S., relating to medical school admissions and fees.

- Amends s. 468.302, F.S., to replace the term "cardiopulmonary" with "invasive cardiovascular" with regard to the exemption from licensure as a radiologic technologist. Requires such person to have previously completed certain didactic and clinical training.

- Amend ss. 468.352, 468.355, 468.357, 468.358, and 468.359, F.S., to revise terminology relating to "respiratory therapists" and "respiratory care practitioner" to distinguish between those who are allowed to work unsupervised versus those who may only work under supervision.

- Amends s. 480.033, F.S., to revise the definition of "massage" to replace the term "superficial" with "soft tissue."

- Amend ss. 490.012 and 490.014, F.S., to revise violations of law for holding oneself out as a psychologist or school psychologist unless the person is licensed by the Department of Health or certified by the Department of Education.

- Amends s. 491.012, F.S., to clarify that it is not a crime for registered interns to practice social work, marriage and family therapy, or mental health counseling pursuant to their registration.

- Amends s. 499.012, F.S., to allow certain transfers between pharmacies.

D. SECTION-BY-SECTION ANALYSIS:

Please see the Effect of Proposed Changes section of this analysis.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

See Fiscal Comments section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments section.

D. FISCAL COMMENTS:

Commission on Excellence in Health Care: No fiscal impact to the state.

Practitioner Credentialing: By reducing the core credentials elements to only those items that can be primary source verified by the department, the entities using this system will get a file that they do not have to primary source verify and that is considered complete for that particular practitioner. Entities may not have to access the department's file at the time of recredentialing a practitioner unless one of those elements has changed. This bill should reduce the cost of this program to the private sector.

Notwithstanding the provisions of the bill, the department proposed a budget cost-cutting measure for ongoing operations of the CoreSTAT system. The cost savings/efficiency proposal encompasses additional outsourcing of CoreSTAT operations, resulting in a projected cost savings of $500,000 in expenses and reduction of 1 FTE at a cost savings of $57,339.50.

Nursing Shortage: To the extent that the bill includes public schools, family practice teaching hospitals, and specialty children's hospitals as well as hospitals, birth centers, and nursing homes as employing institutions whose employees are eligible to receive loan repayment under the Nursing Student Loan Forgiveness Program or whose employees are fulfilling a service obligation as a condition of having received a nursing scholarship, these employing institutions may be able to retain and recruit more nursing staff.

The Department of Health does not anticipate any additional funding or resources beyond that provided in the type two transfer to implement the program. However, the department anticipates an annual savings of approximately $19,000, after the Board of Nursing is relocated to Tallahassee.

Licensure by endorsement candidates will have to pay the costs of conducting the national criminal background check which costs approximately $43. The department will have to collect those costs and will need authorization to spend those revenues.

The department has indicated that the current licensure system, PRAES, can be modified to include the electronic applicant notification requirements of this bill. Therefore, there should be minimal cost associated with this provision. The department has indicated that this cost can be absorbed within current budget allocations.

Since there are very few retired volunteer nurses currently, it is anticipated that the reduction in revenues resulting from the elimination of the $25 fee will be minimal and the expenses can be absorbed by the department.

Registration of Medical Clinics: The Department of Health will collect registration fees necessary to cover the costs of regulating medical clinics. The bill specifically appropriates $100,000 from the Medical Quality Assurance Trust Fund for the purpose of implementing the bill. Thus, while there will be new revenues and new expenses generated as a result of this bill, the overall impact to the Medical Quality Assurance Trust Fund will be negated.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Department of Health is authorized to add additional core credential elements to the program through rulemaking if such element can be primary source verified by the department.

The bill provides rulemaking authority to the Department of Health. However, because the rulemaking authority is similar to that provided in the physician practice acts and in the nursing act for advanced registered nurse practitioners with regard to procedures for conducting the national criminal history check, there should be no additional expenses or delays as a result of rulemaking because the “specific authority” and “laws implemented” sections of the existing rules can be amended to include nurse licensure by endorsement applicants.
The bill provides rulemaking authority to implement the registration of medical clinics provision.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The original committee bill contained most of the issues that are in the Council Substitute adopted by the Council for Healthy Communities on April 18, 2001. However, the Council Substitute revises portions of those issues, specifically those relating to medical clinics, psychology, cardiology, hearing

aid specialists, speech-language pathologists and audiologists, nursing, pharmacy, Florida Bright Futures Scholarships, fraud prevention, and dentistry. The original bill did not include the issues relating to skin graft regulation, statutes of limitations, end-of-life decisions, the specialty certification study, nor medical school admissions.

VII. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:	Staff Director:
Wendy Smith Hansen, Senior Attorney	Lucretia Shaw Collins

AS REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:	Council Director:
Wendy Smith Hansen, Senior Attorney	Mary Pat Moore