

By Senator Lee

rb01-3

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes;
3 amending ss. 370.0603, 370.092, 370.093,
4 370.12, 372.5712, 372.5715, 373.4135, 375.021,
5 376.30713, 377.703, 380.012, 380.0555, 381.003,
6 381.004, 381.0065, 381.0303, 381.90, 383.50,
7 384.29, 393.0641, 394.875, 395.0163, 395.3036,
8 395.4045, 395.602, 395.7015, 400.0091, 400.022,
9 400.023, 400.141, 400.408, 400.464, 400.980,
10 402.166, 402.28, 402.50, 403.031, 403.714,
11 403.718, 403.7191, 403.7192, 408.02, 408.0361,
12 409.145, 409.1685, 409.908, 409.912, 409.946,
13 414.105, 418.302, 420.506, 420.507, 435.03,
14 435.05, 435.07, 440.15, 440.381, 440.4416,
15 443.1715, 443.232, 445.024, 446.50, 456.025,
16 456.039, 458.3135, 458.319, and 460.403, F.S.;
17 reenacting ss. 370.021(2), 375.045, 397.405,
18 409.9122(1), 445.003(6)(b), 445.009(7)(c),
19 467.001, 467.002, 467.004, 467.011, 467.0125,
20 467.014, 467.015, 467.016, 467.017, 467.201,
21 467.203, 467.205, 467.207, and 468.354(3)(b),
22 F.S.; and repealing ss. 373.4593(2)(a)-(c),
23 377.709(5)(b), 381.0045(3), 383.0112(2)(g),
24 403.854(2)(b), 411.01(9)(c), 421.37, 421.38,
25 421.39, 421.40, 421.41, 421.42, 421.43, 421.44,
26 421.45, 427.0159(2), and 464.0045, F.S.,
27 pursuant to s. 11.242, F.S.; deleting
28 provisions which have expired, have become
29 obsolete, have had their effect, have served
30 their purpose, or have been impliedly repealed
31 or superseded; replacing incorrect

1 cross-references and citations; correcting
2 grammatical, typographical, and like errors;
3 removing inconsistencies, redundancies, and
4 unnecessary repetition in the statutes;
5 improving the clarity of the statutes and
6 facilitating their correct interpretation; and
7 confirming the restoration of provisions
8 unintentionally omitted from republication in
9 the acts of the Legislature during the
10 amendatory process.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (2) of section 370.021, Florida
15 Statutes, is reenacted to read:

16 370.021 Administration; rules, publications, records;
17 penalties; injunctions.--

18 (2) MAJOR VIOLATIONS.--In addition to the penalties
19 provided in paragraphs (1)(a) and (b), the court shall assess
20 additional penalties against any person, firm, or corporation
21 convicted of major violations as follows:

22 (a) For a violation involving more than 100 illegal
23 blue crabs, crawfish, or stone crabs, an additional penalty of
24 \$10 for each illegal blue crab, crawfish, stone crab, or part
25 thereof.

26 (b) For a violation involving the taking or harvesting
27 of shrimp from a nursery or other prohibited area, or any two
28 violations within a 12-month period involving shrimping gear,
29 minimum size (count), or season, an additional penalty of \$10
30 for each pound of illegal shrimp or part thereof.

31

1 (c) For a violation involving the taking or harvesting
2 of oysters from nonapproved areas or the taking or possession
3 of unculled oysters, an additional penalty of \$10 for each
4 bushel of illegal oysters.

5 (d) For a violation involving the taking or harvesting
6 of clams from nonapproved areas, an additional penalty of \$100
7 for each 500 count bag of illegal clams.

8 (e) For a violation involving the taking, harvesting,
9 or possession of any of the following species, which are
10 endangered, threatened, or of special concern:

- 11 1. Shortnose sturgeon (*Acipenser brevirostrum*);
- 12 2. Atlantic sturgeon (*Acipenser oxyrinchus*);
- 13 3. Common snook (*Centropomus undecimalis*);
- 14 4. Atlantic loggerhead turtle (*Caretta caretta*
15 *caretta*);
- 16 5. Atlantic green turtle (*Chelonia mydas mydas*);
- 17 6. Leatherback turtle (*Dermochelys coriacea*);
- 18 7. Atlantic hawksbill turtle (*Eretmochelys imbricata*
19 *imbricata*);
- 20 8. Atlantic ridley turtle (*Lepidochelys kempfi*); or
- 21 9. West Indian manatee (*Trichechus manatus*
22 *latirostris*),

23
24 an additional penalty of \$100 for each unit of marine life or
25 part thereof.

26 (f) For a second or subsequent conviction within 24
27 months for any violation of the same law or rule involving the
28 taking or harvesting of more than 100 pounds of any finfish,
29 an additional penalty of \$5 for each pound of illegal finfish.

30 (g) For any violation involving the taking,
31 harvesting, or possession of more than 1,000 pounds of any

1 illegal finfish, an additional penalty equivalent to the
2 wholesale value of the illegal finfish.

3 (h) The proceeds from the penalties assessed pursuant
4 to this subsection shall be deposited into the Marine
5 Resources Conservation Trust Fund to be used for marine
6 fisheries research or into the commission's Federal Law
7 Enforcement Trust Fund as provided in s. 372.107, as
8 applicable.

9 (i) Permits issued to any person, firm, or corporation
10 by the commission to take or harvest saltwater products, or
11 any license issued pursuant to s. 370.06 or s. 370.07 may be
12 suspended or revoked by the commission, pursuant to the
13 provisions and procedures of s. 120.60, for any major
14 violation prescribed in this subsection:

15 1. Upon a first conviction for a major violation, for
16 up to 30 calendar days.

17 2. Upon a second conviction for a violation which
18 occurs within 12 months after a prior violation, for up to 90
19 calendar days.

20 3. Upon a third conviction for a violation which
21 occurs within 24 months after a prior violation, for up to 180
22 calendar days.

23 4. Upon a fourth conviction for a violation which
24 occurs within 36 months after a prior violation, for a period
25 of 6 months to 3 years.

26 (j) Upon the arrest and conviction for a major
27 violation involving stone crabs, the licenseholder must show
28 just cause why his or her license should not be suspended or
29 revoked. For the purposes of this paragraph, a "major
30 violation" means a major violation as prescribed for illegal
31 stone crabs; any single violation involving possession of more

1 than 25 stone crabs during the closed season or possession of
2 25 or more whole-bodied or egg-bearing stone crabs; any
3 violation for trap molestation, trap robbing, or pulling traps
4 at night; or any combination of violations in any
5 3-consecutive-year period wherein more than 75 illegal stone
6 crabs in the aggregate are involved.

7 (k) Upon the arrest and conviction for a major
8 violation involving crawfish, the licenseholder must show just
9 cause why his or her license should not be suspended or
10 revoked. For the purposes of this paragraph, a "major
11 violation" means a major violation as prescribed for illegal
12 crawfish; any single violation involving possession of more
13 than 25 crawfish during the closed season or possession of
14 more than 25 wrung crawfish tails or more than 25 egg-bearing
15 or stripped crawfish; any violation for trap molestation, trap
16 robbing, or pulling traps at night; or any combination of
17 violations in any 3-consecutive-year period wherein more than
18 75 illegal crawfish in the aggregate are involved.

19 (l) Upon the arrest and conviction for a major
20 violation involving blue crabs, the licenseholder shall show
21 just cause why his or her saltwater products license should
22 not be suspended or revoked. This paragraph shall not apply
23 to an individual fishing with no more than five traps. For
24 the purposes of this paragraph, a "major violation" means a
25 major violation as prescribed for illegal blue crabs, any
26 single violation wherein 50 or more illegal blue crabs are
27 involved; any violation for trap molestation, trap robbing, or
28 pulling traps at night; or any combination of violations in
29 any 3-consecutive-year period wherein more than 100 illegal
30 blue crabs in the aggregate are involved.

31

1 (m) Upon the conviction for a major violation
2 involving finfish, the licenseholder must show just cause why
3 his or her saltwater products license should not be suspended
4 or revoked. For the purposes of this paragraph, a major
5 violation is prescribed for the taking and harvesting of
6 illegal finfish, any single violation involving the possession
7 of more than 100 pounds of illegal finfish, or any combination
8 of violations in any 3-consecutive-year period wherein more
9 than 200 pounds of illegal finfish in the aggregate are
10 involved.

11 (n) Upon final disposition of any alleged offense for
12 which a citation for any violation of this chapter or the
13 rules of the Fish and Wildlife Conservation Commission has
14 been issued, the court shall, within 10 days, certify the
15 disposition to the commission.

16 (o) For a violation involving the taking or harvesting
17 of any marine life species, as those species are defined by
18 rule of the commission, the harvest of which is prohibited, or
19 the taking or harvesting of such a species out of season, or
20 with an illegal gear or chemical, or any violation involving
21 the possession of 25 or more individual specimens of marine
22 life species, or any combination of violations in any 3-year
23 period involving more than 70 such specimens in the aggregate,
24 the suspension or revocation of the licenseholder's marine
25 life endorsement as provided in paragraph (i).

26
27 Notwithstanding the provisions of s. 948.01, no court may
28 suspend, defer, or withhold adjudication of guilt or
29 imposition of sentence for any major violation prescribed in
30 this subsection.

31

1 Reviser's note.--Section 36, ch. 2000-364, Laws
2 of Florida, amended paragraphs (2)(b) and (i)
3 and added paragraph (2)(o), but failed to
4 republish the flush left language at the end of
5 the subsection. In the absence of affirmative
6 evidence that the Legislature intended to
7 repeal the flush left language, subsection (2)
8 is reenacted to confirm that the omission was
9 not intended.

10

11 Section 2. Subsection (3) of section 370.0603, Florida
12 Statutes, is amended to read:

13 370.0603 Marine Resources Conservation Trust Fund;
14 purposes.--

15 (3) Funds provided to the Marine Resources
16 Conservation Trust Fund from taxes distributed under s.
17 201.15(8)~~201.15(9)~~ shall be used for the following purposes:

18 (a) To reimburse the cost of activities authorized
19 pursuant to the Fish and Wildlife Service of the United States
20 Department of the Interior. Such facilities must be involved
21 in the actual rescue and full-time acute care
22 veterinarian-based rehabilitation of manatees. The cost of
23 activities includes, but is not limited to, costs associated
24 with expansion, capital outlay, repair, maintenance, and
25 operation related to the rescue, treatment, stabilization,
26 maintenance, release, and monitoring of manatees. Moneys
27 distributed through the contractual agreement to each facility
28 for manatee rehabilitation must be proportionate to the number
29 of manatees under acute care rehabilitation; the number of
30 maintenance days medically necessary in the facility; and the
31 number released during the previous fiscal year. The

1 commission may set a cap on the total amount reimbursed per
2 manatee per year.

3 (b) For training on the care, treatment, and
4 rehabilitation of marine mammals at the Whitney Laboratory and
5 the College of Veterinary School of Medicine at the University
6 of Florida.

7 (c) For program administration costs of the agency.

8 (d) Funds not distributed in any 1 fiscal year must be
9 carried over for distribution in subsequent years.

10

11 Reviser's note.--The introductory paragraph is
12 amended to correct an apparent error and
13 facilitate correct interpretation. Section
14 201.15(8) was amended by s. 33, ch. 2000-197,
15 Laws of Florida, to add a reference to payment
16 of funds to the credit of the trust fund for
17 purposes of marine mammal care pursuant to s.
18 370.0603(3). Paragraph (b) is amended to
19 conform to the official title of the college as
20 created in s. 240.513(1)(f).

21

22 Section 3. Subsections (3) and (4) of section 370.092,
23 Florida Statutes, are amended to read:

24 370.092 Carriage of proscribed nets across Florida
25 waters.--

26 (3) Notwithstanding subsections (1) and (2), unless
27 authorized by rule of the Fish and Wildlife Conservation
28 Commission, it is a major violation under this section,
29 punishable as provided in s. 370.021(3)~~subsection (4)~~, for
30 any person, firm, or corporation to possess any gill or
31 entangling net, or any seine net larger than 500 square feet

1 in mesh area, on any airboat or on any other vessel less than
2 22 feet in length and on any vessel less than 25 feet if
3 primary power of the vessel is mounted forward of the vessel
4 center point. Gill or entangling nets shall be as defined in
5 s. 16, Art. X of the State Constitution, s. 370.093(2)(b), or
6 in a rule of the Fish and Wildlife Conservation Commission
7 implementing s. 16, Art. X of the State Constitution. Vessel
8 length shall be determined in accordance with current United
9 States Coast Guard regulations specified in the Code of
10 Federal Regulations or as titled by the State of Florida. The
11 Marine Fisheries Commission is directed to initiate by July 1,
12 1998, rulemaking to adjust by rule the use of gear on vessels
13 longer than 22 feet where the primary power of the vessel is
14 mounted forward of the vessel center point in order to prevent
15 the illegal use of gill and entangling nets in state waters
16 and to provide reasonable opportunities for the use of legal
17 net gear in adjacent federal waters.

18 (4) The Fish and Wildlife Conservation Commission
19 shall adopt rules to prohibit the possession and sale of
20 mullet taken in illegal gill or entangling nets. Violations of
21 such rules shall be punishable as provided in s. 370.021(3)
22 ~~subsection (4)~~.

23
24 Reviser's note.--Amended to conform to the
25 current location of the referenced material.
26 The language in s. 370.021(3), enacted by s. 2,
27 ch. 98-227, Laws of Florida, is substantively
28 the same as former s. 370.092(4), which was
29 repealed by s. 13, ch. 98-227.

30
31

1 Section 4. Subsection (5) of section 370.093, Florida
2 Statutes, is amended to read:

3 370.093 Illegal use of nets.--

4 (5) Any person who violates this section shall be
5 punished as provided in s. 370.021(3)~~370.092(4)~~.

6
7 Reviser's note.--Amended to conform to the
8 current location of the referenced material.
9 The language in s. 370.021(3), enacted by s. 2,
10 ch. 98-227, Laws of Florida, is substantively
11 the same as former s. 370.092(4), which was
12 repealed by s. 13, ch. 98-227.

13
14 Section 5. Subsection (3) of section 370.12, Florida
15 Statutes, is amended to read:

16 370.12 Marine animals; regulation.--

17 (3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES).--It
18 is unlawful to catch, attempt to catch, molest, injure, kill,
19 or annoy, or otherwise interfere with the normal activity and
20 well-being of, mammalian dolphins (porpoises), except as may
21 be authorized by ~~as~~ a federal permit.

22
23 Reviser's note.--Amended to facilitate correct
24 interpretation.

25
26 Section 6. Subsection (1) of section 372.5712, Florida
27 Statutes, is amended to read:

28 372.5712 Florida waterfowl permit revenues.--

29 (1) The commission shall expend the revenues generated
30 from the sale of the Florida waterfowl permit as provided in
31 s. 372.57(4)(a) or that pro rata portion of any license that

1 includes waterfowl hunting privileges, as provided in s.
2 372.57(2)(k) and (14)(b)~~372.57(2)(i) and (14)(b)~~ as follows:
3 A maximum of 5 percent of the gross revenues shall be expended
4 for administrative costs; a maximum of 25 percent of the gross
5 revenues shall be expended for waterfowl research approved by
6 the commission; and a maximum of 70 percent of the gross
7 revenues shall be expended for projects approved by the
8 commission, in consultation with the Waterfowl Advisory
9 Council, for the purpose of protecting and propagating
10 migratory waterfowl and for the development, restoration,
11 maintenance, and preservation of wetlands within the state.

12
13 Reviser's note.--Amended to conform to the
14 redesignation of paragraphs of s. 372.57(2) by
15 s. 37, ch. 2000-362, Laws of Florida.

16
17 Section 7. Subsection (1) of section 372.5715, Florida
18 Statutes, is amended to read:

19 372.5715 Florida wild turkey permit revenues.--
20 (1) The commission shall expend the revenues generated
21 from the sale of the turkey permit as provided for in s.
22 372.57(4)(e) or that pro rata portion of any license that
23 includes turkey hunting privileges as provided for in s.
24 372.57(2)(k) and (14)(b)~~372.57(2)(i) and (14)(b)~~ for research
25 and management of wild turkeys.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of paragraphs of s. 372.57(2) by
29 s. 37, ch. 2000-362, Laws of Florida.

30
31

1 Section 8. Subsection (7) of section 373.4135, Florida
2 Statutes, is amended to read:

3 373.4135 Mitigation banks and offsite regional
4 mitigation.--

5 (7) The department, water management districts, and
6 local governments may elect to establish and manage mitigation
7 sites, including regional offsite mitigation areas, or
8 contract with permitted mitigation banks, to provide
9 mitigation options for private single-family lots or
10 homeowners. The department, water management districts, and
11 local governments shall provide a written notice of their
12 election under this subsection ~~paragraph~~ by United States mail
13 to those individuals who have requested, in writing, to
14 receive such notice. The use of mitigation options established
15 under this subsection are not subject to the
16 full-cost-accounting provision of s. 373.414(1)(b)1. To use a
17 mitigation option established under this subsection, the
18 applicant for a permit under this part must be a private,
19 single-family lot or homeowner, and the land upon which the
20 adverse impact is located must be intended for use as a
21 single-family residence by the current owner. The applicant
22 must not be a corporation, partnership, or other business
23 entity. However, the provisions of this subsection shall not
24 apply to other entities that establish offsite regional
25 mitigation as defined in this section and s. 373.403.

26
27 Reviser's note.--Amended to correct an apparent
28 error. Subsection (7) is not divided into
29 paragraphs.
30
31

1 Section 9. Paragraphs (a), (b), and (c) of subsection
2 (2) of section 373.4593, Florida Statutes, are repealed.

3
4 Reviser's note.--Repealed to delete language
5 that is obsolete; paragraphs (2)(a) and (b)
6 provide that by June 1, 1994, the South Florida
7 Water Management District must request the
8 Federal Government to become a joint sponsor
9 and take all action to expedite or waive
10 necessary federal approvals needed to implement
11 an emergency interim plan to restore Florida
12 Bay. Paragraph (2)(c) provides that by July 1,
13 1994, the South Florida Water Management
14 District must file for any necessary federal
15 approvals.

16
17 Section 10. Subsection (1) of section 375.021, Florida
18 Statutes, is amended to read:

19 375.021 Comprehensive multipurpose outdoor recreation
20 plan.--

21 (1) The department is given the responsibility,
22 authority, and power to develop and execute a comprehensive
23 multipurpose outdoor recreation plan for this state with the
24 cooperation of the Department of Agriculture and Consumer
25 Services, the Department of Transportation, the Fish and
26 Wildlife Conservation Commission, the Florida Commission on
27 Tourism ~~Department of Commerce~~, and the water management
28 districts.

29
30 Reviser's note.--Amended to conform to the
31 repeal of s. 20.17, creating the Department of

1 Commerce, by s. 3, ch. 96-320, Laws of Florida,
2 and the assumption of its obligations regarding
3 the comprehensive multipurpose outdoor
4 recreation plan by the Florida Commission on
5 Tourism.

6
7 Section 11. Section 375.045, Florida Statutes, is
8 reenacted to read:

9 375.045 Florida Preservation 2000 Trust Fund.--

10 (1) There is created the Florida Preservation 2000
11 Trust Fund to carry out the purposes of ss. 259.032, 259.101,
12 and 375.031. The Florida Preservation 2000 Trust Fund shall be
13 held and administered by the Department of Environmental
14 Protection. Proceeds from the sale of revenue bonds issued
15 pursuant to s. 375.051 and payable from moneys transferred to
16 the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a),
17 not to exceed \$3 billion, shall be deposited into this trust
18 fund to be distributed as provided in s. 259.101(3). The bond
19 resolution adopted by the governing board of the Division of
20 Bond Finance may provide for additional provisions that govern
21 the disbursement of the bond proceeds.

22 (2) The Department of Environmental Protection shall
23 distribute revenues from the Florida Preservation 2000 Trust
24 Fund only to programs of state agencies or local governments
25 as set out in s. 259.101(3). Excluding distributions to the
26 Save Our Everglades Trust Fund, such distributions shall be
27 spent by the recipient within 90 days after the date on which
28 the Department of Environmental Protection initiates the
29 transfer.

30 (3) Any agency or district which acquires lands using
31 Preservation 2000 funds, as distributed pursuant to this

1 section and s. 259.101(3), shall manage the lands to make them
2 available for public recreational use, provided that the
3 recreational use does not interfere with the protection of
4 natural resource values. Any such agency or district may enter
5 into agreements with the Department of Environmental
6 Protection or other appropriate state agencies to transfer
7 management authority to or to lease to such agencies lands
8 purchased with Preservation 2000 funds, for the purpose of
9 managing the lands to make them available for public
10 recreational use. The water management districts and the
11 Department of Environmental Protection shall take action to
12 control the growth of nonnative invasive plant species on
13 lands they manage which are purchased with Preservation 2000
14 funds.

15 (4) The Department of Environmental Protection shall
16 ensure that the proceeds from the sale of revenue bonds issued
17 pursuant to s. 375.051 and payable from moneys transferred to
18 the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a)
19 shall be administered and expended in a manner that ensures
20 compliance of each issue of revenue bonds that are issued on
21 the basis that interest thereon will be excluded from gross
22 income for federal income tax purposes, with the applicable
23 provisions of the United States Internal Revenue Code and the
24 regulations promulgated thereunder, to the extent necessary to
25 preserve the exclusion of interest on such revenue bonds from
26 gross income for federal income tax purposes. The Department
27 of Environmental Protection shall have the authority to
28 administer the use and disbursement of the proceeds of such
29 revenue bonds or require that the use and disbursement thereof
30 be administered in such a manner as shall be necessary to
31 implement strategies to maximize any available benefits under

1 the applicable provisions of the United States Internal
2 Revenue Code or regulations promulgated thereunder, to the
3 extent not inconsistent with the purposes identified in s.
4 259.101(3).

5
6 Upon a determination by the Department of Environmental
7 Protection that proceeds being held in the trust fund to
8 support distributions outside the Department of Environmental
9 Protection are not likely to be disbursed in accordance with
10 the foregoing considerations, the Department of Environmental
11 Protection shall petition the Governor and Cabinet to allow
12 for the immediate disbursement of such funds for the
13 acquisition of projects approved for purchase pursuant to the
14 provisions of chapter 259.

15
16 Reviser's note.--Section 6, ch. 2000-129, Laws
17 of Florida, purported to amend subsection (2),
18 but failed to republish the flush left language
19 at the end of the section. In the absence of
20 affirmative evidence that the Legislature
21 intended to repeal the flush left language, s.
22 375.045 is reenacted to confirm that the
23 omission was not intended.

24
25 Section 12. Subsection (7) of section 376.30713,
26 Florida Statutes, is repealed, and subsection (2) of that
27 section is amended to read:

28 376.30713 Preapproved advanced cleanup.--

29 (2) ~~Beginning January 1, 1997,~~The department is
30 authorized to approve an application for preapproved advanced
31 cleanup at eligible sites, prior to funding based on the

1 site's priority ranking established pursuant to s.
2 376.3071(5)(a), in accordance with the provisions of this
3 section. Persons who qualify as an applicant under the
4 provisions of this section shall only include the facility
5 owner or operator or the person otherwise responsible for site
6 rehabilitation.

7 (a) Preapproved advanced cleanup applications may be
8 submitted between May 1 and June 30 and between November 1 and
9 December 31 of each fiscal year. Applications submitted
10 between May 1 and June 30 shall be for the fiscal year
11 beginning July 1. ~~Initial applications shall be submitted~~
12 ~~between November 1 and December 31, 1996.~~ An application
13 shall consist of:

14 1. A commitment to pay no less than 25 percent of the
15 total cleanup cost deemed recoverable under the provisions of
16 this section along with proof of the ability to pay the cost
17 share.

18 2. A nonrefundable review fee of \$250 to cover the
19 administrative costs associated with the department's review
20 of the application.

21 3. A limited contamination assessment report.

22 4. A proposed course of action.
23

24 The limited contamination assessment report shall be
25 sufficient to support the proposed course of action and to
26 estimate the cost of the proposed course of action. Any costs
27 incurred related to conducting the limited contamination
28 assessment report are not refundable from the Inland
29 Protection Trust Fund. Site eligibility under this subsection,
30 or any other provision of this section, shall not constitute
31 an entitlement to preapproved advanced cleanup or continued

1 restoration funding. The applicant shall certify to the
2 department that the applicant has the prerequisite authority
3 to enter into a preapproved advanced cleanup contract with the
4 department. This certification shall be submitted with the
5 application.

6 (b) The department shall rank the applications based
7 on the percentage of cost-sharing commitment proposed by the
8 applicant, with the highest ranking given to the applicant
9 that proposes the highest percentage of cost sharing. If the
10 department receives applications that propose identical
11 cost-sharing commitments and which exceed the funds available
12 to commit to all such proposals during the preapproved
13 advanced cleanup application period, the department shall
14 proceed to rerank those applicants. Those applicants
15 submitting identical cost-sharing proposals which exceed
16 funding availability shall be so notified by the department
17 and shall be offered the opportunity to raise their individual
18 cost-share commitments, in a period of time specified in the
19 notice. At the close of the period, the department shall
20 proceed to rerank the applications in accordance with this
21 paragraph.

22
23 Reviser's note.--Subsection (2) is amended to
24 delete obsolete references to past dates.
25 Subsection (7), requiring legislative review of
26 s. 376.30713 prior to March 1, 2001, is
27 repealed.

28
29 Section 13. Paragraph (h) of subsection (3) of section
30 377.703, Florida Statutes, is amended to read:

31

1 377.703 Additional functions of the Department of
2 Community Affairs; energy emergency contingency plan; federal
3 and state conservation programs.--

4 (3) DEPARTMENT OF COMMUNITY AFFAIRS; DUTIES.--The
5 Department of Community Affairs shall, in addition to assuming
6 the duties and responsibilities provided by ss. 20.18 and
7 377.701, perform the following functions consistent with the
8 development of a state energy policy:

9 (h) Promote the development and use of renewable
10 energy resources, in conformance with the provisions of
11 chapter 187 and s. 377.601, by:

12 1. Establishing goals and strategies for increasing
13 the use of solar energy in this state.

14 2. Aiding and promoting the commercialization of solar
15 energy technology, in cooperation with the Florida Solar
16 Energy Center, Enterprise Florida, Inc.~~the Department of~~
17 ~~Commerce~~, and any other federal, state, or local governmental
18 agency which may seek to promote research, development, and
19 demonstration of solar energy equipment and technology.

20 3. Identifying barriers to greater use of solar energy
21 systems in this state, and developing specific recommendations
22 for overcoming identified barriers, with findings and
23 recommendations to be submitted annually in the report to the
24 Legislature required under paragraph (f).

25 4. In cooperation with the Department of
26 Transportation, Enterprise Florida, Inc.~~the Department of~~
27 ~~Commerce~~, the Florida Solar Energy Center, and the Florida
28 Solar Energy Industries Association, investigating
29 opportunities, pursuant to the National Energy Policy Act of
30 1992 and the Housing and Community Development Act of 1992,
31 for solar electric vehicles and other solar energy

1 manufacturing, distribution, installation, and financing
2 efforts which will enhance this state's position as the leader
3 in solar energy research, development, and use.

4 5. Undertaking other initiatives to advance the
5 development and use of renewable energy resources in this
6 state.

7
8 In the exercise of its responsibilities under this paragraph,
9 the department shall seek the assistance of the solar energy
10 industry in this state and other interested parties and is
11 authorized to enter into contracts, retain professional
12 consulting services, and expend funds appropriated by the
13 Legislature for such purposes.

14
15 Reviser's note.--Amended to conform to the
16 repeal of s. 20.17, which created the
17 Department of Commerce, by s. 3, ch. 96-320,
18 Laws of Florida, and the replacement of the
19 department with Enterprise Florida, Inc., for
20 purposes of providing assistance in the area of
21 solar energy pursuant to s. 288.041.

22
23 Section 14. Paragraph (b) of subsection (5) of section
24 377.709, Florida Statutes, is repealed.

25
26 Reviser's note.--Paragraph (5)(b), enacted by
27 s. 54, ch. 88-130, Laws of Florida, is repealed
28 to delete a provision encouraging parties to
29 review contracts regarding purchase of energy
30 by electric utilities from solid waste
31 management facilities in effect as of October

1 1, 1988, to incorporate applicable provisions
2 of s. 377.709, subject to the approval of the
3 Florida Public Service Commission.

4
5 Section 15. Section 380.012, Florida Statutes, is
6 amended to read:

7 380.012 Short title.--Sections 380.012, 380.021,
8 380.031, 380.04, 380.05, 380.06, 380.07, and 380.08
9 ~~380.012-380.10~~ shall be known and may be cited as "The Florida
10 Environmental Land and Water Management Act of 1972."

11
12 Reviser's note.--Amended to conform to the
13 current sections comprising the referenced act
14 as enacted by ch. 72-317, Laws of Florida.

15
16 Section 16. Paragraph (f) of subsection (10) of
17 section 380.0555, Florida Statutes, is repealed, and
18 paragraphs (c), (d), and (g) of subsection (10) of that
19 section are amended to read:

20 380.0555 Apalachicola Bay Area; protection and
21 designation as area of critical state concern.--

22 (10) REQUIREMENTS; LOCAL GOVERNMENTS.--

23 (c)1. The Department of Health shall survey all septic
24 tank soil-absorption systems in the Apalachicola Bay Area to
25 determine their suitability as onsite sewage treatment
26 systems. Within 6 months from June 18, 1985, Franklin County
27 and the municipalities within it, after consultation with the
28 Department of Health and the Department of Environmental
29 Protection Regulation, shall develop a program designed to
30 correct any onsite sewage treatment systems that might
31 endanger the water quality of the bay.

1 2. Franklin County and the municipalities within it
2 shall, within 9 months from June 18, 1985, enact by ordinance
3 procedures implementing this program. These procedures shall
4 include notification to owners of unacceptable septic tanks
5 and procedures for correcting unacceptable septic tanks.
6 These ordinances shall not be effective until approved by the
7 Department of Health and the Department of Environmental
8 Protection Regulation.

9 (d) Franklin County and the municipalities within it
10 shall, within 12 months from June 18, 1985, establish by
11 ordinance a map of "pollution-sensitive segments of the
12 critical shoreline" within the Apalachicola Bay Area, which
13 ordinance shall not be effective until approved by the
14 Department of Health and the Department of Environmental
15 Protection Regulation. Franklin County and the municipalities
16 within it, after the effective date of these ordinances, shall
17 no longer grant permits for onsite wastewater disposal systems
18 in pollution-sensitive segments of the critical shoreline,
19 except for those onsite wastewater systems that will not
20 degrade water quality in the river or bay. These ordinances
21 shall not become effective until approved by the resource
22 planning and management committee. Until such ordinances
23 become effective, the Franklin County Health Department shall
24 not give a favorable recommendation to the granting of a
25 septic tank variance pursuant to section (1) of Ordinance
26 79-8, adopted on June 22, 1979, by the Franklin County Board
27 of County Commissioners and filed with the Secretary of State
28 on June 27, 1979, or issue a permit for a septic tank or
29 alternative waste disposal system pursuant to Ordinance 81-5,
30 adopted on June 22, 1981, by the Franklin County Board of
31 County Commissioners and filed with the Secretary of State on

1 June 30, 1981, as amended as set forth in subparagraph
2 (8)(a)2., unless the Franklin County Health Department
3 certifies, in writing, that the use of such system will be
4 consistent with paragraph (7)(f) and subsection (8).

5 (f)~~(g)~~ Franklin County and the municipalities within
6 it shall, beginning 12 months from June 18, 1985, prepare
7 semiannual reports on the implementation of paragraphs (b)-(e)
8 ~~(b)-(f)~~ on the environmental status of the Apalachicola Bay
9 Area. The state land planning agency may prescribe additional
10 detailed information required to be reported. Each report
11 shall be delivered to the resource planning and management
12 committee and the state land planning agency for review and
13 recommendations. The state land planning agency shall review
14 each report and consider such reports when making
15 recommendations to the Administration Commission pursuant to
16 subsection (9).

17
18 Reviser's note.--Paragraph (10)(f), which
19 related to a report to be submitted within 12
20 months from June 18, 1985, is repealed because
21 it has served its purpose. Paragraphs (10)(c)
22 and (d) are amended to conform to the transfer
23 of all legal authority and action of the
24 Department of Environmental Regulation to the
25 Department of Environmental Protection by s. 3,
26 ch. 93-213, Laws of Florida. Paragraph (10)(g)
27 is amended to conform to the repeal of
28 paragraph (10)(f).

29
30 Section 17. Paragraph (e) of subsection (1) of section
31 381.003, Florida Statutes, is amended to read:

1 381.003 Communicable disease and AIDS prevention and
2 control.--

3 (1) The department shall conduct a communicable
4 disease prevention and control program as part of fulfilling
5 its public health mission. A communicable disease is any
6 disease caused by transmission of a specific infectious agent,
7 or its toxic products, from an infected person, an infected
8 animal, or the environment to a susceptible host, either
9 directly or indirectly. The communicable disease program must
10 include, but need not be limited to:

11 (e) Programs for the prevention and control of
12 vaccine-preventable diseases, including programs to immunize
13 school children as required by s. 232.032 and the development
14 of an automated, electronic, and centralized database or
15 registry of immunizations. The department shall ensure that
16 all children in this state are immunized against
17 vaccine-preventable diseases. The immunization registry shall
18 allow the department to enhance current immunization
19 activities for the purpose of improving the immunization of
20 all children in this state.

21 1. Except as provided in subparagraph 2., the
22 department shall include all children born in this state in
23 the immunization registry by using the birth records from the
24 Office of Vital Statistics. The department shall add other
25 children to the registry as immunization services are
26 provided.

27 2. The parent or guardian of a child may refuse to
28 have the child included in the immunization registry by
29 signing a form obtained from the department, or from the
30 health care practitioner or entity that provides the
31 immunization, which indicates that the parent or guardian does

1 not wish to have the child included in the immunization
2 registry. The decision to not participate in the immunization
3 registry must be noted in the registry.

4 3. The immunization registry shall allow for
5 immunization records to be electronically transferred to
6 entities that are required by law to have such records,
7 including schools, licensed child care facilities, and any
8 other entity that is required by law to obtain proof of a
9 child's immunizations.

10 4. Any health care practitioner licensed under chapter
11 458, chapter 459, or chapter 464 in this state who complies
12 with rules adopted by the department to access the
13 immunization registry may, through the immunization registry,
14 directly access immunization records and update a child's
15 immunization history or exchange immunization information with
16 another authorized practitioner, entity, or agency involved in
17 a child's care. The information included in the immunization
18 registry must include the child's name, date of birth,
19 address, and any other unique identifier necessary to
20 correctly identify the child; the immunization record,
21 including the date, type of administered vaccine, and vaccine
22 lot number; and the presence or absence of any adverse
23 reaction or contraindication related to the immunization.
24 Information received by the department for the immunization
25 registry retains its status as confidential medical
26 information and the department must maintain the
27 confidentiality of that information as otherwise required by
28 law. A health care practitioner or other agency that obtains
29 information from the immunization registry must maintain the
30 confidentiality of any medical records in accordance with s.
31 456.057 ~~455.667~~ or as otherwise required by law.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 455.667 as s. 456.057 by s.
3 79, ch. 2000-160, Laws of Florida.

4
5 Section 18. Paragraph (e) of subsection (3) of section
6 381.004, Florida Statutes, is amended to read:

7 381.004 HIV testing.--

8 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
9 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

10 (e) Except as provided in this section, the identity
11 of any person upon whom a test has been performed and test
12 results are confidential and exempt from the provisions of s.
13 119.07(1). No person who has obtained or has knowledge of a
14 test result pursuant to this section may disclose or be
15 compelled to disclose the identity of any person upon whom a
16 test is performed, or the results of such a test in a manner
17 which permits identification of the subject of the test,
18 except to the following persons:

19 1. The subject of the test or the subject's legally
20 authorized representative.

21 2. Any person, including third-party payors,
22 designated in a legally effective release of the test results
23 executed prior to or after the test by the subject of the test
24 or the subject's legally authorized representative. The test
25 subject may in writing authorize the disclosure of the test
26 subject's HIV test results to third party payors, who need not
27 be specifically identified, and to other persons to whom the
28 test subject subsequently issues a general release of medical
29 information. A general release without such prior written
30 authorization is not sufficient to release HIV test results.

31

1 3. An authorized agent or employee of a health
2 facility or health care provider if the health facility or
3 health care provider itself is authorized to obtain the test
4 results, the agent or employee participates in the
5 administration or provision of patient care or handles or
6 processes specimens of body fluids or tissues, and the agent
7 or employee has a need to know such information. The
8 department shall adopt a rule defining which persons have a
9 need to know pursuant to this subparagraph.

10 4. Health care providers consulting between themselves
11 or with health care facilities to determine diagnosis and
12 treatment. For purposes of this subparagraph, health care
13 providers shall include licensed health care professionals
14 employed by or associated with state, county, or municipal
15 detention facilities when such health care professionals are
16 acting exclusively for the purpose of providing diagnoses or
17 treatment of persons in the custody of such facilities.

18 5. The department, in accordance with rules for
19 reporting and controlling the spread of disease, as otherwise
20 provided by state law.

21 6. A health facility or health care provider which
22 procures, processes, distributes, or uses:

23 a. A human body part from a deceased person, with
24 respect to medical information regarding that person; or

25 b. Semen provided prior to July 6, 1988, for the
26 purpose of artificial insemination.

27 7. Health facility staff committees, for the purposes
28 of conducting program monitoring, program evaluation, or
29 service reviews pursuant to chapters 395 and 766.

30
31

1 8. Authorized medical or epidemiological researchers
2 who may not further disclose any identifying characteristics
3 or information.

4 9. A person allowed access by a court order which is
5 issued in compliance with the following provisions:

6 a. No court of this state shall issue such order
7 unless the court finds that the person seeking the test
8 results has demonstrated a compelling need for the test
9 results which cannot be accommodated by other means. In
10 assessing compelling need, the court shall weigh the need for
11 disclosure against the privacy interest of the test subject
12 and the public interest which may be disserved by disclosure
13 which deters blood, organ, and semen donation and future human
14 immunodeficiency virus-related testing or which may lead to
15 discrimination. This paragraph shall not apply to blood bank
16 donor records.

17 b. Pleadings pertaining to disclosure of test results
18 shall substitute a pseudonym for the true name of the subject
19 of the test. The disclosure to the parties of the subject's
20 true name shall be communicated confidentially in documents
21 not filed with the court.

22 c. Before granting any such order, the court shall
23 provide the individual whose test result is in question with
24 notice and a reasonable opportunity to participate in the
25 proceedings if he or she is not already a party.

26 d. Court proceedings as to disclosure of test results
27 shall be conducted in camera, unless the subject of the test
28 agrees to a hearing in open court or unless the court
29 determines that a public hearing is necessary to the public
30 interest and the proper administration of justice.

31

1 e. Upon the issuance of an order to disclose test
2 results, the court shall impose appropriate safeguards against
3 unauthorized disclosure which shall specify the persons who
4 may have access to the information, the purposes for which the
5 information shall be used, and appropriate prohibitions on
6 future disclosure.

7 10. A person allowed access by order of a judge of
8 compensation claims of the Division of Workers' Compensation
9 of the Department of Labor and Employment Security. A judge
10 of compensation claims shall not issue such order unless he or
11 she finds that the person seeking the test results has
12 demonstrated a compelling need for the test results which
13 cannot be accommodated by other means.

14 11. Those employees of the department or of
15 child-placing or child-caring agencies or of family foster
16 homes, licensed pursuant to s. 409.175, who are directly
17 involved in the placement, care, control, or custody of such
18 test subject and who have a need to know such information;
19 adoptive parents of such test subject; or any adult custodian,
20 any adult relative, or any person responsible for the child's
21 welfare, if the test subject was not tested under subparagraph
22 (b)2. and if a reasonable attempt has been made to locate and
23 inform the legal guardian of a test result. The department
24 shall adopt a rule to implement this subparagraph.

25 12. Those employees of residential facilities or of
26 community-based care programs that care for developmentally
27 disabled persons, pursuant to chapter 393, who are directly
28 involved in the care, control, or custody of such test subject
29 and who have a need to know such information.

30
31

1 13. A health care provider involved in the delivery of
2 a child can note the mother's HIV test results in the child's
3 medical record.

4 14. Medical personnel or nonmedical personnel who have
5 been subject to a significant exposure during the course of
6 medical practice or in the performance of professional duties,
7 or individuals who are the subject of the significant exposure
8 as provided in subparagraphs (h)10.-12.~~(h)10., 11., and 13.~~

9 15. The medical examiner shall disclose positive HIV
10 test results to the department in accordance with rules for
11 reporting and controlling the spread of disease.

12
13 Reviser's note.--Amended to correct an apparent
14 error and facilitate correct interpretation.

15 Subparagraph (3)(h)12. references significant
16 exposure; subparagraph (3)(h)13. does not.

17
18 Section 19. Subsection (3) of section 381.0045,
19 Florida Statutes, is repealed.

20
21 Reviser's note.--The cited subsection relates
22 to a 2-year pilot program to provide outreach
23 services to high-risk pregnant women in five
24 specified counties, effective October 1, 1998.

25
26 Section 20. Paragraph (t) of subsection (4) of section
27 381.0065, Florida Statutes, is amended to read:

28 381.0065 Onsite sewage treatment and disposal systems;
29 regulation.--

30 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
31 may not construct, repair, modify, abandon, or operate an

1 onsite sewage treatment and disposal system without first
2 obtaining a permit approved by the department. The department
3 may issue permits to carry out this section, but shall not
4 make the issuance of such permits contingent upon prior
5 approval by the Department of Environmental Protection. A
6 construction permit is valid for 18 months from the issuance
7 date and may be extended by the department for one 90-day
8 period under rules adopted by the department. A repair permit
9 is valid for 90 days from the date of issuance. An operating
10 permit must be obtained prior to the use of any aerobic
11 treatment unit or if the establishment generates commercial
12 waste. Buildings or establishments that use an aerobic
13 treatment unit or generate commercial waste shall be inspected
14 by the department at least annually to assure compliance with
15 the terms of the operating permit. The operating permit is
16 valid for 1 year from the date of issuance and must be renewed
17 annually. If all information pertaining to the siting,
18 location, and installation conditions or repair of an onsite
19 sewage treatment and disposal system remains the same, a
20 construction or repair permit for the onsite sewage treatment
21 and disposal system may be transferred to another person, if
22 the transferee files, within 60 days after the transfer of
23 ownership, an amended application providing all corrected
24 information and proof of ownership of the property. There is
25 no fee associated with the processing of this supplemental
26 information. A person may not contract to construct, modify,
27 alter, repair, service, abandon, or maintain any portion of an
28 onsite sewage treatment and disposal system without being
29 registered under part III of chapter 489. A property owner
30 who personally performs construction, maintenance, or repairs
31 to a system serving his or her own owner-occupied

1 single-family residence is exempt from registration
2 requirements for performing such construction, maintenance, or
3 repairs on that residence, but is subject to all permitting
4 requirements. A municipality or political subdivision of the
5 state may not issue a building or plumbing permit for any
6 building that requires the use of an onsite sewage treatment
7 and disposal system unless the owner or builder has received a
8 construction permit for such system from the department. A
9 building or structure may not be occupied and a municipality,
10 political subdivision, or any state or federal agency may not
11 authorize occupancy until the department approves the final
12 installation of the onsite sewage treatment and disposal
13 system. A municipality or political subdivision of the state
14 may not approve any change in occupancy or tenancy of a
15 building that uses an onsite sewage treatment and disposal
16 system until the department has reviewed the use of the system
17 with the proposed change, approved the change, and amended the
18 operating permit.

19 (t) Notwithstanding the provisions of subparagraph
20 (g)1.(f)1., onsite sewage treatment and disposal systems
21 located in floodways of the Suwannee and Aucilla Rivers must
22 adhere to the following requirements:

23 1. The absorption surface of the drainfield shall not
24 be subject to flooding based on 10-year flood elevations.
25 Provided, however, for lots or parcels created by the
26 subdivision of land in accordance with applicable local
27 government regulations prior to January 17, 1990, if an
28 applicant cannot construct a drainfield system with the
29 absorption surface of the drainfield at an elevation equal to
30 or above 10-year flood elevation, the department shall issue a
31 permit for an onsite sewage treatment and disposal system

1 within the 10-year floodplain of rivers, streams, and other
2 bodies of flowing water if all of the following criteria are
3 met:
4 a. The lot is at least one-half acre in size;
5 b. The bottom of the drainfield is at least 36 inches
6 above the 2-year flood elevation; and
7 c. The applicant installs either: a waterless,
8 incinerating, or organic waste composting toilet and a
9 graywater system and drainfield in accordance with department
10 rules; an aerobic treatment unit and drainfield in accordance
11 with department rules; a system approved by the State Health
12 Office that is capable of reducing effluent nitrate by at
13 least 50 percent; or a system approved by the county health
14 department pursuant to department rule other than a system
15 using alternative drainfield materials. The United States
16 Department of Agriculture Soil Conservation Service soil maps,
17 State of Florida Water Management District data, and Federal
18 Emergency Management Agency Flood Insurance maps are resources
19 that shall be used to identify flood-prone areas.
20 2. The use of fill or mounding to elevate a drainfield
21 system out of the 10-year floodplain of rivers, streams, or
22 other bodies of flowing water shall not be permitted if such a
23 system lies within a regulatory floodway of the Suwannee and
24 Aucilla Rivers. In cases where the 10-year flood elevation
25 does not coincide with the boundaries of the regulatory
26 floodway, the regulatory floodway will be considered for the
27 purposes of this subsection to extend at a minimum to the
28 10-year flood elevation.
29
30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of paragraphs of subsection (4)
3 by s. 1, ch. 99-395, Laws of Florida.
4

5 Section 21. Subsections (1) and (3), paragraph (a) of
6 subsection (5), and subsection (7) of section 381.0303,
7 Florida Statutes, are amended to read:

8 381.0303 Health practitioner recruitment for special
9 needs shelters.--

10 (1) PURPOSE.--The purpose of this section is to
11 designate the Department of Health, through its county health
12 departments, as the lead agency for coordination of the
13 recruitment of health care practitioners, as defined in s.
14 456.001(4)~~455.501(4)~~, to staff special needs shelters in
15 times of emergency or disaster and to provide resources to the
16 department to carry out this responsibility. However, nothing
17 in this section prohibits a county health department from
18 entering into an agreement with a local emergency management
19 agency to assume the lead responsibility for recruiting health
20 care practitioners.

21 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS.--The
22 Department of Health shall reimburse, subject to the
23 availability of funds for this purpose, health care
24 practitioners, as defined in s. 456.001 ~~455.501~~, provided the
25 practitioner is not providing care to a patient under an
26 existing contract, and emergency medical technicians and
27 paramedics licensed pursuant to chapter 401 for medical care
28 provided at the request of the department in special needs
29 shelters or at other locations during times of emergency or
30 major disaster. Reimbursement for health care practitioners,
31 except for physicians licensed pursuant to chapter 458 or

1 chapter 459, shall be based on the average hourly rate that
2 such practitioners were paid according to the most recent
3 survey of Florida hospitals conducted by the Florida Hospital
4 Association. Reimbursement shall be requested on forms
5 prepared by the Department of Health. If a Presidential
6 Disaster Declaration has been made, and the Federal Government
7 makes funds available, the department shall use such funds for
8 reimbursement of eligible expenditures. In other situations,
9 or if federal funds do not fully compensate the department for
10 reimbursement made pursuant to this section, the department
11 shall submit to the Cabinet or Legislature, as appropriate, a
12 budget amendment to obtain reimbursement from the working
13 capital fund. Travel expense and per diem costs shall be
14 reimbursed pursuant to s. 112.061.

15 (5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.--The
16 Department of Health may establish a special needs shelter
17 interagency committee, to be chaired and staffed by the
18 department. The committee shall resolve problems related to
19 special needs shelters not addressed in the state
20 comprehensive emergency medical plan and shall serve as an
21 oversight committee to monitor the planning and operation of
22 special needs shelters.

23 (a) The committee may:

24 ~~1. On or before January 1, 2001, resolve questions~~
25 ~~concerning the roles and responsibilities of state agencies~~
26 ~~and other organizations that are necessary to implement the~~
27 ~~program.~~

28 ~~2. On or before January 1, 2001, identify any issues~~
29 ~~requiring additional legislation and funding.~~

30 1.3. Develop and negotiate any necessary interagency
31 agreements.

1 2.4. Undertake other such activities as the department
2 deems necessary to facilitate the implementation of this
3 section.

4 3.5. Submit recommendations to the Legislature as
5 necessary.

6 (7) REVIEW OF EMERGENCY MANAGEMENT PLANS.--The
7 submission of emergency management plans to county health
8 departments by home health agencies pursuant to s.
9 400.497(8)(c) and (d)~~400.497(11)(c) and (d)~~ and by nurse
10 registries pursuant to s. 400.506(16)(e) and by hospice
11 programs pursuant to s. 400.610(1)(b) is conditional upon the
12 receipt of an appropriation by the department to establish
13 medical services disaster coordinator positions in county
14 health departments unless the secretary of the department and
15 a local county commission jointly determine to require such
16 plans to be submitted based on a determination that there is a
17 special need to protect public health in the local area during
18 an emergency.

19
20 Reviser's note.--Subsections (1) and (3) are
21 amended to conform to the redesignation of s.
22 455.501 as s. 456.001 by s. 36, ch. 2000-160,
23 Laws of Florida. Paragraph (5)(a) is amended to
24 delete provisions that have served their
25 purpose. Subsection (7) is amended to conform
26 to the redesignation of s. 400.497(11)(c) and
27 (d) as s. 400.497(8)(c) and (d) to conform to
28 s. 13, ch. 2000-140, Laws of Florida, and s.
29 160, ch. 2000-318, Laws of Florida.
30
31

1 Section 22. Subsection (4) and paragraph (c) of
2 subsection (7) of section 381.90, Florida Statutes, are
3 amended to read:

4 381.90 Health Information Systems Council; legislative
5 intent; creation, appointment, duties.--

6 (4) Members of the council who are appointed by the
7 Governor shall serve 2-year terms beginning January 1 through
8 December 31, ~~except that their initial term shall be July 1,~~
9 ~~1997, through December 31, 1998.~~ A member may be removed by
10 the Governor for cause or if such member is absent from three
11 consecutive meetings. Any member appointed to fill a vacancy
12 shall serve for the unexpired term of his or her predecessor.

13 (7) The council's duties and responsibilities include,
14 but are not limited to, the following:

15 (c) To develop a review process to ensure cooperative
16 planning among agencies that collect or maintain
17 health-related data. ~~The council shall submit a report on the~~
18 ~~implementation of this requirement to the Executive Office of~~
19 ~~the Governor, the President of the Senate, and the Speaker of~~
20 ~~the House of Representatives by January 1, 2000.~~

21
22 Reviser's note.--Amended to delete obsolete
23 provisions.

24
25 Section 23. Paragraph (g) of subsection (2) of section
26 383.0112, Florida Statutes, is repealed.

27
28 Reviser's note.--The cited paragraph relates to
29 a statewide symposium on responsible fatherhood
30 to be held no later than December 1996.

31

1 Section 24. Subsection (7) of section 383.50, Florida
2 Statutes, is amended to read:

3 383.50 Treatment of abandoned newborn infant.--

4 (7) Upon admitting a newborn infant under this
5 section, the hospital shall immediately contact a local
6 licensed child-placing agency or alternatively contact the
7 statewide central abuse hotline for the name of a licensed
8 child-placing agency for purposes of transferring physical
9 custody of the newborn infant. The hospital shall notify the
10 licensed child-placing agency that a newborn infant has been
11 left with the hospital and approximately when the licensed
12 child-placing agency can take physical custody of the child.
13 In cases where there is actual or suspected child abuse or
14 neglect, the hospital or any of its licensed health care
15 professionals shall report the actual or suspected child abuse
16 or neglect in accordance with ss. 39.201 ~~39.1023~~ and 395.1023
17 in lieu of contacting a licensed child-placing agency.

18
19 Reviser's note.--Amended to correct an apparent
20 error and conform to the correct citation of
21 the referenced material; there is no s.
22 39.1023.

23
24 Section 25. Paragraph (d) of subsection (1) of section
25 384.29, Florida Statutes, is amended to read:

26 384.29 Confidentiality.--

27 (1) All information and records held by the department
28 or its authorized representatives relating to known or
29 suspected cases of sexually transmissible diseases are
30 strictly confidential and exempt from the provisions of s.
31 119.07(1). Such information shall not be released or made

1 public by the department or its authorized representatives, or
2 by a court or parties to a lawsuit upon revelation by
3 subpoena, except under the following circumstances:

4 (d) When made in a medical emergency, but only to the
5 extent necessary to protect the health or life of a named
6 party, or an injured officer, firefighter, paramedic, or
7 emergency medical technician, ~~as provided in s. 796.08(6)~~; or

8
9 Reviser's note.--Amended to delete an obsolete
10 reference. Section 796.08(6) was repealed by s.
11 2, ch. 94-205, Laws of Florida.

12
13 Section 26. Subsection (1) of section 393.0641,
14 Florida Statutes, is amended to read:

15 393.0641 Program for the prevention and treatment of
16 severe self-injurious behavior.--

17 (1) ~~Effective July 1, 1990, and~~ Contingent upon
18 specific appropriations, there is created a diagnostic,
19 treatment, training, and research program for clients
20 exhibiting severe self-injurious behavior. This program
21 shall:

22 (a) Serve as a resource center for information,
23 training, and program development.

24 (b) Research the diagnosis and treatment of severe
25 self-injurious behavior, and related disorders, and develop
26 methods of prevention and treatment of self-injurious
27 behavior.

28 (c) Identify individuals in critical need.

29 (d) Develop treatment programs which are meaningful to
30 individuals with developmental disabilities, in critical need,
31

1 while safeguarding and respecting the legal and human rights
2 of the individuals.

3 (e) Disseminate research findings on the prevention
4 and treatment of severe self-injurious behavior.

5 (f) Collect data on the type, severity, incidence, and
6 demographics of individuals with severe self-injurious
7 behavior, and disseminate the data.

8

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

11

12 Section 27. Subsection (12) of section 394.875,
13 Florida Statutes, is amended to read:

14 394.875 Crisis stabilization units, residential
15 treatment facilities, and residential treatment centers for
16 children and adolescents; authorized services; license
17 required; penalties.--

18 (12) Notwithstanding the other provisions of this
19 section, any facility licensed under former chapter ~~chapters~~
20 396 and chapter 397 for detoxification, residential level I
21 care, and outpatient treatment may elect to license
22 concurrently all of the beds at such facility both for that
23 purpose and as a long-term residential treatment facility
24 pursuant to this section, if all of the following conditions
25 are met:

26 (a) The licensure application is received by the
27 department prior to January 1, 1993.

28 (b) On January 1, 1993, the facility was licensed
29 under former chapter ~~chapters~~ 396 and chapter 397 as a
30 facility for detoxification, residential level I care, and
31 outpatient treatment of substance abuse.

1 (c) The facility restricted its practice to the
2 treatment of law enforcement personnel for a period of at
3 least 12 months beginning after January 1, 1992.

4 (d) The number of beds to be licensed under this
5 chapter is equal to or less than the number of beds licensed
6 under former chapter ~~chapters~~ 396 and chapter 397 as of
7 January 1, 1993.

8 (e) The licensee agrees in writing to a condition
9 placed upon the license that the facility will limit its
10 treatment exclusively to law enforcement personnel and their
11 immediate families who are seeking admission on a voluntary
12 basis and who are exhibiting symptoms of posttraumatic stress
13 disorder or other mental health problems, including drug or
14 alcohol abuse, which are directly related to law enforcement
15 work and which are amenable to verbal treatment therapies; the
16 licensee agrees to coordinate the provision of appropriate
17 postresidential care for discharged individuals; and the
18 licensee further agrees in writing that a failure to meet any
19 condition specified in this paragraph shall constitute grounds
20 for a revocation of the facility's license as a residential
21 treatment facility.

22 (f) The licensee agrees that the facility will meet
23 all licensure requirements for a residential treatment
24 facility, including minimum standards for compliance with
25 lifesafety requirements, except those licensure requirements
26 which are in express conflict with the conditions and other
27 provisions specified in this subsection.

28 (g) The licensee agrees that the conditions stated in
29 this subsection must be agreed to in writing by any person
30 acquiring the facility by any means.

31

1 Any facility licensed under this subsection is not required to
2 provide any services to any persons except those included in
3 the specified conditions of licensure, and is exempt from any
4 requirements related to the 60-day or greater average length
5 of stay imposed on community-based residential treatment
6 facilities otherwise licensed under this chapter.

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

11
12 Section 28. Effective July 1, 2001, paragraph (a) of
13 subsection (1) of section 395.0163, Florida Statutes, as
14 amended by section 21 of chapter 2000-141, Laws of Florida, is
15 amended to read:

16 395.0163 Construction inspections; plan submission and
17 approval; fees.--

18 (1)(a) The design, construction, erection, alteration,
19 modification, repair, and demolition of all public and private
20 health care facilities are governed by the Florida Building
21 Code and the Florida Fire Prevention Code under ss. 553.73 and
22 633.022 ~~663.022~~. In addition to the requirements of ss. 553.79
23 and 553.80, the agency shall review facility plans and survey
24 the construction of any facility licensed under this chapter.
25 The agency shall make, or cause to be made, such construction
26 inspections and investigations as it deems necessary. The
27 agency may prescribe by rule that any licensee or applicant
28 desiring to make specified types of alterations or additions
29 to its facilities or to construct new facilities shall, before
30 commencing such alteration, addition, or new construction,
31 submit plans and specifications therefor to the agency for

1 preliminary inspection and approval or recommendation with
2 respect to compliance with applicable provisions of the
3 Florida Building Code or agency rules and standards. The
4 agency shall approve or disapprove the plans and
5 specifications within 60 days after receipt of the fee for
6 review of plans as required in subsection (2). The agency may
7 be granted one 15-day extension for the review period if the
8 director of the agency approves the extension. If the agency
9 fails to act within the specified time, it shall be deemed to
10 have approved the plans and specifications. When the agency
11 disapproves plans and specifications, it shall set forth in
12 writing the reasons for its disapproval. Conferences and
13 consultations may be provided as necessary.

14

15 Reviser's note.--Amended to correct an apparent
16 error and facilitate correct interpretation.

17 Section 663.022 does not exist. Section 633.022
18 relates to uniform firesafety standards.

19

20 Section 29. Subsection (2) of section 395.3036,
21 Florida Statutes, is amended to read:

22 395.3036 Confidentiality of records and meetings of
23 corporations that lease public hospitals or other public
24 health care facilities.--The records of a private corporation
25 that leases a public hospital or other public health care
26 facility are confidential and exempt from the provisions of s.
27 119.07(1) and s. 24(a), Art. I of the State Constitution, and
28 the meetings of the governing board of a private corporation
29 are exempt from s. 286.011 and s. 24(b), Art. I of the State
30 Constitution when the public lessor complies with the public
31 finance accountability provisions of s. 155.40(5) with respect

1 to the transfer of any public funds to the private lessee and
2 when the private lessee meets at least three of the five
3 following criteria:

4 (2) The public lessor and the private lessee do not
5 commingle any of their funds in any account maintained by
6 either of them, other than the payment of the rent and
7 administrative fees or the transfer of funds pursuant to this
8 section ~~subsection (2)~~.

9
10 Reviser's note.--Amended to correct an apparent
11 error and facilitate correct interpretation.
12 Committee Substitute for H.B. 3585, which
13 became ch. 98-330, Laws of Florida, was
14 substituted for C.S. for C.S. for S.B. 1044,
15 and ultimately amended to move language
16 regarding s. 155.40(5) with respect to transfer
17 of public funds which had been in s. 2 of C.S.
18 for S.B. 1044 to the introductory paragraph of
19 s. 395.3036. See Journal of the House of
20 Representatives 1998, p. 1679.

21
22 Section 30. Subsection (4) of section 395.4045,
23 Florida Statutes, is amended to read:

24 395.4045 Emergency medical service providers; trauma
25 transport protocols; transport of trauma alert victims to
26 trauma centers; interfacility transfer.--

27 (4) The department shall specify by rule the subjects
28 and the minimum criteria related to prehospital trauma
29 transport, trauma center or hospital destination
30 determinations, and interfacility trauma transfer transport by
31 an emergency medical services provider to be included in a

1 trauma agency's or emergency medical service provider's trauma
2 transport protocol and shall approve or disapprove each such
3 protocol. Trauma transport protocol rules pertaining to the
4 air transportation of trauma victims shall be consistent with,
5 but not limited to, applicable Federal Aviation Administration
6 regulation. Emergency medical services licensees and trauma
7 agencies shall be subject to monitoring by the department,
8 under ss. 395.401(3)~~395.401(4)~~ and 402.31(1) for compliance
9 with requirements, as applicable, regarding trauma transport
10 protocols and the transport of trauma victims.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of s. 395.401(4) as s. 395.401(3)
14 by s. 2, ch. 2000-189, Laws of Florida.

15

16 Section 31. Paragraphs (c) and (g) of subsection (2)
17 of section 395.602, Florida Statutes, are amended to read:

18 395.602 Rural hospitals.--

19 (2) DEFINITIONS.--As used in this part:

20 (c) "Inactive rural hospital bed" means a licensed
21 acute care hospital bed, as defined in s. 395.002(14)
22 ~~395.002(12)~~, that is inactive in that it cannot be occupied by
23 acute care inpatients.

24 (g) "Swing-bed" means a bed which can be used
25 interchangeably as either a hospital, skilled nursing facility
26 (SNF), or intermediate care facility (ICF) bed pursuant to 42
27 ~~C.F.R. the Code of Federal Regulations,~~ parts 405, 435, 440,
28 442, and 447.

29

30 Reviser's note.--Paragraph (2)(c) is amended to
31 conform to the redesignation of subunits of s.

1 395.002 to conform to s. 23, ch. 98-89, Laws of
2 Florida, and s. 37, ch. 98-171, Laws of
3 Florida. Paragraph (2)(g) is amended to conform
4 to the correct citation to the referenced
5 material.

6
7 Section 32. Paragraph (b) of subsection (2) of section
8 395.7015, Florida Statutes, is amended to read:

9 395.7015 Annual assessment on health care entities.--

10 (2) There is imposed an annual assessment against
11 certain health care entities as described in this section:

12 (b) For the purpose of this section, "health care
13 entities" include the following:

14 1. Ambulatory surgical centers and mobile surgical
15 facilities licensed under s. 395.003. This subsection shall
16 only apply to mobile surgical facilities operating under
17 contracts entered into on or after July 1, 1998.

18 2. Clinical laboratories licensed under s. 483.091,
19 excluding any hospital laboratory defined under s. 483.041(6)
20 ~~483.041(5)~~, any clinical laboratory operated by the state or a
21 political subdivision of the state, any clinical laboratory
22 which qualifies as an exempt organization under s. 501(c)(3)
23 of the Internal Revenue Code of 1986, as amended, and which
24 receives 70 percent or more of its gross revenues from
25 services to charity patients or Medicaid patients, and any
26 blood, plasma, or tissue bank procuring, storing, or
27 distributing blood, plasma, or tissue either for future
28 manufacture or research or distributed on a nonprofit basis,
29 and further excluding any clinical laboratory which is wholly
30 owned and operated by 6 or fewer physicians who are licensed
31 pursuant to chapter 458 or chapter 459 and who practice in the

1 same group practice, and at which no clinical laboratory work
2 is performed for patients referred by any health care provider
3 who is not a member of the same group.

4 3. Diagnostic-imaging centers that are freestanding
5 outpatient facilities that provide specialized services for
6 the identification or determination of a disease through
7 examination and also provide sophisticated radiological
8 services, and in which services are rendered by a physician
9 licensed by the Board of Medicine under s. 458.311, s.
10 458.313, or s. 458.317, or by an osteopathic physician
11 licensed by the Board of Osteopathic Medicine under s.
12 459.006, s. 459.007, or s. 459.0075. For purposes of this
13 paragraph, "sophisticated radiological services" means the
14 following: magnetic resonance imaging; nuclear medicine;
15 angiography; arteriography; computed tomography; positron
16 emission tomography; digital vascular imaging; bronchography;
17 lymphangiography; splenography; ultrasound, excluding
18 ultrasound providers that are part of a private physician's
19 office practice or when ultrasound is provided by two or more
20 physicians licensed under chapter 458 or chapter 459 who are
21 members of the same professional association and who practice
22 in the same medical specialties; and such other sophisticated
23 radiological services, excluding mammography, as adopted in
24 rule by the board.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of s. 483.041(5) as s. 483.041(6)
28 by s. 144, ch. 99-397, Laws of Florida.

29
30 Section 33. Section 397.405, Florida Statutes, is
31 reenacted to read:

1 397.405 Exemptions from licensure.--The following are
2 exempt from the licensing provisions of this chapter:

3 (1) A hospital or hospital-based component licensed
4 under chapter 395.

5 (2) A nursing home facility as defined in s.
6 400.021(12).

7 (3) A substance abuse education program established
8 pursuant to s. 233.061.

9 (4) A facility or institution operated by the Federal
10 Government.

11 (5) A physician licensed under chapter 458 or chapter
12 459.

13 (6) A psychologist licensed under chapter 490.

14 (7) A social worker, marriage and family therapist, or
15 mental health counselor licensed under chapter 491.

16 (8) An established and legally cognizable church or
17 nonprofit religious organization, denomination, or sect
18 providing substance abuse services, including prevention
19 services, which are exclusively religious, spiritual, or
20 ecclesiastical in nature. A church or nonprofit religious
21 organization, denomination, or sect providing any of the
22 licensable service components itemized under s. 397.311(19) is
23 not exempt for purposes of its provision of such licensable
24 service components but retains its exemption with respect to
25 all services which are exclusively religious, spiritual, or
26 ecclesiastical in nature.

27 (9) Facilities licensed under s. 393.063(8) that, in
28 addition to providing services to persons who are
29 developmentally disabled as defined therein, also provide
30 services to persons developmentally at risk as a consequence
31

1 of exposure to alcohol or other legal or illegal drugs while
2 in utero.

3 (10) DUI education and screening services required to
4 be attended pursuant to ss. 316.192, 316.193, 322.095,
5 322.271, and 322.291 are exempt from licensure under this
6 chapter. Treatment programs must continue to be licensed
7 under this chapter.

8
9 The exemptions from licensure in this section do not apply to
10 any facility or entity which receives an appropriation, grant,
11 or contract from the state to operate as a service provider as
12 defined in this chapter or to any substance abuse program
13 regulated pursuant to s. 397.406. No provision of this
14 chapter shall be construed to limit the practice of a
15 physician licensed under chapter 458 or chapter 459, a
16 psychologist licensed under chapter 490, or a psychotherapist
17 licensed under chapter 491, providing outpatient or inpatient
18 substance abuse treatment to a voluntary patient, so long as
19 the physician, psychologist, or psychotherapist does not
20 represent to the public that he or she is a licensed service
21 provider under this act. Failure to comply with any
22 requirement necessary to maintain an exempt status under this
23 section is a misdemeanor of the first degree, punishable as
24 provided in s. 775.082 or s. 775.083.

25
26 Reviser's note.--Section 9, ch. 2000-350, Laws
27 of Florida, purported to amend subsection (2),
28 but failed to republish the flush left language
29 at the end of the section. In the absence of
30 affirmative evidence that the Legislature
31 intended to repeal the flush left language, s.

1 397.405 is reenacted to confirm that the
2 omission was not intended.

3
4 Section 34. Section 400.0091, Florida Statutes, is
5 amended to read:

6 400.0091 Training.--The ombudsman shall provide
7 appropriate training to all employees of the Office of State
8 Long-Term Care Ombudsman and to the state and local long-term
9 care ombudsman councils, including all unpaid volunteers. ~~The~~
10 ~~ombudsman shall implement the training program no later than~~
11 ~~June 1, 1994.~~ No employee, officer, or representative of the
12 office or of the state or local long-term care ombudsman
13 councils, other than the ombudsman, may carry out any
14 authorized ombudsman duty or responsibility unless the person
15 has received the training required by this section and has
16 been approved by the ombudsman as qualified to carry out
17 ombudsman activities on behalf of the office or the state or
18 local long-term care ombudsman councils.

19
20 Reviser's note.--Amended to delete a provision
21 that has served its purpose.

22
23 Section 35. Subsection (3) of section 400.022, Florida
24 Statutes, is amended to read:

25 400.022 Residents' rights.--

26 (3) Any violation of the resident's rights set forth
27 in this section shall constitute grounds for action by the
28 agency under the provisions of s. 400.102. In order to
29 determine whether the licensee is adequately protecting
30 residents' rights, the annual inspection of the facility shall
31 include private informal conversations with a sample of

1 residents to discuss residents' experiences within the
2 facility with respect to rights specified in this section and
3 general compliance with standards, and consultation with the
4 ombudsman council in the local planning and service area of
5 the Department of Elderly Affairs in which the nursing home is
6 located.

7
8 Reviser's note.--Amended to improve clarity and
9 facilitate correct interpretation.

10
11 Section 36. Subsection (4) of section 400.023, Florida
12 Statutes, is amended to read:

13 400.023 Civil enforcement.--

14 (4) Claimants alleging a deprivation or infringement
15 of adequate and appropriate health care pursuant to s.
16 400.022(1)(l)~~400.022(1)(k)~~ which resulted in personal injury
17 to or the death of a resident shall conduct an investigation
18 which shall include a review by a licensed physician or
19 registered nurse familiar with the standard of nursing care
20 for nursing home residents pursuant to this part. Any
21 complaint alleging such a deprivation or infringement shall be
22 accompanied by a verified statement from the reviewer that
23 there exists reason to believe that a deprivation or
24 infringement occurred during the resident's stay at the
25 nursing home. Such opinion shall be based on records or other
26 information available at the time that suit is filed. Failure
27 to provide records in accordance with the requirements of this
28 chapter shall waive the requirement of the verified statement.

29
30 Reviser's note.--Amended to conform to the
31 redesignation of s. 400.022(1)(k) as s.

1 400.022(1)(1) by s. 3, ch. 93-217, Laws of
2 Florida.

3
4 Section 37. Section 400.141, Florida Statutes, is
5 amended to read:

6 400.141 Administration and management of nursing home
7 facilities.--Every licensed facility shall comply with all
8 applicable standards and rules of the agency and shall:

9 (1) Be under the administrative direction and charge
10 of a licensed administrator.

11 (2) Appoint a medical director licensed pursuant to
12 chapter 458 or chapter 459. The agency may establish by rule
13 more specific criteria for the appointment of a medical
14 director.

15 (3) Have available the regular, consultative, and
16 emergency services of physicians licensed by the state.

17 (4) Provide for resident use of a community pharmacy
18 as specified in s. 400.022(1)(q). Any other law to the
19 contrary notwithstanding, a registered pharmacist licensed in
20 Florida, that is under contract with a facility licensed under
21 this chapter, shall repackage a nursing facility resident's
22 bulk prescription medication which has been packaged by
23 another pharmacist licensed in any state in the United States
24 into a unit dose system compatible with the system used by the
25 nursing facility, if the pharmacist is requested to offer such
26 service. In order to be eligible for the repackaging, a
27 resident or the resident's spouse must receive prescription
28 medication benefits provided through a former employer as part
29 of his or her retirement benefits a qualified pension plan as
30 specified in s. 4972 of the Internal Revenue Code, a federal
31 retirement program as specified under 5 C.F.R. s. 831, or a

1 long-term care policy as defined in s. 627.9404(1). A
2 pharmacist who correctly repackages and relabels the
3 medication and the nursing facility which correctly
4 administers such repackaged medication under the provisions of
5 this subsection shall not be held liable in any civil or
6 administrative action arising from the repackaging. In order
7 to be eligible for the repackaging, a nursing facility
8 resident for whom the medication is to be repackaged shall
9 sign an informed consent form provided by the facility which
10 includes an explanation of the repackaging process and which
11 notifies the resident of the immunities from liability
12 provided herein. A pharmacist who repackages and relabels
13 prescription medications, as authorized under this subsection,
14 may charge a reasonable fee for costs resulting from the
15 implementation of this provision.

16 (5) Provide for the access of the facility residents
17 to dental and other health-related services, recreational
18 services, rehabilitative services, and social work services
19 appropriate to their needs and conditions and not directly
20 furnished by the licensee. When a geriatric outpatient nurse
21 clinic is conducted in accordance with rules adopted by the
22 agency, outpatients attending such clinic shall not be counted
23 as part of the general resident population of the nursing home
24 facility, nor shall the nursing staff of the geriatric
25 outpatient clinic be counted as part of the nursing staff of
26 the facility, until the outpatient clinic load exceeds 15 a
27 day.

28 (6) Be allowed and encouraged by the agency to provide
29 other needed services under certain conditions. If the
30 facility has a standard licensure status, and has had no class
31 I or class II deficiencies during the past 2 years or has been

1 awarded a Gold Seal under the program established in s.
2 400.235, it may be encouraged by the agency to provide
3 services, including, but not limited to, respite and adult day
4 services, which enable individuals to move in and out of the
5 facility. A facility is not subject to any additional
6 licensure requirements for providing these services. Respite
7 care may be offered to persons in need of short-term or
8 temporary nursing home services. Respite care must be provided
9 in accordance with this part and rules adopted by the agency.
10 However, the agency shall, by rule, adopt modified
11 requirements for resident assessment, resident care plans,
12 resident contracts, physician orders, and other provisions, as
13 appropriate, for short-term or temporary nursing home
14 services. The agency shall allow for shared programming and
15 staff in a facility which meets minimum standards and offers
16 services pursuant to this subsection, but, if the facility is
17 cited for deficiencies in patient care, may require additional
18 staff and programs appropriate to the needs of service
19 recipients. A person who receives respite care may not be
20 counted as a resident of the facility for purposes of the
21 facility's licensed capacity unless that person receives
22 24-hour respite care. A person receiving either respite care
23 for 24 hours or longer or adult day services must be included
24 when calculating minimum staffing for the facility. Any costs
25 and revenues generated by a nursing home facility from
26 nonresidential programs or services shall be excluded from the
27 calculations of Medicaid per diems for nursing home
28 institutional care reimbursement.

29 (7) If the facility has a standard licensure status or
30 is a Gold Seal facility, exceeds minimum staffing standards,
31 and is part of a retirement community that offers other

1 services pursuant to part III, part IV, or part V, be allowed
2 to share programming and staff. At the time of relicensure, a
3 retirement community that uses this option must demonstrate
4 through staffing records that minimum staffing requirements
5 for the facility were exceeded.

6 (8) Maintain the facility premises and equipment and
7 conduct its operations in a safe and sanitary manner.

8 (9) If the licensee furnishes food service, provide a
9 wholesome and nourishing diet sufficient to meet generally
10 accepted standards of proper nutrition for its residents and
11 provide such therapeutic diets as may be prescribed by
12 attending physicians. In making rules to implement this
13 subsection, the agency shall be guided by standards
14 recommended by nationally recognized professional groups and
15 associations with knowledge of dietetics.

16 (10) Keep full records of resident admissions and
17 discharges; medical and general health status, including
18 medical records, personal and social history, and identity and
19 address of next of kin or other persons who may have
20 responsibility for the affairs of the residents; and
21 individual resident care plans including, but not limited to,
22 prescribed services, service frequency and duration, and
23 service goals. The records shall be open to inspection by the
24 agency.

25 (11) Keep such fiscal records of its operations and
26 conditions as may be necessary to provide information pursuant
27 to this part.

28 (12) Furnish copies of personnel records for employees
29 affiliated with such facility, to any other facility licensed
30 by this state requesting this information pursuant to this
31 part. Such information contained in the records may include,

1 but is not limited to, disciplinary matters and any reason for
2 termination. Any facility releasing such records pursuant to
3 this part shall be considered to be acting in good faith and
4 may not be held liable for information contained in such
5 records, absent a showing that the facility maliciously
6 falsified such records.

7 (13) Publicly display a poster provided by the agency
8 containing the names, addresses, and telephone numbers for the
9 state's abuse hotline, the State Long-Term Care Ombudsman, the
10 Agency for Health Care Administration consumer hotline, the
11 Advocacy Center for Persons with Disabilities, the Florida
12 Statewide Advocacy Council, and the Medicaid Fraud Control
13 Unit, with a clear description of the assistance to be
14 expected from each.

15

16 Facilities that have been awarded a Gold Seal under the
17 program established in s. 400.235 may develop a plan to
18 provide certified nursing assistant training as prescribed by
19 federal regulations and state rules and may apply to the
20 agency for approval of their ~~its~~ program.

21

22 Reviser's note.--Amended to improve clarity and
23 facilitate correct interpretation.

24

25 Section 38. Paragraph (a) of subsection (2) of section
26 400.408, Florida Statutes, is amended to read:

27 400.408 Unlicensed facilities; referral of person for
28 residency to unlicensed facility; penalties; verification of
29 licensure status.--

30 (2) It is unlawful to knowingly refer a person for
31 residency to an unlicensed assisted living facility; to an

1 assisted living facility the license of which is under denial
2 or has been suspended or revoked; or to an assisted living
3 facility that has a moratorium on admissions. Any person who
4 violates this subsection commits a noncriminal violation,
5 punishable by a fine not exceeding \$500 as provided in s.
6 775.083.

7 (a) Any health care practitioner, as defined in s.
8 456.001 ~~455.501~~, which is aware of the operation of an
9 unlicensed facility shall report that facility to the agency.
10 Failure to report a facility that the practitioner knows or
11 has reasonable cause to suspect is unlicensed shall be
12 reported to the practitioner's licensing board.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 455.501 as s. 456.001 by s.
16 36, ch. 2000-160, Laws of Florida.

17
18 Section 39. Paragraph (b) of subsection (5) of section
19 400.464, Florida Statutes, is amended to read:

20 400.464 Home health agencies to be licensed;
21 expiration of license; exemptions; unlawful acts; penalties.--

22 (5) The following are exempt from the licensure
23 requirements of this part:

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

- 26 1. The Department of Elderly Affairs.
27 2. The Department of Health, a community health
28 center, or a rural health network that furnishes home visits
29 for the purpose of providing environmental assessments, case
30 management, health education, personal care services, family
31

1 | planning, or followup treatment, or for the purpose of
2 | monitoring and tracking disease.

3 | 3. Services provided to persons who have developmental
4 | disabilities, as defined in s. 393.063(12)~~393.063(11)~~.

5 | 4. Companion and sitter organizations that were
6 | registered under s. 400.509(1) on January 1, 1999, and were
7 | authorized to provide personal services under s. 393.063(33)
8 | under a developmental services provider certificate on January
9 | 1, 1999, may continue to provide such services to past,
10 | present, and future clients of the organization who need such
11 | services, notwithstanding the provisions of this act.

12 | 5. The Department of Children and Family Services.

13 |

14 | Reviser's note.--Amended to conform to the
15 | redesignation of subunits of s. 393.063 by s.
16 | 23, ch. 98-171, Laws of Florida.

17 |

18 | Section 40. Paragraph (d) of subsection (12) of
19 | section 400.980, Florida Statutes, is amended to read:

20 | 400.980 Health care services pools.--

21 | (12)

22 | (d) If financial responsibility requirements are met
23 | by maintaining an escrow account or letter of credit, as
24 | provided in this section, upon the entry of an adverse final
25 | judgment arising from a medical malpractice arbitration award
26 | from a claim of medical malpractice either in contract or
27 | tort, or from noncompliance with the terms of a settlement
28 | agreement arising from a claim of medical malpractice either
29 | in contract or tort, the financial institution holding the
30 | escrow account or the letter of credit shall pay directly to
31 | the claimant the entire amount of the judgment together with

1 all accrued interest or the amount maintained in the escrow
2 account or letter of credit as required by this section,
3 whichever is less, within 60 days after the date such judgment
4 became final and subject to execution, unless otherwise
5 mutually agreed to in writing by the parties. If timely
6 payment is not made, the agency shall suspend the registration
7 of the pool pursuant to procedures set forth by the agency
8 ~~department~~ through rule. Nothing in this paragraph shall
9 abrogate a judgment debtor's obligation to satisfy the entire
10 amount of any judgment.

11

12 Reviser's note.--Amended to improve clarity and
13 facilitate correct interpretation. Rulemaking
14 authority relating to suspension of
15 registration is granted to the Agency for
16 Health Care Administration in s. 400.980(13).

17

18 Section 41. Subsection (2) of section 402.166, Florida
19 Statutes, is amended to read:

20 402.166 Florida local advocacy councils; confidential
21 records and meetings.--

22 (2) Each local council shall have no fewer than 7
23 members and no more than 15 members, no more than 4 of whom
24 are or have been recipients of one or more client services
25 within the last 4 years, except that one member of this group
26 may be an immediate relative or legal representative of a
27 current or former client; two providers who deliver client
28 services as defined in s. 402.164(2); and two representatives
29 of professional organizations, one of whom represents the
30 health-related professions and one of whom represents the
31 legal profession. Priority of consideration shall be given to

1 the appointment of at least one medical or osteopathic
2 physician, as defined in chapters 458 and 459, and one member
3 in good standing of The Florida Bar. Priority of consideration
4 shall also be given to the appointment of an individual who is
5 receiving client services and whose primary interest,
6 experience, or expertise lies with a major client group not
7 represented on the council ~~committee~~ at the time of the
8 appointment. A person who is employed in client services by
9 any state agency may not be appointed to the council. No more
10 than three individuals who are providing contracted services
11 for clients to any state agency may serve on the same local
12 council at the same time. Persons related to each other by
13 consanguinity or affinity within the third degree may not
14 serve on the same local council at the same time. All members
15 of local councils must successfully complete a standardized
16 training course for council members within 3 months after
17 their appointment to a local council. A member may not be
18 assigned to an investigation that requires access to
19 confidential information prior to the completion of the
20 training course. After he or she completes the required
21 training course, a member of a local council may not be
22 prevented from participating in any activity of that local
23 council, including investigations and monitoring, except due
24 to a conflict of interest as described in the procedures
25 established by the statewide council pursuant to subsection
26 (7).

27
28 Reviser's note.--Amended to conform to the
29 redesignation of district human rights advocacy
30 committees as local advocacy councils by s. 3,
31 ch. 2000-263, Laws of Florida.

1 Section 42. Paragraph (b) of subsection (4) of section
2 402.28, Florida Statutes, is amended to read:

3 402.28 Child Care Plus.--

4 (4)

5 (b) Each child care facility, home, or agency
6 representing a network of family day care homes wishing to
7 apply for ~~a Child Care Plus grant shall submit a grant~~
8 ~~proposal for funding the department no later than March 1,~~
9 ~~1990. Thereafter, each such facility, home, or agency wishing~~
10 ~~to apply for~~ continued funding through an annual Child Care
11 Plus grant shall apply to the department no later than March 1
12 of each year.

13
14 Reviser's note.--Amended to delete a provision
15 that has served its purpose.

16
17 Section 43. Paragraph (b) of subsection (2) of section
18 402.50, Florida Statutes, is repealed, and paragraph (a) of
19 subsection (2) of that section is amended to read:

20 402.50 Administrative infrastructure; legislative
21 intent; establishment of standards.--

22 (2) ADMINISTRATIVE INFRASTRUCTURE STANDARDS.--

23 (a) The department, in conjunction with the Department
24 of Management Services and the Governor's Office of Planning
25 and Budgeting, shall develop standards for administrative
26 infrastructure funding and staffing to support the department
27 and contract service providers in the execution of their
28 duties and responsibilities. ~~A report of recommended~~
29 ~~standards shall be submitted to the Governor, the President of~~
30 ~~the Senate, the Speaker of the House of Representatives, the~~
31

1 ~~minority leaders of the Senate and House, and the chairpersons~~
2 ~~of appropriate House and Senate committees by October 1, 1992.~~

3
4 Reviser's note.--Paragraph (2)(a) is amended to
5 delete an obsolete provision. Paragraph (2)(b)
6 provides that the former Department of Health
7 and Rehabilitative Services was to submit, by
8 October 1, 1991, a task analysis,
9 implementation plan, and schedule for
10 development of administrative infrastructure
11 standards to the Economic and Demographic
12 Research Division of the former Joint
13 Legislative Management Committee, which entity
14 was to review and submit comments regarding
15 same to the appropriations committees by
16 December 1, 1991.

17
18 Section 44. Paragraph (a) of subsection (13) of
19 section 403.031, Florida Statutes, is amended to read:

20 403.031 Definitions.--In construing this chapter, or
21 rules and regulations adopted pursuant hereto, the following
22 words, phrases, or terms, unless the context otherwise
23 indicates, have the following meanings:

24 (13) "Waters" include, but are not limited to, rivers,
25 lakes, streams, springs, impoundments, wetlands, and all other
26 waters or bodies of water, including fresh, brackish, saline,
27 tidal, surface, or underground waters. Waters owned entirely
28 by one person other than the state are included only in regard
29 to possible discharge on other property or water. Underground
30 waters include, but are not limited to, all underground waters
31 passing through pores of rock or soils or flowing through in

1 channels, whether manmade or natural. Solely for purposes of
2 s. 403.0885, waters of the state also include navigable waters
3 or waters of the contiguous zone as used in s. 502 of the
4 Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., as in
5 existence on January 1, 1993, except for those navigable
6 waters seaward of the boundaries of the state set forth in s.
7 1, Art. II of the State Constitution. Solely for purposes of
8 this chapter, waters of the state also include the area
9 bounded by the following:

10 (a) Commence at the intersection of State Road (SRD) 5
11 (U.S. 1) and the county line dividing Dade and Monroe
12 Counties, said point also being the mean high-water line of
13 Florida Bay, located in section 4, township 60 south, range 39
14 east of the Tallahassee Meridian for the point of beginning.
15 From said point of beginning, thence run northwesterly along
16 said SRD 5 to an intersection with the north line of section
17 18, township 58 south, range 39 east; thence run westerly to a
18 point marking the southeast corner of section 12, township 58
19 south, range 37 east, said point also lying on the east
20 boundary of the Everglades National Park; thence run north
21 along the east boundary of the aforementioned Everglades
22 National Park to a point marking the northeast corner of
23 section 1, township 58 south, range 37 east; thence run west
24 along said park to a point marking the northwest corner of
25 said section 1; thence run northerly along said park to a
26 point marking the northwest corner of section 24, township 57
27 south, range 37 east; thence run westerly along the south
28 lines of sections 14, 15, and 16 to the southwest corner of
29 section 16; thence leaving the Everglades National Park
30 boundary run northerly along the west line of section 16 to
31 the northwest corner of section 16; thence east along the

1 northerly line of section 16 to a point at the intersection of
2 the east one-half and west one-half of section 9; thence
3 northerly along the line separating the east one-half and the
4 west one-half of sections 9, 4, 33, and 28; thence run
5 easterly along the north line of section 28 to the northeast
6 corner of section 28; thence run northerly along the west line
7 of section 22 to the northwest corner of section 22; thence
8 easterly along the north line of section 22 to a point at the
9 intersection of the east one-half and west one-half of section
10 15; thence run northerly along said line to the point of
11 intersection with the north line of section 15; thence
12 easterly along the north line of section 15 to the northeast
13 corner of section 15; thence run northerly along the west
14 lines of sections 11 and 2 to the northwest corner of section
15 2; thence run easterly along the north lines of sections 2 and
16 1 to the northeast corner of section 1, township 56 south,
17 range 37 east; thence run north along the east line of section
18 36, township 55 south, range 37 east to the northeast corner
19 of section 36; thence run west along the north line of section
20 36 to the northwest corner of section 36; thence run north
21 along the west line of section 25 to the northwest corner of
22 section 25; thence run west along the north line of section 26
23 to the northwest corner of section 26; thence run north along
24 the west line of section 23 to the northwest corner of section
25 23; thence run easterly along the north line of section 23 to
26 the northeast corner of section 23; thence run north along the
27 west line of section 13 to the northwest corner of section 13;
28 thence run east along the north line of section 13 to a point
29 of intersection with the west line of the southeast
30 one-quarter of section 12; thence run north along the west
31 line of the southeast one-quarter of section 12 to the

1 northwest corner of the southeast one-quarter of section 12;
2 thence run east along the north line of the southeast
3 one-quarter of section 12 to the point of intersection with
4 the east line of section 12; thence run east along the south
5 line of the northwest one-quarter of section 7 to the
6 southeast corner of the northwest one-quarter of section 7;
7 thence run north along the east line of the northwest
8 one-quarter of section 7 to the point of intersection with the
9 north line of section 7; thence run northerly along the west
10 line of the southeast one-quarter of section 6 to the
11 northwest corner of the southeast one-quarter of section 6;
12 thence run east along the north lines of the southeast
13 one-quarter of section 6 and the southwest one-quarter of
14 section 5 to the northeast corner of the southwest one-quarter
15 of section 5; thence run northerly along the east line of the
16 northwest one-quarter of section 5 to the point of
17 intersection with the north line of section 5; thence run
18 northerly along the line dividing the east one-half and the
19 west one-half of Lot 5 to a point intersecting the north line
20 of Lot 5; thence run east along the north line of Lot 5 to the
21 northeast corner of Lot 5, township 54 1/2 south, range 38
22 east; thence run north along the west line of section 33,
23 township 54 south, range 38 east to a point intersecting the
24 northwest corner of the southwest one-quarter of section 33;
25 thence run easterly along the north line of the southwest
26 one-quarter of section 33 to the northeast corner of the
27 southwest one-quarter of section 33; thence run north along
28 the west line of the northeast one-quarter of section 33 to a
29 point intersecting the north line of section 33; thence run
30 easterly along the north line of section 33 to the northeast
31 corner of section 33; thence run northerly along the west line

1 of section 27 to a point intersecting the northwest corner of
2 the southwest one-quarter of section 27; thence run easterly
3 to the northeast corner of the southwest one-quarter of
4 section 27; thence run northerly along the west line of the
5 northeast one-quarter of section 27 to a point intersecting
6 the north line of section 27; thence run west along the north
7 line of section 27 to the northwest corner of section 27;
8 thence run north along the west lines of sections 22 and 15 to
9 the northwest corner of section 15; thence run easterly along
10 the north lines of sections 15 and 14 to the point of
11 intersection with the L-31N Levee, said intersection located
12 near the southeast corner of section 11, township 54 south,
13 range 38 east; thence run northerly along Levee L-31N crossing
14 SRD 90 (U.S. 41 Tamiami Trail) to an intersection common to
15 Levees L-31N, L-29, and L-30, said intersection located near
16 the southeast corner of section 2, township 54 south, range 38
17 east; thence run northeasterly, northerly, and northeasterly
18 along Levee L-30 to a point of intersection with the
19 Dade/Broward Levee, said intersection located near the
20 northeast corner of section 17, township 52 south, range 39
21 east; thence run due east to a point of intersection with SRD
22 27 (Krome Ave.); thence run northeasterly along SRD 27 to an
23 intersection with SRD 25 (U.S. 27), said intersection located
24 in section 3, township 52 south, range 39 east; thence run
25 northerly along said SRD 25, entering into Broward County, to
26 an intersection with SRD 84 at Andytown; thence run
27 southeasterly along the aforementioned SRD 84 to an
28 intersection with the southwesterly prolongation of Levee
29 L-35A, said intersection being located in the northeast
30 one-quarter of section 5, township 50 south, range 40 east;
31 thence run northeasterly along Levee L-35A to an intersection

1 of Levee L-36, said intersection located near the southeast
2 corner of section 12, township 49 south, range 40 east; thence
3 run northerly along Levee L-36, entering into Palm Beach
4 County, to an intersection common to said Levees L-36, L-39,
5 and L-40, said intersection located near the west quarter
6 corner of section 19, township 47 south, range 41 east; thence
7 run northeasterly, easterly, and northerly along Levee L-40,
8 said Levee L-40 being the easterly boundary of the Loxahatchee
9 National Wildlife Refuge, to an intersection with SRD 80 (U.S.
10 441), said intersection located near the southeast corner of
11 section 32, township 43 south, range 40 east; thence run
12 westerly along the aforementioned SRD 80 to a point marking
13 the intersection of said road and the northeasterly
14 prolongation of Levee L-7, said Levee L-7 being the westerly
15 boundary of the Loxahatchee National Wildlife Refuge; thence
16 run southwesterly and southerly along said Levee L-7 to an
17 intersection common to Levees L-7, L-15 (Hillsborough Canal),
18 and L-6; thence run southwesterly along Levee L-6 to an
19 intersection common to Levee L-6, SRD 25 (U.S. 27), and Levee
20 L-5, said intersection being located near the northwest corner
21 of section 27, township 47 south, range 38 east; thence run
22 westerly along the aforementioned Levee L-5 to a point
23 intersecting the east line of range 36 east; thence run
24 northerly along said range line to a point marking the
25 northeast corner of section 1, township 47 south, range 36
26 east; thence run westerly along the north line of township 47
27 south, to an intersection with Levee L-23/24 (Miami Canal);
28 thence run northwesterly along the Miami Canal Levee to a
29 point intersecting the north line of section 22, township 46
30 south, range 35 east; thence run westerly to a point marking
31 the northwest corner of section 21, township 46 south, range

1 35 east; thence run southerly to the southwest corner of said
2 section 21; thence run westerly to a point marking the
3 northwest corner of section 30, township 46 south, range 35
4 east, said point also being on the line dividing Palm Beach
5 and Hendry Counties; from said point, thence run southerly
6 along said county line to a point marking the intersection of
7 Broward, Hendry, and Collier Counties, said point also being
8 the northeast corner of section 1, township 49 south, range 34
9 east; thence run westerly along the line dividing Hendry and
10 Collier Counties and continuing along the prolongation thereof
11 to a point marking the southwest corner of section 36,
12 township 48 south, range 29 east; thence run southerly to a
13 point marking the southwest corner of section 12, township 49
14 south, range 29 east; thence run westerly to a point marking
15 the southwest corner of section 10, township 49 south, range
16 29 east; thence run southerly to a point marking the southwest
17 corner of section 15, township 49 south, range 29 east; thence
18 run westerly to a point marking the northwest corner of
19 section 24, township 49 south, range 28 east, said point lying
20 on the west boundary of the Big Cypress Area of Critical State
21 Concern as described in rule 28-25.001 ~~27F-3~~, Florida
22 Administrative Code; thence run southerly along said boundary
23 crossing SRD 84 (Alligator Alley) to a point marking the
24 southwest corner of section 24, township 50 south, range 28
25 east; thence leaving the aforementioned west boundary of the
26 Big Cypress Area of Critical State Concern run easterly to a
27 point marking the northeast corner of section 25, township 50
28 south, range 28 east; thence run southerly along the east line
29 of range 28 east to a point lying approximately 0.15 miles
30 south of the northeast corner of section 1, township 52 south,
31 range 28 east; thence run southwesterly 2.4 miles more or less

1 to an intersection with SRD 90 (U.S. 41 Tamiami Trail), said
2 intersection lying 1.1 miles more or less west of the east
3 line of range 28 east; thence run northwesterly and westerly
4 along SRD 90 to an intersection with the west line of section
5 10, township 52 south, range 28 east; thence leaving SRD 90
6 run southerly to a point marking the southwest corner of
7 section 15, township 52 south, range 28 east; thence run
8 westerly crossing the Faka Union Canal 0.6 miles more or less
9 to a point; thence run southerly and parallel to the Faka
10 Union Canal to a point located on the mean high-water line of
11 Faka Union Bay; thence run southeasterly along the mean
12 high-water line of the various bays, rivers, inlets, and
13 streams to the point of beginning.

14

15 Reviser's note.--Amended to conform to the
16 redesignation of rule 27F-3 as rule 28-25.001,
17 Florida Administrative Code.

18

19 Section 45. Subsection (4) of section 403.714, Florida
20 Statutes, is amended to read:

21 403.714 Duties of state agencies.--

22 (4) The Department of Agriculture and Consumer
23 Services, in consultation with the Department of
24 Transportation, ~~the Department of Commerce,~~ and the
25 department, and appropriate trade associations, shall
26 undertake to stimulate the development of sustainable state
27 markets for compost through demonstration projects and other
28 approaches the Department of Agriculture and Consumer Services
29 may develop.

30

31

1 Reviser's note.--Amended to delete obsolete
2 language. Section 20.17, which created the
3 Department of Commerce, was repealed by s. 3,
4 ch. 96-320, Laws of Florida.

5
6 Section 46. Paragraph (b) of subsection (3) of section
7 403.718, Florida Statutes, is amended to read:

8 403.718 Waste tire fees.--

9 (3)

10 (b) The Department of Revenue, ~~under the applicable~~
11 ~~rules of the Career Service Commission,~~ is authorized to
12 employ persons and incur other expenses for which funds are
13 appropriated by the Legislature. The department is empowered
14 to adopt such rules and shall prescribe and publish such forms
15 as may be necessary to effectuate the purposes of this
16 section. The department is authorized to establish audit
17 procedures and to assess delinquent fees.

18
19 Reviser's note.--Amended to delete language
20 that has served its purpose. The Career Service
21 Commission was repealed by s. 87, ch. 86-163,
22 Laws of Florida.

23
24 Section 47. Subsection (5) of section 403.7191,
25 Florida Statutes, is amended to read:

26 403.7191 Toxics in packaging.--

27 (5) CERTIFICATE OF COMPLIANCE.--Each manufacturer or
28 distributor of a package or packaging component shall provide,
29 if required, to the purchaser of such package or packaging
30 component, a certificate of compliance stating that the
31 package or packaging component is in compliance with the

1 provisions of this section. If compliance is achieved under
2 any of the exemptions provided in paragraph (4)(b) ~~or~~
3 ~~paragraph (4)(c)~~, the certificate shall state the specific
4 basis upon which the exemption is claimed. The certificate of
5 compliance shall be signed by an authorized official of the
6 manufacturing or distributing company. The manufacturer or
7 distributor shall retain the certificate of compliance for as
8 long as the package or packaging component is in use. A copy
9 of the certificate of compliance shall be kept on file by the
10 manufacturer or distributor of the package or packaging
11 component for at least 3 years from the date of the last sale
12 or distribution by the manufacturer or distributor.
13 Certificates of compliance, or copies thereof, shall be
14 furnished within 60 days to the department upon the
15 department's request. If the manufacturer or distributor of
16 the package or packaging component reformulates or creates a
17 new package or packaging component, including a reformulation
18 or creation to meet the maximum levels set forth in subsection
19 (3), the manufacturer or distributor shall provide an amended
20 or new certificate of compliance for the reformulated or new
21 package or packaging component.

22

23 Reviser's note.--Amended to conform to the
24 repeal of paragraph (4)(c) by s. 41, ch. 99-5,
25 Laws of Florida.

26

27 Section 48. Subsection (7) of section 403.7192,
28 Florida Statutes, is amended to read:

29 403.7192 Batteries; requirements for consumer,
30 manufacturers, and sellers; penalties.--

31

1 (7) ~~On or before October 7, 1997, and annually~~
2 ~~thereafter, for a period of 3 years, cell manufacturers and~~
3 ~~marketers or their representative organization shall report to~~
4 ~~the department plans for the implementation of the~~
5 ~~requirements under subsection (6). The reports shall include~~
6 ~~estimates of the cadmium disposal reductions. Representative~~
7 ~~organizations of manufacturers shall supply to the department~~
8 ~~a list of those organization members for whom the association~~
9 ~~is conducting the unit management program.~~

10
11 Reviser's note.--Amended to delete a provision
12 that has served its purpose.

13
14 Section 49. Paragraph (b) of subsection (2) of section
15 403.854, Florida Statutes, is repealed.

16
17 Reviser's note.--The cited paragraph states
18 that proposed additions to existing treatment
19 plants not under contract for construction as
20 of July 1, 1977, are not automatically exempt
21 from specified requirements.

22
23 Section 50. Subsections (3), (4), and (5) of section
24 408.02, Florida Statutes, are amended to read:

25 408.02 Practice parameters.--

26 (3) The agency shall summarize the effectiveness and
27 cost of care outcomes for each diagnosis by hospital, by
28 district, by region, and across the state, as well as by any
29 other grouping which will facilitate the development of
30 clinically relevant practice parameters. The agency shall
31 make the report available to the public and all hospitals

1 throughout the state on an annual basis beginning December 31,
2 1994. The agency shall also make detail data submitted
3 pursuant to subsection (2)~~(3)~~ available for analysis by
4 others, subject to protection of confidentiality pursuant to
5 s. 408.061.

6 (4) The agency, in conjunction with the Florida
7 Medical Association, the Florida Chiropractic Association, the
8 Florida Osteopathic Medical Association, the Florida Podiatric
9 Medical Association, and other health professional
10 associations, and in conjunction with the respective boards
11 within the Division of Medical Quality Assurance, shall
12 develop and may adopt by rule state practice parameters based
13 on the data received under subsection (3)~~(4)~~ as well as on
14 nationally developed practice guidelines. However, practice
15 parameters adopted by rule shall not provide grounds for any
16 administrative action. The agency shall prioritize the
17 development of those practice parameters which involve the
18 greatest utilization of resources either because they are the
19 most costly or because they are the most frequently performed.
20 Prior to the development of practice parameters under this
21 subsection, the agency in conjunction with the various health
22 professional associations may proceed with the development of
23 state practice parameters based on nationally developed
24 practice guidelines.

25 (5) The agency, in conjunction with the appropriate
26 health professional associations shall develop and may adopt
27 by rule practice parameters for services provided by
28 diagnostic-imaging centers, radiation therapy services,
29 clinical laboratory services, physical therapy services, and
30 comprehensive rehabilitative services. ~~Practice parameters~~

31

1 ~~applicable to diagnostic imaging services shall be developed~~
2 ~~by December 31, 1993.~~

3
4 Reviser's note.--Subsections (3) and (4) are
5 amended to conform to the redesignation of
6 subunits of s. 408.02 necessitated by the
7 repeal of former subsection (2) by s. 22, ch.
8 95-146, Laws of Florida. Subsection (5) is
9 amended to delete a provision that has served
10 its purpose.

11
12 Section 51. Section 408.0361, Florida Statutes, is
13 amended to read:

14 408.0361 Diagnostic cardiac catheterization services
15 providers; compliance with guidelines and requirements.--Each
16 provider of diagnostic cardiac catheterization services shall
17 comply with the requirements of s. 408.036(3)(i)2.a.-d.
18 ~~408.036(3)(n)2.a.-d.~~, and rules of the Agency for Health Care
19 Administration governing the operation of adult inpatient
20 diagnostic cardiac catheterization programs, including the
21 most recent guidelines of the American College of Cardiology
22 and American Heart Association Guidelines for Cardiac
23 Catheterization and Cardiac Catheterization Laboratories.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of paragraphs of s. 408.036(3) by
27 s. 7, ch. 2000-256, Laws of Florida, and s. 8,
28 ch. 2000-318, Laws of Florida.

29
30 Section 52. Paragraph (c) of subsection (3) of section
31 409.145, Florida Statutes, is amended to read:

1 409.145 Care of children.--

2 (3)

3 (c)1. The department is authorized to provide the
4 services of the children's foster care program to an
5 individual who is enrolled full-time in a postsecondary
6 vocational-technical education program, full-time in a
7 community college program leading toward a vocational degree
8 or an associate degree, or full-time in a university or
9 college, if the following requirements are met:

10 a. The individual was committed to the legal custody
11 of the department for placement in foster care as a dependent
12 child;

13 b. The permanency planning goal pursuant to part VIII
14 ~~VII~~ of chapter 39 for the individual is long-term foster care
15 or independent living;

16 c. The individual has been accepted for admittance to
17 a postsecondary vocational-technical education program, to a
18 community college, or to a university or college;

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

22 e. A written service agreement which specifies
23 responsibilities and expectations for all parties involved has
24 been signed by a representative of the department, the
25 individual, and the foster parent or licensed child-caring
26 agency providing the placement resources, if the individual is
27 to continue living with the foster parent or placement
28 resource while attending a postsecondary vocational-technical
29 education program, community college, or university or
30 college. An individual who is to be continued in or placed in
31 independent living shall continue to receive services

1 according to the independent living program and agreement of
2 responsibilities signed by the department and the individual.

3 2. Any provision of this chapter or any other law to
4 the contrary notwithstanding, when an individual who meets the
5 requirements of subparagraph 1. is in attendance at a
6 community college, college, or university, the department may
7 make foster care payments to such community college, college,
8 or university in lieu of payment to the foster parents or
9 individual, for the purpose of room and board, if not
10 otherwise provided, but such payments shall not exceed the
11 amount that would have been paid to the foster parents had the
12 individual remained in the foster home.

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

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

18 b. Two consecutive years or four semesters for an
19 individual enrolled in a community college unless the
20 individual is participating in college preparatory instruction
21 or is requiring additional time to complete the college-level
22 communication and computation skills testing program, in which
23 case such services shall continue for not more than 3
24 consecutive years or six semesters; or

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

1 4.a. As a condition for continued foster care
2 services, an individual shall have earned a grade point
3 average of at least 2.0 on a 4.0 scale for the previous term,
4 maintain at least an overall grade point average of 2.0 for
5 only the previous term, and be eligible for continued
6 enrollment in the institution. If the postsecondary
7 vocational-technical school program does not operate on a
8 grade point average as described above, then the individual
9 shall maintain a standing equivalent to the 2.0 grade point
10 average.

11 b. Services shall be terminated upon completion of,
12 graduation from, or withdrawal or permanent expulsion from a
13 postsecondary vocational-technical education program,
14 community college, or university or college. Services shall
15 also be terminated for failure to maintain the required level
16 of academic achievement.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of part VII of chapter 39 as part
20 VIII by s. 22, ch. 2000-139, Laws of Florida.

21
22 Section 53. Section 409.1685, Florida Statutes, is
23 amended to read:

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

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

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

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

8 (a) The number of termination of parental rights
9 proceedings initiated pursuant to s. 39.703; and

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

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

14
15 Reviser's note.--Amended to conform to the
16 redesignation of part VIII of chapter 39 as
17 part X by s. 22, ch. 2000-139, Laws of Florida.

18
19 Section 54. Paragraph (a) of subsection (1) and
20 paragraph (b) of subsection (2) of section 409.908, Florida
21 Statutes, are amended to read:

22 409.908 Reimbursement of Medicaid providers.--Subject
23 to specific appropriations, the agency shall reimburse
24 Medicaid providers, in accordance with state and federal law,
25 according to methodologies set forth in the rules of the
26 agency and in policy manuals and handbooks incorporated by
27 reference therein. These methodologies may include fee
28 schedules, reimbursement methods based on cost reporting,
29 negotiated fees, competitive bidding pursuant to s. 287.057,
30 and other mechanisms the agency considers efficient and
31 effective for purchasing services or goods on behalf of

1 recipients. Payment for Medicaid compensable services made on
2 behalf of Medicaid eligible persons is subject to the
3 availability of moneys and any limitations or directions
4 provided for in the General Appropriations Act or chapter 216.
5 Further, nothing in this section shall be construed to prevent
6 or limit the agency from adjusting fees, reimbursement rates,
7 lengths of stay, number of visits, or number of services, or
8 making any other adjustments necessary to comply with the
9 availability of moneys and any limitations or directions
10 provided for in the General Appropriations Act, provided the
11 adjustment is consistent with legislative intent.

12 (1) Reimbursement to hospitals licensed under part I
13 of chapter 395 must be made prospectively or on the basis of
14 negotiation.

15 (a) Reimbursement for inpatient care is limited as
16 provided for in s. 409.905(5), except for:

17 1. The raising of rate reimbursement caps, excluding
18 rural hospitals.

19 2. Recognition of the costs of graduate medical
20 education.

21 3. Other methodologies recognized in the General
22 Appropriations Act.

23

24 During the years funds are transferred from the Board of
25 Regents, any reimbursement supported by such funds shall be
26 subject to certification by the Board of Regents that the
27 hospital has complied with s. 381.0403. The agency is
28 authorized to receive funds from state entities, including,
29 but not limited to, the Board of Regents, local governments,
30 and other local political subdivisions, for the purpose of
31 making special exception payments, including federal matching

1 funds, through the Medicaid inpatient reimbursement
2 methodologies. Funds received from state entities or local
3 governments for this purpose shall be separately accounted for
4 and shall not be commingled with other state or local funds in
5 any manner. Notwithstanding this section and s. 409.915,
6 counties are exempt from contributing toward the cost of the
7 special exception reimbursement for hospitals serving a
8 disproportionate share of low-income persons and providing
9 graduate medical education.

10 (2)

11 (b) Subject to any limitations or directions provided
12 for in the General Appropriations Act, the agency shall
13 establish and implement a Florida Title XIX Long-Term Care
14 Reimbursement Plan (Medicaid) for nursing home care in order
15 to provide care and services in conformance with the
16 applicable state and federal laws, rules, regulations, and
17 quality and safety standards and to ensure that individuals
18 eligible for medical assistance have reasonable geographic
19 access to such care. Under the plan, interim rate adjustments
20 shall not be granted to reflect increases in the cost of
21 general or professional liability insurance for nursing homes
22 unless the following criteria are met: have at least a 65
23 percent Medicaid utilization in the most recent cost report
24 submitted to the agency, and the increase in general or
25 professional liability costs to the facility for the most
26 recent policy period affects the total Medicaid per diem by at
27 least 5 percent. This rate adjustment shall not result in the
28 per diem exceeding the class ceiling. This provision shall
29 apply only to fiscal year 2000-2001 and shall be implemented
30 to the extent existing appropriations are available. ~~The~~
31 ~~agency shall report to the Governor, the Speaker of the House~~

1 ~~of Representatives, and the President of the Senate by~~
2 ~~December 31, 2000, on the cost of liability insurance for~~
3 ~~Florida nursing homes for fiscal years 1999 and 2000 and the~~
4 ~~extent to which these costs are not being compensated by the~~
5 ~~Medicaid program. Medicaid-participating nursing homes shall~~
6 ~~be required to report to the agency information necessary to~~
7 ~~compile this report.~~Effective no earlier than the
8 rate-setting period beginning April 1, 1999, the agency shall
9 establish a case-mix reimbursement methodology for the rate of
10 payment for long-term care services for nursing home
11 residents. The agency shall compute a per diem rate for
12 Medicaid residents, adjusted for case mix, which is based on a
13 resident classification system that accounts for the relative
14 resource utilization by different types of residents and which
15 is based on level-of-care data and other appropriate data. The
16 case-mix methodology developed by the agency shall take into
17 account the medical, behavioral, and cognitive deficits of
18 residents. In developing the reimbursement methodology, the
19 agency shall evaluate and modify other aspects of the
20 reimbursement plan as necessary to improve the overall
21 effectiveness of the plan with respect to the costs of patient
22 care, operating costs, and property costs. In the event
23 adequate data are not available, the agency is authorized to
24 adjust the patient's care component or the per diem rate to
25 more adequately cover the cost of services provided in the
26 patient's care component. The agency shall work with the
27 Department of Elderly Affairs, the Florida Health Care
28 Association, and the Florida Association of Homes for the
29 Aging in developing the methodology. It is the intent of the
30 Legislature that the reimbursement plan achieve the goal of
31 providing access to health care for nursing home residents who

1 require large amounts of care while encouraging diversion
2 services as an alternative to nursing home care for residents
3 who can be served within the community. The agency shall base
4 the establishment of any maximum rate of payment, whether
5 overall or component, on the available moneys as provided for
6 in the General Appropriations Act. The agency may base the
7 maximum rate of payment on the results of scientifically valid
8 analysis and conclusions derived from objective statistical
9 data pertinent to the particular maximum rate of payment.

10
11 Reviser's note.--Paragraph (1)(a) is amended to
12 improve clarity and facilitate correct
13 interpretation. Paragraph (2)(b) is amended to
14 delete a provision that has served its purpose.

15
16 Section 55. Paragraph (b) of subsection (3) of section
17 409.912, Florida Statutes, is amended to read:

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

31 (3) The agency may contract with:

1 (b) An entity that is providing comprehensive
2 behavioral health care services to certain Medicaid recipients
3 through a capitated, prepaid arrangement pursuant to the
4 federal waiver provided for by s. 409.905(5). Such an entity
5 must be licensed under chapter 624, chapter 636, or chapter
6 641 and must possess the clinical systems and operational
7 competence to manage risk and provide comprehensive behavioral
8 health care to Medicaid recipients. As used in this paragraph,
9 the term "comprehensive behavioral health care services" means
10 covered mental health and substance abuse treatment services
11 that are available to Medicaid recipients. The secretary of
12 the Department of Children and Family Services ~~Families~~ shall
13 approve provisions of procurements related to children in the
14 department's care or custody prior to enrolling such children
15 in a prepaid behavioral health plan. Any contract awarded
16 under this paragraph must be competitively procured. In
17 developing the behavioral health care prepaid plan procurement
18 document, the agency shall ensure that the procurement
19 document requires the contractor to develop and implement a
20 plan to ensure compliance with s. 394.4574 related to services
21 provided to residents of licensed assisted living facilities
22 that hold a limited mental health license. The agency must
23 ensure that Medicaid recipients have available the choice of
24 at least two managed care plans for their behavioral health
25 care services. The agency may reimburse for
26 substance-abuse-treatment services on a fee-for-service basis
27 until the agency finds that adequate funds are available for
28 capitated, prepaid arrangements.

29 1. By January 1, 2001, the agency shall modify the
30 contracts with the entities providing comprehensive inpatient
31 and outpatient mental health care services to Medicaid

1 recipients in Hillsborough, Highlands, Hardee, Manatee, and
2 Polk Counties, to include substance-abuse-treatment services.

3 2. By December 31, 2001, the agency shall contract
4 with entities providing comprehensive behavioral health care
5 services to Medicaid recipients through capitated, prepaid
6 arrangements in Charlotte, Collier, DeSoto, Escambia, Glades,
7 Hendry, Lee, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota,
8 and Walton Counties. The agency may contract with entities
9 providing comprehensive behavioral health care services to
10 Medicaid recipients through capitated, prepaid arrangements in
11 Alachua County. The agency may determine if Sarasota County
12 shall be included as a separate catchment area or included in
13 any other agency geographic area.

14 3. Children residing in a Department of Juvenile
15 Justice residential program approved as a Medicaid behavioral
16 health overlay services provider shall not be included in a
17 behavioral health care prepaid health plan pursuant to this
18 paragraph.

19 4. In converting to a prepaid system of delivery, the
20 agency shall in its procurement document require an entity
21 providing comprehensive behavioral health care services to
22 prevent the displacement of indigent care patients by
23 enrollees in the Medicaid prepaid health plan providing
24 behavioral health care services from facilities receiving
25 state funding to provide indigent behavioral health care, to
26 facilities licensed under chapter 395 which do not receive
27 state funding for indigent behavioral health care, or
28 reimburse the unsubsidized facility for the cost of behavioral
29 health care provided to the displaced indigent care patient.

30 5. Traditional community mental health providers under
31 contract with the Department of Children and Family Services

1 ~~Families~~ pursuant to part IV of chapter 394 and inpatient
2 mental health providers licensed pursuant to chapter 395 must
3 be offered an opportunity to accept or decline a contract to
4 participate in any provider network for prepaid behavioral
5 health services.

6

7 Reviser's note.--Amended to conform to the
8 official title of the department pursuant to s.
9 20.19.

10

11 Section 56. Subsection (1) of section 409.9122,
12 Florida Statutes, is reenacted to read:

13 409.9122 Mandatory Medicaid managed care enrollment;
14 programs and procedures.--

15 (1) It is the intent of the Legislature that the
16 MediPass program be cost-effective, provide quality health
17 care, and improve access to health services, and that the
18 program be statewide.

19

20 Reviser's note.--Section 7, ch. 96-199, Laws of
21 Florida, amended the text of s. 409.9122,
22 including amendment to the language in
23 then-existing paragraph (1)(a). Paragraph
24 (1)(b) did not appear in text after the
25 amendment to paragraph (1)(a), but the entire
26 text of subsection (1) also appeared following
27 the text of newly created subsection (3),
28 struck-through as if it were to be deleted
29 except for the last sentence of then-existing
30 paragraph (1)(b) which became paragraph (4)(a).
31 Subsection (1) is reenacted to confirm that the

1 struck-through version of paragraph (1)(a)
2 following the text of subsection (3) in the
3 amendment to s. 409.9122 by s. 7, ch. 96-199,
4 was not intended to repeal the paragraph.
5

6 Section 57. Paragraphs (f) and (g) of subsection (1)
7 of section 409.946, Florida Statutes, are amended to read:
8 409.946 Inner City Redevelopment Review Panel.--In
9 order to enhance public participation and involvement in the
10 redevelopment of inner-city areas, there is created within the
11 Office of Tourism, Trade, and Economic Development the Inner
12 City Redevelopment Review Panel.

13 (1) The review panel shall consist of seven members
14 who represent different areas of the state, who are appointed
15 by the Director of the Office of Tourism, Trade, and Economic
16 Development, and who are qualified, through the demonstration
17 of special interest, experience, or education, in the
18 redevelopment of the state's inner-city areas, as follows:

19 (f) One member must be affiliated with the Better
20 Jobs/Better Wages Council of Workforce Florida, Inc., ~~if such~~
21 ~~body is created. Otherwise, one member must be the president~~
22 ~~and chief operating officer of the Florida Workforce~~
23 ~~Development Board; and~~

24 (g) One member must be affiliated with the First
25 Jobs/First Wages Council of Workforce Florida, Inc., ~~if such~~
26 ~~body is created. Otherwise, one member must be the Secretary~~
27 ~~of Labor and Employment Security or the secretary's designee.~~
28

29 Reviser's note.--Paragraphs (1)(f) and (g) are
30 amended to delete provisions that have served
31 their purpose. The Better Jobs/Better Wages

1 Council and First Jobs/First Wages Council are
2 provided for in s. 445.005. Paragraph (f) is
3 further amended to conform to the official
4 title of the council.

5
6 Section 58. Paragraph (c) of subsection (9) of section
7 411.01, Florida Statutes, is repealed.

8
9 Reviser's note.--Repealed to delete an obsolete
10 provision; the Partnership for School Readiness
11 was to present recommendations by February 15,
12 2000, to the Legislature for combining funding
13 streams for school readiness programs into a
14 School Readiness Trust Fund, which report was
15 submitted.

16
17 Section 59. Subsection (6) of section 414.105, Florida
18 Statutes, is amended to read:

19 414.105 Time limitations of temporary cash
20 assistance.--Unless otherwise expressly provided in this
21 chapter, an applicant or current participant shall receive
22 temporary cash assistance for episodes of not more than 24
23 cumulative months in any consecutive 60-month period that
24 begins with the first month of participation and for not more
25 than a lifetime cumulative total of 48 months as an adult,
26 unless otherwise provided by law.

27 (6) The department, in cooperation with Workforce
28 Florida, Inc., shall establish a procedure for approving
29 hardship exemptions and for reviewing hardship cases at least
30 once every 2 years. Regional workforce boards may assist in
31 making these determinations. The composition of any review

1 panel must generally reflect the racial, gender, and ethnic
2 diversity of the community as a whole. Members of a review
3 panel shall serve without compensation but are entitled to
4 receive reimbursement for per diem and travel expenses as
5 provided in s. 112.061 ~~112.016~~.

6

7 Reviser's note.--Amended to conform to the
8 correct citation of the referenced material; s.
9 112.016 does not exist.

10

11 Section 60. Subsection (1) of section 418.302, Florida
12 Statutes, is amended to read:

13 418.302 Governing body of mobile home park recreation
14 district.--

15 (1) The governing body of a recreation district
16 created pursuant to s. 418.30 ~~section 1~~ shall consist of a
17 nine-member board of trustees elected by the electors of the
18 district. A person desiring to have her or his name placed on
19 the ballot for election as a trustee of the district shall be
20 a qualified elector of the district and shall present a
21 written petition, signed by the applicant and not fewer than
22 25 other electors of the district, to the supervisor of
23 elections of the county not less than 60 days prior to the
24 date of the election. The supervisor of elections shall be
25 entitled to a reasonable reimbursement for conducting the
26 election, payable out of the general funds of the district.

27

28 Reviser's note.--Amended to conform to the
29 correct citation of the referenced material; s.
30 418.30 provides for creation of mobile home
31 park recreation districts.

1 Section 61. Section 420.506, Florida Statutes, is
2 amended to read:

3 420.506 Executive director; agents and employees.--The
4 appointment and removal of an executive director shall be by
5 the Secretary of Community Affairs, with the advice and
6 consent of the corporation's board of directors. The
7 executive director shall employ legal and technical experts
8 and such other agents and employees, permanent and temporary,
9 as the corporation may require, and shall communicate with and
10 provide information to the Legislature with respect to the
11 corporation's activities. The board is authorized,
12 notwithstanding the provisions of s. 216.262, to develop and
13 implement rules regarding the employment of employees of the
14 corporation and service providers, including legal counsel.
15 ~~The corporation may hire any individual who, as of the~~
16 ~~effective date of this act, is employed by the agency.~~The
17 corporation is authorized to enter into a lease agreement with
18 the Department of Management Services or the Department of
19 Community Affairs for the lease of state employees from such
20 entities, wherein an employee shall retain his or her status
21 as a state employee but shall work under the direct
22 supervision of the corporation, and shall retain the right to
23 participate in the Florida Retirement System. The board of
24 directors of the corporation is entitled to establish travel
25 procedures and guidelines for employees of the corporation.
26 The executive director's office and the corporation's files
27 and records must be located in Leon County.

28
29 Reviser's note.--Amended to delete a provision
30 that has served its purpose. The stricken text,
31 which was enacted by s. 9, ch. 97-167, Laws of

1 Florida, effective July 1, 1997, relates to the
2 replacement of the Florida Housing Finance
3 Agency by the Florida Housing Finance
4 Corporation.

5
6 Section 62. Paragraph (a) of subsection (22) of
7 section 420.507, Florida Statutes, is amended to read:

8 420.507 Powers of the corporation.--The corporation
9 shall have all the powers necessary or convenient to carry out
10 and effectuate the purposes and provisions of this part,
11 including the following powers which are in addition to all
12 other powers granted by other provisions of this part:

13 (22) To develop and administer the State Apartment
14 Incentive Loan Program. In developing and administering that
15 program, the corporation may:

16 (a) Make first, second, and other subordinated
17 mortgage loans including variable or fixed rate loans subject
18 to contingent interest. The corporation shall make loans
19 exceeding 25 percent of project cost available only to
20 nonprofit organizations and public bodies which are able to
21 secure grants, donations of land, or contributions from other
22 sources and to projects meeting the criteria of subparagraph
23 1. Mortgage loans shall be made available at the following
24 rates of interest:

25 1. Zero to 3 percent interest for sponsors of projects
26 that maintain an 80 percent occupancy of residents qualifying
27 as farmworkers as defined in s. 420.503(18)~~420.306(7)~~ over
28 the life of the loan.

29 2. Three to 9 percent interest for sponsors of
30 projects targeted at populations other than farmworkers.

31

1 Reviser's note.--Amended to conform to the
2 current location of the referenced material; s.
3 420.306(7) was repealed by s. 3, ch. 93-181,
4 Laws of Florida, and s. 420.503(18) defines
5 "farmworker."
6

7 Section 63. Sections 421.37, 421.38, 421.39, 421.40,
8 421.41, 421.42, 421.43, 421.44, and 421.45, Florida Statutes,
9 are repealed.
10

11 Reviser's note.--The cited sections, relating
12 to defense housing during World War II, are
13 obsolete.
14

15 Section 64. Subsection (2) of section 427.0159,
16 Florida Statutes, is repealed.
17

18 Reviser's note.--The cited subsection, enacted
19 by s. 21, ch. 2000-257, Laws of Florida,
20 provides for an allocation of funds by the
21 Department of Transportation, contingent on
22 S.B. 854 or similar legislation becoming law.
23 Neither of those contingencies occurred.
24

25 Section 65. Paragraph (a) of subsection (3) of section
26 435.03, Florida Statutes, is amended to read:

27 435.03 Level 1 screening standards.--

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

29 (a) For employees and employers licensed or registered
30 pursuant to chapter 400, and for employees and employers of
31 developmental services institutions as defined in s. 393.063,

1 intermediate care facilities for the developmentally disabled
2 as defined in s. 393.063, and mental health treatment
3 facilities as defined in s. 394.455, meets the requirements of
4 this chapter ~~part II~~.

5
6 Reviser's note.--Amended to conform to the
7 arrangement of chapter 435, which is not
8 divided into parts.

9
10 Section 66. Subsection (2) of section 435.05, Florida
11 Statutes, is amended to read:

12 435.05 Requirements for covered employees.--Except as
13 otherwise provided by law, the following requirements shall
14 apply to covered employees:

15 (2) Unless otherwise prohibited by state or federal
16 law, new employees may be placed on probationary status
17 pending a determination of compliance with minimum standards
18 set forth in this chapter ~~part~~.

19
20 Reviser's note.--Amended to conform to the
21 arrangement of chapter 435, which is not
22 divided into parts.

23
24 Section 67. Subsection (1) of section 435.07, Florida
25 Statutes, is amended to read:

26 435.07 Exemptions from disqualification.--Unless
27 otherwise provided by law, the provisions of this section
28 shall apply to exemptions from disqualification.

29 (1) The appropriate licensing agency may grant to any
30 employee otherwise disqualified from employment an exemption
31 from disqualification for:

1 (a) Felonies committed more than 3 years prior to the
2 date of disqualification;

3 (b) Misdemeanors prohibited under any of the Florida
4 Statutes cited in this chapter or under similar statutes of
5 other jurisdictions;

6 (c) Offenses that were felonies when committed but are
7 now misdemeanors;

8 (d) Findings of delinquency; or

9 (e) Commissions of acts of domestic violence as
10 defined in s. 741.30.

11

12 For the purposes of this subsection, the term "felonies" means
13 both felonies prohibited under any of the Florida Statutes
14 cited in this chapter ~~part~~ or under similar statutes of other
15 jurisdictions.

16

17 Reviser's note.--Amended to conform to the
18 arrangement of chapter 435, which is not
19 divided into parts.

20

21 Section 68. Paragraph (c) of subsection (2) of section
22 440.15, Florida Statutes, is amended to read:

23 440.15 Compensation for disability.--Compensation for
24 disability shall be paid to the employee, subject to the
25 limits provided in s. 440.12(2), as follows:

26 (2) TEMPORARY TOTAL DISABILITY.--

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

1 program pursuant to s. 440.491 ~~440.49(1)~~. Notwithstanding s.
2 440.02(9), the date of maximum medical improvement for
3 purposes of paragraph (3)(b) shall be no earlier than the last
4 day for which such temporary disability benefits are paid.

5
6 Reviser's note.--Amended to conform to the
7 current location of the referenced material.
8 Section 440.49(1) was repealed by s. 43, ch.
9 93-415, Laws of Florida, and s. 440.491,
10 created by s. 44, ch. 93-415, provides for
11 training and education.

12
13 Section 69. Subsection (2) of section 440.381, Florida
14 Statutes, is amended to read:

15 440.381 Application for coverage; reporting payroll;
16 payroll audit procedures; penalties.--

17 (2) The application must contain a statement that the
18 filing of an application containing false, misleading, or
19 incomplete information with the purpose of avoiding or
20 reducing the amount of premiums for workers' compensation
21 coverage is a felony of the third degree, punishable as
22 provided in s. 775.082, s. 775.083, or s. 775.084. The
23 application must contain a sworn statement by the employer
24 attesting to the accuracy of the information submitted and
25 acknowledging the provisions of former s. 440.37(4).

26
27 Reviser's note.--Amended to improve clarity and
28 facilitate correct interpretation. Section
29 440.37 was repealed by s. 109, ch. 93-415, Laws
30 of Florida.

1 Section 70. Paragraph (e) of subsection (1) and
2 paragraph (a) of subsection (2) of section 440.4416, Florida
3 Statutes, are amended to read:

4 440.4416 Workers' Compensation Oversight Board.--

5 (1) There is created within the Department of Labor
6 and Employment Security the Workers' Compensation Oversight
7 Board. The board shall be composed of the following members,
8 each of whom has knowledge of, or experience with, the
9 workers' compensation system:

10 (e) ~~The original appointments to the board shall be~~
11 ~~made on or before January 1, 1994.~~ Vacancies in the membership
12 of the board shall be filled in the same manner as the
13 original appointments. Except as to ex officio members of the
14 board, three appointees of the Governor, two appointees of the
15 President of the Senate, and two appointees of the Speaker of
16 the House of Representatives shall serve for terms of 2 years,
17 and the remaining appointees shall serve for terms of 4 years.
18 Thereafter, all members shall serve for terms of 4 years;
19 except that a vacancy shall be filled by appointment for the
20 remainder of the term. ~~The board shall have an organizational~~
21 ~~meeting on or before March 1, 1994, the time and place of such~~
22 ~~meeting to be determined by the Governor.~~

23 (2) POWERS AND DUTIES; ORGANIZATION.--

24 (a) The board shall have all the powers necessary and
25 convenient to carry out and effectuate the purposes of this
26 section, including, but not limited to, the power to:

27 1. Conduct public hearings.

28 2. ~~Report to the Legislature by January 1, 1995, as to~~
29 ~~the feasibility of a return-to-work program that includes~~
30 ~~incentives for employers who encourage such a program and~~
31 ~~disincentives for employers who hinder such a program.~~

1 2.3. Prescribe qualifications for board employees.
2 3.4. Appear on its own behalf before other boards,
3 commissions, or agencies of the state or Federal Government.
4 4.5. Make and execute contracts to the extent that
5 such contracts are consistent with duties and powers set forth
6 in this section and elsewhere in the law of this state.

7
8 Reviser's note.--Amended to delete obsolete
9 provisions.

10
11 Section 71. Subsection (1) of section 443.1715,
12 Florida Statutes, is amended to read:

13 443.1715 Disclosure of information; confidentiality.--

14 (1) RECORDS AND REPORTS.--Information revealing the
15 employing unit's or individual's identity obtained from the
16 employing unit or from any individual pursuant to the
17 administration of this chapter, and any determination
18 revealing such information, must, except to the extent
19 necessary for the proper presentation of a claim or upon
20 written authorization of the claimant who has a workers'
21 compensation claim pending, be held confidential and exempt
22 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
23 the State Constitution. Such information may be made available
24 only to public employees in the performance of their public
25 duties, including employees of the Department of Education in
26 obtaining information for the Florida Education and Training
27 Placement Information Program and the Office of Tourism,
28 Trade, and Economic Development ~~Department of Commerce~~ in its
29 administration of the qualified defense contractor tax refund
30 program authorized by s. 288.1045 ~~288.104~~. Except as otherwise
31 provided by law, public employees receiving such information

1 must retain the confidentiality of such information. Any
2 claimant, or the claimant's legal representative, at a hearing
3 before an appeals referee or the commission shall be supplied
4 with information from such records to the extent necessary for
5 the proper presentation of her or his claim. Any employee or
6 member of the commission or any employee of the division, or
7 any other person receiving confidential information, who
8 violates any provision of this subsection commits a
9 misdemeanor of the second degree, punishable as provided in s.
10 775.082 or s. 775.083. However, the division may furnish to
11 any employer copies of any report previously submitted by such
12 employer, upon the request of such employer, and may furnish
13 to any claimant copies of any report previously submitted by
14 such claimant, upon the request of such claimant, and the
15 division is authorized to charge therefor such reasonable fee
16 as the division may by rule prescribe not to exceed the actual
17 reasonable cost of the preparation of such copies. Fees
18 received by the division for copies as provided in this
19 subsection must be deposited to the credit of the Employment
20 Security Administration Trust Fund.

21

22 Reviser's note.--Amended to conform to the
23 substitution of the Office of Tourism, Trade,
24 and Economic Development for the Department of
25 Commerce for purposes of s. 288.106 by s. 44,
26 ch. 96-320, Laws of Florida, and the repeal of
27 s. 288.104 by s. 8, ch. 96-348, Laws of
28 Florida, and the enactment of new s. 288.1045
29 governing the qualified defense contractor tax
30 refund program by s. 1, ch. 96-348.

31

1 Section 72. Section 443.232, Florida Statutes, is
2 amended to read:

3 443.232 Rulemaking authority for ch. 92-38.--The
4 Division of Unemployment Compensation of the Department of
5 Labor and Employment Security is authorized to promulgate
6 rules and adopt such forms as may be necessary for
7 administration of ch. 92-38, Laws of Florida. The division is
8 specifically authorized to adopt emergency rules for the
9 implementation of the Florida Training Investment Program as
10 created by ch. 92-38, Laws of Florida. The Legislature finds
11 that said emergency rulemaking power is necessary for the
12 welfare of the people in order to provide additional funds to
13 benefit the public as quickly as practicable. Therefore, in
14 adopting such emergency rules, the division need not make the
15 findings required by s. 120.54(4)(a)~~120.54(9)(a)~~.

16 Notwithstanding any other provision of law, such emergency
17 rules shall remain effective for 12 months from the date of
18 adoption, or until replaced by other rules adopted under the
19 nonemergency rulemaking procedures of the Administrative
20 Procedure Act, whichever comes first.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of material formerly in s.
24 120.54(9)(a) as s. 120.54(4)(a) by s. 10, ch.
25 96-159, Laws of Florida.

26
27 Section 73. Paragraph (b) of subsection (6) of section
28 445.003, Florida Statutes, as amended by section 3 of chapter
29 2000-165, Laws of Florida, is reenacted to read:

30 445.003 Implementation of the federal Workforce
31 Investment Act of 1998.--

1 (6) LONG-TERM CONSOLIDATION OF WORKFORCE
2 DEVELOPMENT.--

3 (b) The Office of Program Policy Analysis and
4 Government Accountability shall review the workforce
5 development system, as established by this act. The office
6 shall submit its final report and recommendations by December
7 31, 2002, to the President of the Senate and the Speaker of
8 the House of Representatives.

9
10 Reviser's note.--Reenacted to confirm the
11 continued existence of the paragraph despite a
12 repeal by s. 46, ch. 2000-158, Laws of Florida,
13 a reviser's bill. Section 3, ch. 2000-165, Laws
14 of Florida, amended paragraph (6)(b) to require
15 submittal of a report and recommendations by
16 December 31, 2002; prior to amendment,
17 submittal of the report and recommendations was
18 required by January 31, 2000.

19
20 Section 74. Paragraph (c) of subsection (7) of section
21 445.009, Florida Statutes, as amended by section 9 of chapter
22 2000-165, Laws of Florida, is reenacted to read:

23 445.009 One-stop delivery system.--
24 (7)

25 (c) Workforce Florida, Inc., shall periodically review
26 Individual Training Account pricing schedules developed by
27 regional workforce boards and present findings and
28 recommendations for process improvement to the President of
29 the Senate and the Speaker of the House of Representatives.

30
31

1 Reviser's note.--Reenacted to confirm the
2 continued existence of the paragraph despite a
3 repeal by s. 45, ch. 2000-158, Laws of Florida,
4 a reviser's bill. Section 9, ch. 2000-165, Laws
5 of Florida, amended paragraph (8)(c),
6 redesignated as paragraph (7)(c), to provide
7 for periodic review of Individual Training
8 Account pricing schedules and deleted the
9 January 1, 2000, submittal date for findings
10 and recommendations for process improvement.
11

12 Section 75. Paragraph (e) of subsection (3) of section
13 445.024, Florida Statutes, is amended to read:

14 445.024 Work requirements.--

15 (3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.--The
16 following individuals are exempt from work activity
17 requirements:

18 (e) An individual who is exempt from the time period
19 pursuant to s. 414.105 ~~415.015~~.

20
21 Reviser's note.--Amended to conform to the
22 correct citation of the referenced material; s.
23 415.015 does not exist.
24

25 Section 76. Paragraph (a) of subsection (2) and
26 paragraph (a) of subsection (3) of section 446.50, Florida
27 Statutes, are amended to read:

28 446.50 Displaced homemakers; multiservice programs;
29 report to the Legislature; Displaced Homemaker Trust Fund
30 created.--

31 (2) DEFINITIONS.--For the purposes of this section:

- 1 (a) "Displaced homemaker" means an individual who:
- 2 1. Is 35 years of age or older;
- 3 2. Has worked in the home, providing unpaid household
- 4 services for family members;
- 5 3. Is not adequately employed, as defined by rule of
- 6 the agency division;
- 7 4. Has had, or would have, difficulty in securing
- 8 adequate employment; and
- 9 5. Has been dependent on the income of another family
- 10 member but is no longer supported by such income, or has been
- 11 dependent on federal assistance.
- 12 (3) AGENCY POWERS AND DUTIES.--
- 13 (a) The agency, under plans established by Workforce
- 14 Florida, Inc., shall establish, or contract for the
- 15 establishment of, programs for displaced homemakers which
- 16 shall include:
- 17 1. Job counseling, by professionals and peers,
- 18 specifically designed for a person entering the job market
- 19 after a number of years as a homemaker.
- 20 2. Job training and placement services, including:
- 21 a. Training programs for available jobs in the public
- 22 and private sectors, taking into account the skills and job
- 23 experiences of a homemaker and developed by working with
- 24 public and private employers.
- 25 b. Assistance in locating available employment for
- 26 displaced homemakers, some of whom could be employed in
- 27 existing job training and placement programs.
- 28 c. Utilization of the services of the state employment
- 29 service in locating employment opportunities.
- 30 3. Financial management services providing information
- 31 and assistance with respect to insurance, including, but not

1 limited to, life, health, home, and automobile insurance, and
2 taxes, estate and probate problems, mortgages, loans, and
3 other related financial matters.

4 4. Educational services, including high school
5 equivalency degree and such other courses as the agency
6 determines would be of interest and benefit to displaced
7 homemakers.

8 5. Outreach and information services with respect to
9 federal and state employment, education, health, and
10 unemployment assistance programs which the agency ~~division~~
11 determines would be of interest and benefit to displaced
12 homemakers.

13
14 Reviser's note.--Amended to conform to the
15 substitution of the term "agency" for the term
16 "division" made elsewhere in the section by s.
17 126, ch. 2000-165, Laws of Florida.

18
19 Section 77. Subsection (5) of section 456.025, Florida
20 Statutes, is amended to read:

21 456.025 Fees; receipts; disposition.--

22 (5) All moneys collected by the department from fees
23 or fines or from costs awarded to the agency by a court shall
24 be paid into a trust fund used by the department to implement
25 this chapter. The Legislature shall appropriate funds from
26 this trust fund sufficient to carry out this chapter and the
27 provisions of law with respect to professions regulated by the
28 Division of Medical Quality Assurance within the department
29 and the boards. The department may contract with public and
30 private entities to receive and deposit revenue pursuant to
31 this section. The department shall maintain separate accounts

1 | in the trust fund used by the department to implement this
2 | chapter for every profession within the department. To the
3 | maximum extent possible, the department shall directly charge
4 | all expenses to the account of each regulated profession. For
5 | the purpose of this subsection, direct charge expenses
6 | include, but are not limited to, costs for investigations,
7 | examinations, and legal services. For expenses that cannot be
8 | charged directly, the department shall provide for the
9 | proportionate allocation among the accounts of expenses
10 | incurred by the department in the performance of its duties
11 | with respect to each regulated profession. The regulation by
12 | the department of professions, as defined in this chapter
13 | ~~part~~, shall be financed solely from revenue collected by it
14 | from fees and other charges and deposited in the Medical
15 | Quality Assurance Trust Fund, and all such revenue is hereby
16 | appropriated to the department. However, it is legislative
17 | intent that each profession shall operate within its
18 | anticipated fees. The department may not expend funds from the
19 | account of a profession to pay for the expenses incurred on
20 | behalf of another profession, except that the Board of Nursing
21 | must pay for any costs incurred in the regulation of certified
22 | nursing assistants. The department shall maintain adequate
23 | records to support its allocation of agency expenses. The
24 | department shall provide any board with reasonable access to
25 | these records upon request. The department shall provide each
26 | board an annual report of revenue and direct and allocated
27 | expenses related to the operation of that profession. The
28 | board shall use these reports and the department's adopted
29 | long-range plan to determine the amount of license fees. A
30 | condensed version of this information, with the department's
31 |

1 recommendations, shall be included in the annual report to the
2 Legislature prepared under s. 456.026.

3
4 Reviser's note.--Amended to conform to the
5 arrangement of chapter 456, which is not
6 divided into parts.

7
8 Section 78. Paragraph (a) of subsection (1) of section
9 456.039, Florida Statutes, is amended to read:

10 456.039 Designated health care professionals;
11 information required for licensure.--

12 (1) Each person who applies for initial licensure as a
13 physician under chapter 458, chapter 459, chapter 460, or
14 chapter 461, except a person applying for registration
15 pursuant to ss. 458.345 and 459.021, must, at the time of
16 application, and each physician who applies for license
17 renewal under chapter 458, chapter 459, chapter 460, or
18 chapter 461, except a person registered pursuant to ss.
19 458.345 and 459.021, must, in conjunction with the renewal of
20 such license and under procedures adopted by the Department of
21 Health, and in addition to any other information that may be
22 required from the applicant, furnish the following information
23 to the Department of Health:

24 (a)1. The name of each medical school that the
25 applicant has attended, with the dates of attendance and the
26 date of graduation, and a description of all graduate medical
27 education completed by the applicant, excluding any coursework
28 taken to satisfy medical licensure continuing education
29 requirements.

30 2. The name of each hospital at which the applicant
31 has privileges.

1 3. The address at which the applicant will primarily
2 conduct his or her practice.

3 4. Any certification that the applicant has received
4 from a specialty board that is recognized by the board to
5 which the applicant is applying.

6 5. The year that the applicant began practicing
7 medicine.

8 6. Any appointment to the faculty of a medical school
9 which the applicant currently holds and an indication as to
10 whether the applicant has had the responsibility for graduate
11 medical education within the most recent 10 years.

12 7. A description of any criminal offense of which the
13 applicant has been found guilty, regardless of whether
14 adjudication of guilt was withheld, or to which the applicant
15 has pled guilty or nolo contendere. A criminal offense
16 committed in another jurisdiction which would have been a
17 felony or misdemeanor if committed in this state must be
18 reported. If the applicant indicates that a criminal offense
19 is under appeal and submits a copy of the notice for appeal of
20 that criminal offense, the department must state that the
21 criminal offense is under appeal if the criminal offense is
22 reported in the applicant's profile. If the applicant
23 indicates to the department that a criminal offense is under
24 appeal, the applicant must, upon disposition of the appeal,
25 submit to the department a copy of the final written order of
26 disposition.

27 8. A description of any final disciplinary action
28 taken within the previous 10 years against the applicant by
29 the agency regulating the profession that the applicant is or
30 has been licensed to practice, whether in this state or in any
31 other jurisdiction, by a specialty board that is recognized by

1 the American Board of Medical Specialties ~~Specialities~~, the
2 American Osteopathic Association, or a similar national
3 organization, or by a licensed hospital, health maintenance
4 organization, prepaid health clinic, ambulatory surgical
5 center, or nursing home. Disciplinary action includes
6 resignation from or nonrenewal of medical staff membership or
7 the restriction of privileges at a licensed hospital, health
8 maintenance organization, prepaid health clinic, ambulatory
9 surgical center, or nursing home taken in lieu of or in
10 settlement of a pending disciplinary case related to
11 competence or character. If the applicant indicates that the
12 disciplinary action is under appeal and submits a copy of the
13 document initiating an appeal of the disciplinary action, the
14 department must state that the disciplinary action is under
15 appeal if the disciplinary action is reported in the
16 applicant's profile.

17

18 Reviser's note.--Amended to conform to the
19 correct title of the board.

20

21 Section 79. Paragraph (d) of subsection (2) and
22 subsections (6) and (7) of section 458.3135, Florida Statutes,
23 are amended to read:

24 458.3135 Temporary certificate for visiting physicians
25 to practice in approved cancer centers.--

26 (2) A temporary certificate for practice in an
27 approved cancer center may be issued without examination to an
28 individual who:

29 (d) Has not committed any act in this or any other
30 jurisdiction which would constitute the basis for disciplining
31 a physician under s. 456.072 ~~455.624~~ or s. 458.331;

1 (6) The board shall not issue a temporary certificate
2 for practice in an approved cancer center to any physician who
3 is under investigation in another jurisdiction for an act that
4 would constitute a violation of this chapter or chapter 456
5 ~~455~~ until such time as the investigation is complete and the
6 physician is found innocent of all charges.

7 (7) A physician applying under this section is exempt
8 from the requirements of ss. 456.039-456.046 ~~455.565-455.5656~~.
9 All other provisions of chapters 456 ~~455~~ and 458 apply.

10
11 Reviser's note.--Paragraph (2)(d) is amended to
12 conform to the redesignation of s. 455.624 as
13 s. 456.072 by s. 90, ch. 2000-160, Laws of
14 Florida. Subsections (6) and (7) are amended to
15 conform to the redesignation of sections
16 comprising part II of chapter 455 as chapter
17 456 by ch. 2000-160. Subsection (7) is further
18 amended to conform to the redesignation of ss.
19 455.565-455.5656 as ss. 456.039 and
20 456.041-456.046 by ss. 66-71, ch. 2000-160; and
21 the enactment of s. 455.56503, renumbered as s.
22 456.0391 by the reviser, by s. 152, ch.
23 2000-318, Laws of Florida.

24
25 Section 80. Subsection (5) of section 458.319, Florida
26 Statutes, is amended to read:

27 458.319 Renewal of license.--

28 (5)(a) Notwithstanding any provision of this chapter
29 or ~~part II~~ of chapter 456 ~~455~~, the requirements for the
30 biennial renewal of the license of any licensee who is a
31 member of the Legislature shall stand continued and extended

1 without the requirement of any filing by such a licensee of
2 any notice or application for renewal with the board or the
3 department and such licensee's license shall be an active
4 status license under this chapter, throughout the period that
5 the licensee is a member of the Legislature and for a period
6 of 60 days after the licensee ceases to be a member of the
7 Legislature.

8 (b) At any time during the licensee's legislative term
9 of office and during the period of 60 days after the licensee
10 ceases to be a member of the Legislature, the licensee may
11 file a completed renewal application that shall consist solely
12 of:

13 1. A license renewal fee of \$250 for each year the
14 licensee's license renewal has been continued and extended
15 pursuant to the terms of this subsection since the last
16 otherwise regularly scheduled biennial renewal year and each
17 year during which the renewed license shall be effective until
18 the next regularly scheduled biennial renewal date;

19 2. Documentation of the completion by the licensee of
20 10 hours of continuing medical education credits for each year
21 from the effective date of the last renewed license for the
22 licensee until the year in which the application is filed;

23 3. The information from the licensee expressly
24 required in s. 456.039(1)(a)1.-8. and (b), and (4)(a), (b),
25 and (c)~~455.565(1)(a)1.-8. and (b), and (4)(a), (b), and (c).~~

26 (c) The department and board may not impose any
27 additional requirements for the renewal of such licenses and,
28 not later than 20 days after receipt of a completed
29 application as specified in paragraph (b), shall renew the
30 active status license of the licensee, effective on and
31 retroactive to the last previous renewal date of the

1 licensee's license. Said license renewal shall be valid until
2 the next regularly scheduled biennial renewal date for said
3 license, and thereafter shall be subject to the biennial
4 requirements for renewal in this chapter and ~~part II of~~
5 chapter 456 ~~455~~.

6
7 Reviser's note.--Paragraphs (5)(a) and (c) are
8 amended to conform to the redesignation of
9 sections comprising part II of chapter 455 as
10 chapter 456 by ch. 2000-160, Laws of Florida.
11 Paragraph (5)(b) is amended to conform to the
12 redesignation of s. 455.565 as s. 456.039 by s.
13 66, ch. 2000-160.

14
15 Section 81. Paragraph (c) of subsection (9) of section
16 460.403, Florida Statutes, is amended to read:

17 460.403 Definitions.--As used in this chapter, the
18 term:

19 (9)

20 (c)1. Chiropractic physicians may adjust, manipulate,
21 or treat the human body by manual, mechanical, electrical, or
22 natural methods; by the use of physical means or
23 physiotherapy, including light, heat, water, or exercise; by
24 the use of acupuncture; or by the administration of foods,
25 food concentrates, food extracts, and items for which a
26 prescription is not required and may apply first aid and
27 hygiene, but chiropractic physicians are expressly prohibited
28 from prescribing or administering to any person any legend
29 drug except as authorized under subparagraph 2., from
30 performing any surgery except as stated herein, or from
31 practicing obstetrics.

1 2. Notwithstanding the prohibition against prescribing
2 and administering legend drugs under subparagraph 1., or s.
3 499.0122 ~~449.0122~~, pursuant to board rule chiropractic
4 physicians may order, store, and administer, for emergency
5 purposes only at the chiropractic physician's office or place
6 of business, prescription medical oxygen and may also order,
7 store, and administer the following topical anesthetics in
8 aerosol form:

9 a. Any solution consisting of 25 percent ethylchloride
10 and 75 percent dichlorodifluoromethane.

11 b. Any solution consisting of 15 percent
12 dichlorodifluoromethane and 85 percent
13 trichloromonofluoromethane.

14
15 However, this paragraph does not authorize a chiropractic
16 physician to prescribe medical oxygen as defined in chapter
17 499.

18
19 Reviser's note.--Amended to conform to the
20 correct citation of the referenced material; s.
21 449.0122 does not exist.

22
23 Section 82. Section 464.0045, Florida Statutes, is
24 repealed.

25
26 Reviser's note.--The cited section authorizes
27 the Governor to appoint one or more new members
28 of the Board of Nursing added to the board
29 pursuant to ch. 96-274, Laws of Florida, for a
30 period of less than 4 years to achieve

1 staggered terms. Chapter 96-274 took effect May
2 29, 1996.

3
4 Section 83. Effective October 1, 2002, sections
5 467.001, 467.002, 467.004, 467.011, 467.0125, 467.014,
6 467.015, 467.016, 467.017, 467.201, 467.203, 467.205, and
7 467.207, Florida Statutes, are reenacted to read:

8 467.001 Short title.--This chapter shall be known and
9 may be cited as the "Midwifery Practice Act."

10 467.002 Legislative intent.--The Legislature
11 recognizes the need for a person to have the freedom to choose
12 the manner, cost, and setting for giving birth. The
13 Legislature finds that access to prenatal care and delivery
14 services is limited by the inadequate number of providers of
15 such services and that the regulated practice of midwifery may
16 help to reduce this shortage. The Legislature also recognizes
17 the need for the safe and effective delivery of newborn babies
18 and the health, safety, and welfare of their mothers in the
19 delivery process. The Legislature finds that the interests of
20 public health require the regulation of the practice of
21 midwifery in this state for the purpose of protecting the
22 health and welfare of mothers and infants. Therefore, it is
23 unlawful for any person to practice midwifery in this state
24 unless such person is licensed pursuant to the provisions of
25 this chapter or s. 464.012.

26 467.004 Council of Licensed Midwifery.--

27 (1) The Council of Licensed Midwifery is created
28 within the department and shall consist of nine members to be
29 appointed by the secretary.

30 (2) One member of the council shall be a certified
31 nurse midwife. One member of the council shall be a physician

1 who is an obstetrician certified by the American Board of
2 Obstetrics and Gynecology and one family physician certified
3 by the American Board of Family Practice. One member of the
4 council shall be a physician who is a pediatrician certified
5 by the American Board of Pediatrics. Four members of the
6 council shall be licensed midwives. The one remaining member
7 shall be a resident of this state who has never been a
8 licensed midwife and who has no financial interest in the
9 practice of midwifery or in any health care facility, agency,
10 or insurer. The council members shall serve staggered 4-year
11 terms as determined by rule.

12 (3) The council shall:

13 (a) Assist and advise the department in developing
14 rules relating to: training requirements, including core
15 competencies, for persons training to become licensed
16 midwives; the licensure examination; fees; the informed
17 consent form; responsibilities of midwives; emergency care
18 plans; records and reports to be filed by licensed midwives;
19 and other regulatory requirements developed by the department.

20 (b) Assist the department in developing rules to
21 implement s. 467.205, relating to approval of midwifery
22 training programs.

23 (c) Monitor and inform the department on the practice
24 of midwifery in other states and countries by persons who are
25 not nurses.

26 (d) Educate the public and other providers of
27 obstetrical care about the role of licensed midwives.

28 (e) Collect and review data regarding licensed
29 midwifery.

30 (f) Recommend changes in the Midwifery Practice Act to
31 the department and the Legislature.

1 (g) Address concerns and problems of practicing
2 licensed midwives in order to promote improved safety in the
3 practice of midwifery.

4 (4) Members of the council shall serve without pay.
5 The council members shall be entitled to reimbursement for per
6 diem and travel expenses pursuant to s. 112.061.

7 467.011 Licensure by examination.--

8 (1) The department shall administer an examination to
9 test the proficiency of applicants in the core competencies
10 required to practice midwifery as specified in s. 467.009.

11 (2) The department shall develop, publish, and make
12 available to interested parties at a reasonable cost a
13 bibliography and guide for the examination.

14 (3) The department shall issue a license to practice
15 midwifery to an applicant who has graduated from an approved
16 midwifery program and successfully completed the examination,
17 upon payment of the required licensure fee.

18 467.0125 Licensure by endorsement.--

19 (1) The department shall issue a license by
20 endorsement to practice midwifery to an applicant who, upon
21 applying to the department, demonstrates to the department
22 that she or he:

23 (a)1. Holds a valid certificate or diploma from a
24 foreign institution of medicine or midwifery or from a
25 midwifery program offered in another state, bearing the seal
26 of the institution or otherwise authenticated, which renders
27 the individual eligible to practice midwifery in the country
28 or state in which it was issued, provided the requirements
29 therefor are deemed by the department to be substantially
30 equivalent to, or to exceed, those established under this
31 chapter and rules adopted under this chapter, and submits

1 therewith a certified translation of the foreign certificate
2 or diploma; or

3 2. Holds a valid certificate or license to practice
4 midwifery in another state, issued by that state, provided the
5 requirements therefor are deemed by the department to be
6 substantially equivalent to, or to exceed, those established
7 under this chapter and rules adopted under this chapter.

8 (b) Has completed a 4-month prelicensure course
9 conducted by an approved program and has submitted
10 documentation to the department of successful completion. The
11 department shall determine by rule the content of the
12 prelicensure course.

13 (c) Has successfully passed the licensed midwifery
14 examination.

15 (2) The department may issue a temporary certificate
16 to practice in areas of critical need to any midwife who is
17 qualifying for licensure by endorsement under subsection (1),
18 with the following restrictions:

19 (a) The Department of Health shall determine the areas
20 of critical need, and the midwife so certified shall practice
21 only in those specific areas, under the auspices of a
22 physician licensed pursuant to chapter 458 or chapter 459, a
23 certified nurse midwife licensed pursuant to part I of chapter
24 464, or a midwife licensed under this chapter, who has a
25 minimum of 3 years' professional experience. Such areas shall
26 include, but not be limited to, health professional shortage
27 areas designated by the United States Department of Health and
28 Human Services.

29 (b) A temporary certificate issued under this section
30 shall be valid only as long as an area for which it is issued
31

1 remains an area of critical need, but no longer than 2 years,
2 and shall not be renewable.

3 (c) The department may administer an abbreviated oral
4 examination to determine the midwife's competency, but no
5 written regular examination shall be necessary.

6 (d) The department shall not issue a temporary
7 certificate to any midwife who is under investigation in
8 another state for an act which would constitute a violation of
9 this chapter until such time as the investigation is complete,
10 at which time the provisions of this section shall apply.

11 (e) The department shall review the practice under a
12 temporary certificate at least annually to ascertain that the
13 minimum requirements of the midwifery rules promulgated under
14 this chapter are being met. If it is determined that the
15 minimum requirements are not being met, the department shall
16 immediately revoke the temporary certificate.

17 (f) The fee for a temporary certificate shall not
18 exceed \$50 and shall be in addition to the fee required for
19 licensure.

20 467.014 Financial responsibility.--A licensed midwife
21 shall include in the informed consent plan presented to the
22 parents the status of the midwife's malpractice insurance,
23 including the amount of malpractice insurance, if any.

24 467.015 Responsibilities of the midwife.--

25 (1) A midwife shall accept and provide care for only
26 those mothers who are expected to have a normal pregnancy,
27 labor, and delivery and shall ensure that the following
28 conditions are met:

29 (a) The patient has signed an informed consent form
30 approved by the department pursuant to s. 467.016.

31

1 (b) If the patient is delivering at home, the home is
2 safe and hygienic and meets standards set forth by the
3 department.

4 (2) A midwife may provide collaborative prenatal and
5 postpartal care to pregnant women not at low risk in their
6 pregnancy, labor, and delivery, within a written protocol of a
7 physician currently licensed under chapter 458 or chapter 459,
8 which physician shall maintain supervision for directing the
9 specific course of medical treatment. The department shall by
10 rule develop guidelines for the identification of high-risk
11 pregnancies.

12 (3) A midwife licensed under this chapter may
13 administer prophylactic ophthalmic medication, oxygen,
14 postpartum oxytocin, vitamin K, rho immune globulin (human),
15 and local anesthetic pursuant to a prescription issued by a
16 practitioner licensed under chapter 458 or chapter 459, and
17 may administer such other medicinal drugs as prescribed by
18 such practitioner. Any such prescription for medicinal drugs
19 shall be in a form that complies with chapter 499 and shall be
20 dispensed in a pharmacy permitted under chapter 465 by a
21 pharmacist licensed under chapter 465.

22 (4) The care of mothers and infants throughout the
23 prenatal, intrapartal, and postpartal periods shall be in
24 conformity with rules adopted by the department pursuant to
25 this chapter and the public health laws of this state.

26 (5) The midwife shall:

27 (a) Prepare a written plan of action with the family
28 to ensure continuity of medical care throughout labor and
29 delivery and to provide for immediate medical care if an
30 emergency arises. The family should have specific plans for
31

1 medical care throughout the prenatal, intrapartal, and
2 postpartal periods.

3 (b) Instruct the patient and family regarding the
4 preparation of the environment and ensure availability of
5 equipment and supplies needed for delivery and infant care, if
6 a home birth is planned.

7 (c) Instruct the patient in the hygiene of pregnancy
8 and nutrition as it relates to prenatal care.

9 (d) Maintain equipment and supplies in conformity with
10 the rules adopted pursuant to this chapter.

11 (6) The midwife shall determine the progress of labor
12 and, when birth is imminent, shall be immediately available
13 until delivery is accomplished. During labor and delivery,
14 the midwife shall comply with rules adopted by the department
15 pursuant to this chapter, which shall include rules that
16 govern:

17 (a) Maintaining a safe and hygienic environment;

18 (b) Monitoring the progress of labor and the status of
19 the fetus;

20 (c) Recognizing early signs of distress or
21 complications; and

22 (d) Enacting the written emergency plan when
23 indicated.

24 (7)(a) The midwife shall remain with the postpartal
25 mother until the conditions of the mother and the neonate are
26 stabilized.

27 (b) The midwife shall instill into each eye of the
28 newborn infant a prophylactic in accordance with s. 383.04.

29 467.016 Informed consent.--The department shall
30 develop a uniform client informed-consent form to be used by
31 the midwife to inform the client of the qualifications of a

1 licensed midwife and the nature and risk of the procedures to
2 be used by a midwife and to obtain the client's consent for
3 the provision of midwifery services.

4 467.017 Emergency care plan; immunity.--

5 (1) Every licensed midwife shall develop a written
6 plan for the appropriate delivery of emergency care. A copy
7 of the plan shall accompany any application for license
8 issuance or renewal. The plan shall address the following:

9 (a) Consultation with other health care providers.

10 (b) Emergency transfer.

11 (c) Access to neonatal intensive care units and
12 obstetrical units or other patient care areas.

13 (2) Any physician licensed under chapter 458 or
14 chapter 459, or any certified nurse midwife, or any hospital
15 licensed under chapter 395, or any osteopathic hospital,
16 providing medical care or treatment to a woman or infant due
17 to an emergency arising during delivery or birth as a
18 consequence of the care received by a midwife licensed under
19 chapter 467 shall not be held liable for any civil damages as
20 a result of such medical care or treatment unless such damages
21 result from providing, or failing to provide, medical care or
22 treatment under circumstances demonstrating a reckless
23 disregard for the consequences so as to affect the life or
24 health of another.

25 467.201 Violations and penalties.--Each of the
26 following acts constitutes a felony of the third degree,
27 punishable as provided in s. 775.082, s. 775.083, or s.
28 775.084:

29 (1) Practicing midwifery, unless holding an active
30 license to do so.

31

1 (2) Using or attempting to use a license which has
2 been suspended or revoked.

3 (3) The willful practice of midwifery by a student
4 midwife without a preceptor present, except in an emergency.

5 (4) Knowingly allowing a student midwife to practice
6 midwifery without a preceptor present, except in an emergency.

7 (5) Obtaining or attempting to obtain a license under
8 this chapter through bribery or fraudulent misrepresentation.

9 (6) Using the name or title "midwife" or "licensed
10 midwife" or any other name or title which implies that a
11 person is licensed to practice midwifery, unless such person
12 is duly licensed as provided in this chapter.

13 (7) Knowingly concealing information relating to the
14 enforcement of this chapter or rules adopted pursuant thereto.

15 467.203 Disciplinary actions; penalties.--

16 (1) The following acts shall be grounds for
17 disciplinary action as set forth in this section:

18 (a) Procuring, attempting to procure, or renewing a
19 license to practice midwifery by bribery, by fraudulent
20 misrepresentation, or through an error of the department.

21 (b) Having a license to practice midwifery revoked,
22 suspended, or otherwise acted against, including being denied
23 licensure, by the licensing authority of another state,
24 territory, or country.

25 (c) Being convicted or found guilty, regardless of
26 adjudication, in any jurisdiction of a crime which directly
27 relates to the practice of midwifery or to the ability to
28 practice midwifery. A plea of nolo contendere shall be
29 considered a conviction for purposes of this provision.

30 (d) Making or filing a false report or record, which
31 the licensee knows to be false; intentionally or negligently

1 failing to file a report or record required by state or
2 federal law; or willfully impeding or obstructing such filing
3 or inducing another to do so. Such reports or records shall
4 include only those which are signed in the midwife's capacity
5 as a licensed midwife.

6 (e) Advertising falsely, misleadingly, or deceptively.

7 (f) Engaging in unprofessional conduct, which
8 includes, but is not limited to, any departure from, or the
9 failure to conform to, the standards of practice of midwifery
10 as established by the department, in which case actual injury
11 need not be established.

12 (g) Being unable to practice midwifery with reasonable
13 skill and safety to patients by reason of illness;
14 drunkenness; or use of drugs, narcotics, chemicals, or other
15 materials or as a result of any mental or physical condition.
16 A midwife affected under this paragraph shall, at reasonable
17 intervals, be afforded an opportunity to demonstrate that he
18 or she can resume the competent practice of midwifery with
19 reasonable skill and safety.

20 (h) Failing to report to the department any person who
21 the licensee knows is in violation of this chapter or of the
22 rules of the department.

23 (i) Willfully or repeatedly violating any provision of
24 this chapter, any rule of the department, or any lawful order
25 of the department previously entered in a disciplinary
26 proceeding or failing to comply with a lawfully issued
27 subpoena of the department.

28 (2) When the department finds any person guilty of any
29 of the grounds set forth in subsection (1), it may enter an
30 order imposing one or more of the following penalties:

31 (a) Refusal to approve an application for licensure.

- 1 (b) Revocation or suspension of a license.
2 (c) Imposition of an administrative fine not to exceed
3 \$1,000 for each count or separate offense.
4 (d) Issuance of a reprimand.
5 (e) Placement of the midwife on probation for such
6 period of time and subject to such conditions as the
7 department may specify, including requiring the midwife to
8 submit to treatment; undertake further relevant education or
9 training; take an examination; or work under the supervision
10 of another licensed midwife, a physician, or a nurse midwife
11 licensed under part I of chapter 464.

12 (3) The department shall not reinstate the license of
13 a midwife, or cause a license to be issued to a person it has
14 deemed unqualified, until such time as it is satisfied that
15 such person has complied with all the terms and conditions set
16 forth in the final order and that such person is capable of
17 safely engaging in the practice of midwifery.

18 (4) The department shall by rule establish guidelines
19 for the disposition of disciplinary cases involving specific
20 types of violations. Such guidelines may include minimum and
21 maximum fines, periods of suspension or probation, or
22 conditions of probation or reissuance of a license.

23 467.205 Approval of midwifery programs.--

24 (1) An organization desiring to conduct an approved
25 program for the education of midwives shall apply to the
26 department and submit such evidence as may be required to show
27 that it complies with s. 467.009 and with the rules of the
28 department. Any accredited or state-licensed institution of
29 higher learning, public or private, may provide midwifery
30 education and training.

31

1 (2) The department shall adopt rules regarding
2 educational objectives, faculty qualifications, curriculum
3 guidelines, administrative procedures, and other training
4 requirements as are necessary to ensure that approved programs
5 graduate midwives competent to practice under this chapter.

6 (3) The department shall survey each organization
7 applying for approval. If the department is satisfied that
8 the program meets the requirements of s. 467.009 and rules
9 adopted pursuant to that section, it shall approve the
10 program.

11 (4) The department shall, at least once every 3 years,
12 certify whether each approved midwifery program complies with
13 the standards developed under s. 467.009.

14 (5) If the department finds that an approved program
15 no longer meets the required standards, it may place the
16 program on probationary status until such time as the
17 standards are restored. If a program fails to correct these
18 conditions within a specified period of time, the department
19 may rescind the approval. Any program having its approval
20 rescinded shall have the right to reapply.

21 (6) Provisional approval of a new program may be
22 granted pending the licensure results of the first graduating
23 class.

24 467.207 Exceptions.--No provision of this chapter
25 shall be construed to prohibit:

26 (1) The practice of midwifery by students enrolled in
27 an approved midwifery training program.

28 (2) The establishment of an independent practice by
29 one or more midwives for the purpose of rendering to patients
30 midwifery services within the scope of the midwife license.

31

1 (3) Assistance by any person in the case of an
2 emergency.

3
4 Reviser's note.--Reenacted to conform to the
5 repeal of the s. 11.61 repeal of ss. 467.001,
6 467.002, 467.004, 467.011, 467.0125,
7 467.014-467.017, and 467.201-467.207 by s. 4,
8 ch. 91-429, Laws of Florida, and the
9 confirmation of that repeal by s. 33, ch.
10 96-318, Laws of Florida. Section 467.004 is
11 also reenacted to conform to the repeal of the
12 s. 11.611 review of the Council of Licensed
13 Midwifery as provided by s. 20, ch. 92-179,
14 Laws of Florida. Section 5, ch. 91-429,
15 repealed s. 11.611, and s. 33, ch. 96-318,
16 confirmed the repeal of s. 11.611.

17
18 Section 84. Paragraph (b) of subsection (3) of section
19 468.354, Florida Statutes, as amended by section 178 of
20 chapter 99-397, Laws of Florida, is reenacted to read:

21 468.354 Board of Respiratory Care; organization;
22 function.--

23 (3)

24 (b) To achieve staggering of terms, within 120 days
25 after July 1, 1999, the Governor shall appoint the board
26 members as follows:

27 1. Two members shall be appointed for terms of 2
28 years.

29 2. Two members shall be appointed for terms of 3
30 years.

31

1 3. Three members shall be appointed for terms of 4
2 years.

3
4 Reviser's note.--Reenacted to confirm the
5 continued existence of the paragraph despite
6 the repeal by s. 57, ch. 99-5, Laws of Florida,
7 a reviser's bill. Section 178, ch. 99-397, Laws
8 of Florida, amended paragraph (3)(b) to require
9 that, in order to achieve staggered terms,
10 within 120 days after July 1, 1999, the
11 Governor appoint board members for terms of
12 office ranging from 2 to 4 years; prior to
13 amendment, the appointments were to be made
14 within 120 days after October 1, 1984.